

New South Wales

Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to—

- (a) transfer local councillor conduct matters from the NSW Civil and Administrative Tribunal (the *Tribunal*) to the Land and Environment Court (the *LEC*), and
- (b) provide for public interest proceedings in the LEC in relation to councillor conduct, and
- (c) authorise the LEC to make disciplinary orders for public interest proceedings in relation to councillor conduct.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Local Government Act 1993 No 30

Schedule 1[47] inserts proposed Chapter 17, Part 4 for the following purposes—

- (a) proposed section 733A defines *councillor*, *disciplinary order*, *public interest proceedings* and *relevant person* for the proposed part,
- (b) proposed section 733B provides that a relevant person may, if it is in the public interest, commence public interest proceedings against a councillor in relation to either or both of the following—

- (i) an alleged contravention of a law,
 - (ii) an alleged contravention of the code of conduct of the council,
- (c) proposed section 733C enables certain relevant persons to apply to the LEC for an order to suspend a councillor if public interest proceedings against the councillor have commenced and provides that the LEC may make an order suspending the councillor if the LEC considers the suspension to be in the public interest,
- (d) proposed section 733D enables the LEC to make a disciplinary order against a councillor, if public interest proceedings have commenced against the councillor, if the Court considers—
 - (i) on the balance of probabilities, the councillor contravened a law or the council's code of conduct, and
 - (ii) it would be in the public interest,
- (e) proposed section 733E provides for the enforcement of a disciplinary order requiring the payment of a civil penalty,
- (f) proposed section 733F enables the LEC to make a disciplinary order against a councillor for conduct that is substantially the same as conduct for which the councillor has previously been convicted,
- (g) proposed section 733G provides that public interest proceedings in relation to the conduct of a councillor—
 - (i) must be stayed if criminal proceedings are started or have been started against the councillor for conduct that is substantially the same as the conduct the subject of the public interest proceedings, and
 - (ii) may be resumed if the criminal proceedings have been finalised or are, for any reason, no longer proceeding,
- (h) proposed section 733H provides that, if a councillor is the subject of public interest proceedings for certain conduct, criminal proceedings can be brought against the councillor for substantially the same conduct,
- (i) proposed section 733I clarifies that the Chief Executive of the Office of Local Government may conduct an investigation, or arrange for a departmental report to be prepared, if a councillor has engaged in misconduct, regardless of whether the conduct is also the subject of public interest proceedings,
- (j) proposed section 733J provides that certain evidence or information given in public interest proceedings is not admissible in criminal proceedings against the councillor.

Schedule 1[1]–[46] make amendments consequential on Schedule 1[53] to transfer the functions relating to the conduct of councillors from the Tribunal to the LEC.

Schedule 1[49] inserts savings and transitional provisions.

Schedule 2 Amendment of Land and Environment Court Act 1979 No 204

Schedule 2[3] provides that the LEC has jurisdiction over the matters set out in Schedule 1[53] and the jurisdiction must be referred to as “Class 9” of the Court’s jurisdiction. **Schedule 2[5]** sets out special provisions for Class 9 proceedings. **Schedule 2[1], [2], [4] and [6]–[8]** make consequential amendments.

Schedule 3 Amendment of Civil and Administrative Tribunal Act 2013 No 2

Schedule 3 removes a reference to the Tribunal’s functions in relation to the *Local Government Act 1993*, section 329, consequent on Schedule 1.



New South Wales

Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025

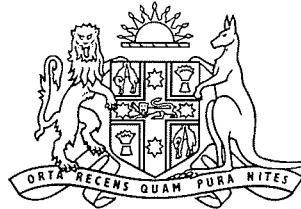
Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Local Government Act 1993 No 30	3
Schedule 2	Amendment of Land and Environment Court Act 1979 No 204	14
Schedule 3	Amendment of Civil and Administrative Tribunal Act 2013 No 2	17

This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments



New South Wales

Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025

No , 2025

A Bill for

An Act to amend the *Local Government Act 1993* to provide for the taking of public interest proceedings against councillors or former councillors in certain circumstances; to amend the *Land and Environment Court Act 1979* to confer jurisdiction on the Land and Environment Court in relation to public interest proceedings and certain other matters under the *Local Government Act 1993*; and for related purposes.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.

Legislative Assembly

Clerk of the Legislative Assembly

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Local Government and Other Legislation Amendment (Councillor Conduct) Act 2025</i> .	3
	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1 Amendment of Local Government Act 1993 No 30

[1] Section 275 Who is disqualified from holding civic office?

Omit section 275(1)(e). Insert instead—

- (e) if the person is, while holding the office, or has been within 7 years before nomination for election, election or appointment to the office—
 - (i) convicted in New South Wales of a serious indictable offence, or
 - (ii) convicted in another State or Territory, or under a law of the Commonwealth, of an offence that, if committed in New South Wales, would be a serious indictable offence, or

[2] Section 275(1A)

Omit “the Civil and Administrative Tribunal”.

Insert instead “a relevant court or tribunal”.

[3] Section 275(4)

Omit “the former Administrative Decisions Tribunal or the Civil and Administrative Tribunal”.

Insert instead “a relevant court or tribunal”.

[4] Section 275(8)

Insert after section 275(7)—

- (8) In this section—
 - relevant court or tribunal* means the following—
 - (a) the Land and Environment Court,
 - (b) the Civil and Administrative Tribunal.

[5] Section 329 Can the holder of a civic office be dismissed?

Omit “Civil and Administrative Tribunal” from section 329(1).

Insert instead “Land and Environment Court”.

[6] Section 329(2) and (4)

Omit “Tribunal” wherever occurring. Insert instead “Court”.

[7] Section 331 When does an order of dismissal take effect?

Omit “the Tribunal”. Insert instead “the Land and Environment Court”.

[8] Section 331(a)

Omit “*Civil and Administrative Tribunal Act 2013*”.

Insert instead “*Land and Environment Court Act 1979*”.

[9] Section 438HA

Omit the section. Insert instead—

438HA Compliance orders

- (1) The Departmental Chief Executive—

- (a) must, at the Minister's request, arrange for a departmental report to be prepared about whether a councillor has failed to take action required by a performance improvement order, or
 - (b) may, on the Departmental Chief Executive's own initiative, arrange for a departmental report to be prepared about whether a councillor has failed to take action required by a performance improvement order.
- (2) If a departmental report finds the councillor has failed to take the action required by the performance improvement order, the Minister may give the councillor written notice (a **show cause notice**) that—
 - (a) specifies the action the councillor has failed to take under the performance improvement order, and
 - (b) specifies that the Minister proposes to issue a compliance order to the councillor, and
 - (c) invites the councillor to make submissions within the period, not less than 7 days, specified in the notice about why the compliance order should not be made.
- (3) After considering any submissions made by the councillor in accordance with the show cause notice, the Minister must decide—
 - (a) to issue an order (a **compliance order**) to the councillor, or
 - (b) to take no further action if the Minister considers taking no further action warranted, or
 - (c) act in accordance with section 438HAB.
- (4) To avoid doubt, the Minister is not required to give the councillor a show cause notice if the Minister decides, after receiving a departmental report, to act in accordance with section 438HAB(1)(a).

Note— Section 438HAB provides that the Minister may request the Departmental Chief Executive to commence proceedings in the Land and Environment Court instead of taking action under this section.
- (5) If the Minister decides to issue a compliance order to the councillor, the compliance order must—
 - (a) identify the action the councillor has failed to take under the performance improvement order and must take under the compliance order, and
 - (b) if the councillor is to be allowed to use council facilities, or be paid an amount, for the purposes of taking that action—specify the extent to which the councillor may use councillor facilities or the amount that may be paid, and
 - (c) specify the period, not more than 3 months, for which the compliance order is in force.
- (6) While the compliance order is in force, the councillor is not entitled to—
 - (a) exercise any functions of the councillor other than functions necessary to take the action specified in the compliance order, and
 - (b) a fee or other remuneration, or the payment of expenses or the use of council facilities, that the councillor would otherwise be entitled to as a councillor except as specified in the compliance order.
- (7) The Minister may, by written notice to the councillor (a **compliance notice**), extend the period for which a compliance order is in force but not so that the order is in force for a total period of more than 6 months.

(8)	The Minister must withdraw the compliance notice if satisfied the councillor has taken the action specified in the compliance order.	1 2
438HAA	Councillors subject to public interest proceedings not entitled to be heard in relation to certain matters	3 4
(1)	This section applies if, after receiving a departmental report under section 438HA, the Departmental Chief Executive decides to commence proceedings in the Land and Environment Court in accordance with section 470A in relation to a councillor.	5 6 7 8
	Note— Section 438HAB provides that the Departmental Chief Executive may commence proceedings in the Land and Environment Court instead of or after taking action under section 438HA.	9 10 11
(2)	The Departmental Chief Executive is not required to—	12
	(a) give the councillor a notice under section 438HA(2), or	13
	(b) otherwise provide the councillor with an opportunity to be heard in relation to the content of the departmental report or the commencement of the proceedings.	14 15 16
438HAB	Alternatives to action under section 438HA	17
(1)	The Minister may request the Departmental Chief Executive to commence proceedings in the Land and Environment Court in accordance with section 470A—	18 19 20
	(a) instead of taking action under section 438HA, or	21
	(b) after taking action under section 438HA, or	22
	(c) while a compliance order is in force against a councillor.	23
(2)	The Departmental Chief Executive may commence proceedings in the Court in accordance with section 470A instead of taking action under section 438HA(1)(b).	24 25 26
(3)	The regulations may provide for matters relating to the commencement of proceedings under this section.	27 28
438HAC	Failure to comply with performance improvement order or compliance order	29
	Failure by a councillor to take action as required by either of the following is taken to be misconduct—	30 31
	(a) a performance improvement order,	32
	(b) a compliance order.	33
[10]	Chapter 14, Part 1, Division 2, heading	34
	Omit the heading. Insert instead—	35
	Division 2 Serious indictable offences	36
[11]	Section 440A Definition of “serious corrupt conduct”	37
	Omit the section.	38
[12]	Sections 440C and 440D, headings	39
	Omit “serious corrupt conduct” wherever occurring.	40
	Insert instead “serious indictable offences”.	41

[13] Sections 440C(1)(b) and (4) and 440D(1)(b) and (4)	1
Omit “serious corrupt conduct” wherever occurring.	2
Insert instead “serious indictable offences”.	3
[14] Sections 440C(1)(c) and 440D(1)(c)	4
Omit “serious corrupt conduct” wherever occurring.	5
Insert instead “engaging in conduct that constitutes a serious indictable offence”.	6
[15] Section 440E Application of Division	7
Omit “serious corrupt conduct” wherever occurring.	8
Insert instead “serious indictable offences”.	9
[16] Section 440IA	10
Insert after section 440I—	11
440IA Councillors subject to public interest proceedings not entitled to be heard in relation to certain matters	12
	13
(1) This section applies if, after receiving a departmental report under section 440I, the Departmental Chief Executive decides to commence proceedings in the Land and Environment Court in accordance with section 469 in relation to a councillor.	14
Note— Section 440J(2)(b) provides that the Departmental Chief Executive may commence proceedings in the Land and Environment Court instead of taking action under section 440I.	18
	19
	20
(2) The Departmental Chief Executive is not required to—	21
(a) give the councillor a notice under section 440I(3A), or	22
(b) otherwise provide the councillor with an opportunity to be heard in relation to the content of the departmental report or the commencement of the proceedings.	23
	24
	25
[17] Section 440J Alternatives to disciplinary action by the Departmental Chief Executive	26
Omit section 440J(2)(b). Insert instead—	27
(b) commence proceedings in the Land and Environment Court in accordance with section 469.	28
	29
[18] Section 440J(3)–(5)	30
Omit the subsections.	31
[19] Section 440L Appeals against disciplinary action	32
Omit “to the Civil and Administrative Tribunal” from section 440L(1).	33
Insert instead “to the Land and Environment Court”.	34
[20] Section 440L(1), note	35
Omit the note.	36
[21] Section 440L(3)–(4) and (6)	37
Omit “Tribunal” wherever occurring. Insert instead “Court”.	38

[22]	Section 440N Investigation of former councillors	1
	Omit “Civil and Administrative Tribunal” from section 440N(3).	2
	Insert instead “Land and Environment Court”.	3
[23]	Section 440N(4)	4
	Omit “Tribunal” wherever occurring. Insert instead “Court”.	5
[24]	Chapter 14, Part 3, heading	6
	Omit the heading. Insert instead—	7
	Part 3 Complaints about non-disclosure and proceedings before Land and Environment Court	8
		9
[25]	Section 465 NCAT to be notified of investigations	10
	Omit the section.	11
[26]	Section 468 Presentation of reports to NCAT	12
	Omit the section.	13
[27]	Chapter 14, Part 3, Division 2, heading	14
	Omit “NCAT”. Insert instead “Land and Environment Court”.	15
[28]	Sections 469 and 470	16
	Omit the sections. Insert instead—	17
469	Proceedings in Land and Environment Court about contraventions of pecuniary interests duties	18
		19
	The Departmental Chief Executive may, after receiving a report under section 467, commence proceedings in the Land and Environment Court in relation to an allegation that a person has or may have contravened a pecuniary interests duty.	20
		21
		22
		23
470	Circumstances in which Land and Environment Court may dispense with hearing	24
		25
	The Land and Environment Court may determine proceedings referred to in section 469 without a hearing and on the papers if—	26
		27
	(a) the Departmental Chief Executive and the person against whom the complaint is made have agreed the proceedings may be determined without a hearing and on the papers, and	28
		29
		30
	(b) there are no material facts in dispute between the person who made the complaint and the person against whom the complaint is made, and	31
		32
	(c) in the Court’s opinion, public interest considerations do not require a hearing.	33
		34
[29]	Chapter 14, Part 3, Division 3, heading	35
	Omit “NCAT”. Insert instead “Land and Environment Court”.	36
[30]	Sections 470A and 470B	37
	Omit the sections. Insert instead—	38

470A	Proceedings in Land and Environment Court about misconduct matters	1
	The Departmental Chief Executive may commence proceedings in the Land and Environment Court in relation to an allegation of misconduct.	2
		3
	Note— Under section 438HAC, failure by a councillor to comply with a performance improvement order or a compliance order is taken to be misconduct.	4
		5
470B	Circumstances in which Land and Environment Court may dispense with hearing	6
		7
	The Land and Environment Court may determine proceedings commenced under section 470A without a hearing and on the papers if—	8
		9
	(a) the Departmental Chief Executive and the councillor have agreed proceedings may be determined without a hearing and on the papers, and	10
		11
		12
	(b) there are no material facts in dispute between the Departmental Chief Executive and the councillor, and	13
		14
	(c) in the Court’s opinion, public interest considerations do not require a hearing.	15
		16
[31]	Chapter 14, Part 3, Division 4, heading	17
	Omit “NCAT”. Insert instead “ Land and Environment Court ”.	18
[32]	Section 478 Additional complaints	19
	Omit “Civil and Administrative Tribunal” from section 478(1).	20
	Insert instead “Land and Environment Court”.	21
[33]	Section 478(2)–(5)	22
	Omit “Civil and Administrative Tribunal” wherever occurring. Insert instead “Court”.	23
[34]	Section 478(4)	24
	Omit “the Tribunal”. Insert instead “the Court”.	25
[35]	Section 482, heading	26
	Omit “NCAT”. Insert instead “ Land and Environment Court ”.	27
[36]	Section 482(2)	28
	Omit “Civil and Administrative Tribunal”. Insert instead “Land and Environment Court”.	29
[37]	Section 482(3)–(4A)	30
	Omit “Civil and Administrative Tribunal” wherever occurring. Insert instead “Court”.	31
[38]	Section 482(5)	32
	Omit “Tribunal”. Insert instead “Court”.	33
[39]	Section 482A, heading	34
	Omit “NCAT”. Insert instead “ Land and Environment Court ”.	35
[40]	Section 482A(1)	36
	Omit “Civil and Administrative Tribunal”. Insert instead “Land and Environment Court”.	37

[41] Section 482A(2) and (3)	1
Omit “Tribunal” wherever occurring. Insert instead “Court”.	2
[42] Section 486, heading	3
Omit “NCAT”. Insert instead “ Land and Environment Court ”.	4
[43] Section 486	5
Omit “Civil and Administrative Tribunal”. Insert instead “Land and Environment Court”.	6
[44] Section 486A, heading	7
Omit “NCAT”. Insert instead “ Land and Environment Court ”.	8
[45] Section 486A(1)	9
Omit “Civil and Administrative Tribunal”. Insert instead “Land and Environment Court”.	10
[46] Section 490C Supreme Court order for recovery of monetary benefits as a result of non-disclosure by councillors (as inserted by the Local Government and Elections Legislation Amendment (Integrity) Act 2016)	11
	12
	13
Omit the section.	14
[47] Chapter 17, Part 4	15
Insert after section 733—	16

Part 4 Public interest proceedings against councillors 17

733A Definitions 18

In this part— 19

councillor includes a former councillor. 20

disciplinary order—see section 733D(1)(b). 21

public interest proceedings—see section 733B. 22

relevant person means the following persons— 23

(a) a Minister, 24

(b) the Departmental Chief Executive, 25

(c) the Director of Public Prosecutions, 26

(d) the Independent Commission Against Corruption, 27

(e) the Secretary of another Department, within the meaning of the 28

Government Sector Employment Act 2013, 29

(f) another person granted leave under the *Land and Environment Court* 30

Act 1979, section 45. 31

733B Who may commence public interest proceedings 32

A relevant person may commence proceedings (*public interest proceedings*) 33

against a councillor in relation to an alleged contravention of either or both of 34

the following if the relevant person considers commencing the proceedings to 35

be in the public interest— 36

(a) a law, 37

(b) the council’s adopted code under section 440. 38

733C Suspension of councillors in certain circumstances

- (1) This section applies if a relevant person, other than a person granted leave under the *Land and Environment Court Act 1979*, section 45, commences public interest proceedings in relation to a person who is currently a councillor.
- (2) The relevant person may apply to the Land and Environment Court for an order to suspend the councillor from office until the determination of the proceedings.
- (3) On an application under subsection (2), the Court may make an order suspending the councillor from office if the Court considers the suspension is in the public interest.

733CA Information obtained under Act or regulations for any purpose may be submitted as evidence

- (1) If a relevant person, other than a person granted leave under the *Land and Environment Court Act 1979*, section 45, commences public interest proceedings in relation to a person, the relevant person may submit to the Land and Environment Court information obtained under this Act or the regulations as evidence in relation to the proceedings.
- (2) Subsection (1) applies whether the information was gathered for the purpose of the public interest proceedings or another purpose.
- (3) Evidence submitted under this section may be—
 - (a) relied on by the parties to the public interest proceedings, and
 - (b) given the weight the Court considers appropriate.

733D Making of disciplinary orders

- (1) This section applies if—
 - (a) on the balance of probabilities, the Land and Environment Court considers a councillor has contravened—
 - (i) a law, or
 - (ii) the council's adopted code under section 440, and
 - (b) the Court considers it would be in the public interest to make any or all of the following orders (each a *disciplinary order*)—
 - (i) an order disqualifying the councillor from office for a period of not more than 5 years,
 - (ii) an order suspending the councillor from office for a period of less than 5 years,
 - (iii) an order requiring the councillor to take action to reverse an unjust benefit derived by the councillor from the contravention,
 - (iv) an order requiring the councillor to pay compensation, damages, a debt or restitution to another person,
 - (v) an order requiring the councillor to pay the State a civil penalty of an amount of not more than 454 penalty units.
- (2) The Court may make a disciplinary order.

733E Recovery of civil penalty

- (1) A civil penalty required to be paid under a disciplinary order is a debt payable by the councillor to the State.

(2)	The State may enforce a disciplinary order requiring a councillor to pay a civil penalty as if the disciplinary order were an order made in civil proceedings against the councillor to recover a debt due by the councillor.	1 2 3
(3)	The debt arising from the disciplinary order is taken to be a judgment debt.	4
733F	Public interest proceedings after criminal proceedings	5
	The Land and Environment Court may make a disciplinary order against a councillor in public interest proceedings even if the councillor has been convicted of an offence constituted by conduct that is substantially the same as the conduct the subject of the public interest proceedings.	6 7 8 9
733G	Criminal proceedings during public interest proceedings	10
(1)	Public interest proceedings against a councillor are stayed if—	11
(a)	criminal proceedings are started or have already been started against the councillor for an offence, and	12 13
(b)	the offence is constituted by conduct that is substantially the same as the conduct the subject of the public interest proceedings.	14 15
(2)	The public interest proceedings may be resumed if the criminal proceedings—	16
(a)	have been finalised, whether or not the councillor is not convicted of the offence, or	17 18
(b)	are stayed, discontinued, dismissed or otherwise not proceeding.	19
733H	Criminal proceedings after public interest proceedings	20
	Criminal proceedings may be started against a councillor for conduct that is substantially the same as conduct the subject of public interest proceedings regardless of whether a disciplinary order was made in relation to the public interest proceedings.	21 22 23 24
733I	Investigation and reports under section 440H	25
	To avoid doubt, the Departmental Chief Executive may conduct an investigation, or arrange for a departmental report to be prepared, under section 440H, regardless of whether the conduct the subject of the investigation or report is also the subject of public interest proceedings.	26 27 28 29
733J	Evidence given in public interest proceedings not admissible in criminal proceedings	30 31
(1)	Evidence of information given, or evidence of production of documents, by a councillor is not admissible in criminal proceedings against the councillor if—	32 33
(a)	the councillor previously gave the information or produced the documents in public interest proceedings against the councillor, whether or not a disciplinary order was made in relation to the proceedings, and	34 35 36 37
(b)	the conduct alleged to constitute the offence is substantially the same as the conduct the subject of the public interest proceedings.	38 39
(2)	However, subsection (1) does not apply to criminal proceedings in relation to the falsity of the evidence given by the councillor in public interest proceedings.	40 41 42
[48]	Chapter 18 Miscellaneous	43
	Omit Parts 1A and 1B.	44

[49] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Provisions consequent on enactment of Local Government and Other Legislation Amendment (Councillor Conduct) Act 2025

Definitions

In this part—

amendment Act means the *Local Government and Other Legislation Amendment (Councillor Conduct) Act 2025*.

commencement means the commencement of the amendment Act.

relevant provision means the following provisions of this Act—

- (a) section 329,
- (b) section 438HA(8),
- (c) section 440J(2)(b),
- (d) section 440L,
- (e) section 440N,
- (f) Chapter 14, Part 3.

Existing proceedings

- (1) This clause applies if, immediately before the commencement, an application had been made under the *Civil and Administrative Tribunal Act 2013*, Part 4, Division 2 in relation to a relevant provision but not finally determined.
- (2) Subject to subclause (3), the application must continue to be dealt with under the *Civil and Administrative Tribunal Act 2013* as if the amendment Act had not commenced.
- (3) The Minister may, by order published in the Gazette, direct that—
 - (a) proceedings under a relevant provision must not be dealt with under the *Civil and Administrative Tribunal Act 2013*, and
 - (b) the proceedings must be dealt with by the Land and Environment Court under the *Land and Environment Court Act 1979*.
- (4) If the Minister makes an order under subclause (3)—
 - (a) the proceedings must cease in the Civil and Administrative Tribunal, and
 - (b) the proceedings must be dealt with in the Land and Environment Court as if the application had been made to the Court after the commencement, and
 - (c) evidence before the Civil and Administrative Tribunal is taken to be admissible evidence before the Land and Environment Court, unless the Court decides otherwise.
- (5) The Land and Environment Court may make the orders the Court considers necessary to give effect to the transfer of proceedings under subclause (4), including orders about the following—
 - (a) costs,

- (b) the filing of pleadings and other documents, 1
- (c) the provision of information and assistance that the Court requests. 2

[50] Dictionary 3

Insert in alphabetical order— 4

councillor, for Chapter 17, Part 4—see section 733A. 5

disciplinary order, for Chapter 17, Part 4—see section 733A. 6

public interest proceedings, for Chapter 17, Part 4—see section 733A. 7

relevant person, for Chapter 17, Part 4—see section 733A. 8

serious corrupt conduct means corrupt conduct, within the meaning of the *Independent Commission Against Corruption Act 1988*, that may constitute an indictable offence that is punishable by imprisonment for 5 years or more, being— 9
10
11
12

(a) for conduct of the holder of a civic office—conduct in connection with the exercise or purported exercise of the functions of the civic office, or 13
14

(b) for conduct of a member of staff of a council—conduct in connection with the exercise or purported exercise of the duties of the member of staff. 15
16
17

serious indictable offence means the following— 18

(a) serious corrupt conduct, 19

(b) an indictable offence that is punishable by imprisonment for 5 years or more, including imprisonment for life, 20
21

(c) any offence under the *Crimes Act 1900*, Part 3, Division 10. 22

Schedule 2 Amendment of Land and Environment Court Act 1979 No 204

[1] Section 16 Jurisdiction of the Court generally

Omit “8” from section 16(2). Insert instead “9”.

[2] Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement

Omit “Part 2 of Chapter 6, Chapter 7 or Chapter 15 of the *Local Government Act 1993*,” from section 20(3)(a).

Insert instead—

Local Government Act 1993,

[3] Section 21D

Insert after section 21C—

21D Class 9—public interest proceedings against councillors

(1) The Court has jurisdiction to hear and dispose of the following—

- (a) referrals under the *Local Government Act 1993*, section 438HA,
- (b) referrals under the *Local Government Act 1993*, section 440J,
- (c) appeals under the *Local Government Act 1993*, section 440L,
- (d) referrals under the *Local Government Act 1993*, section 440N,
- (e) complaints under the *Local Government Act 1993*, Chapter 14, Part 3,
- (f) public interest proceedings under the *Local Government Act 1993*, Chapter 17, Part 4.

(2) Jurisdiction referred to in subsection (1) is referred to in this Act as “Class 9” of the Court’s jurisdiction.

[4] Section 33 Exercise of jurisdiction generally

Omit “and 7” from section 33(2). Insert instead “, 7 and 9”.

[5] Part 4, Division 7

Insert after section 43—

Division 7 Special provisions for Class 9 proceedings

44 Definitions

In this division—

Departmental Chief Executive has the same meaning as in the *Local Government Act 1993*.

Local Government Minister means the Minister administering the *Local Government Act 1993*.

State official means the following persons—

- (a) a Minister,
- (b) the Departmental Chief Executive,
- (c) the Director of Public Prosecutions,
- (d) the Independent Commission Against Corruption,

(e)	the Secretary of another Department, within the meaning of the <i>Government Sector Employment Act 2013</i> .	1 2
45	Leave to commence proceedings	3
(1)	A person, other than a State official, must obtain the leave of the Court to commence public interest proceedings under the <i>Local Government Act 1993</i> , Chapter 17, Part 4.	4 5 6
(2)	If a person (the <i>applicant</i>) applies under subsection (1) to commence proceedings—	7 8
(a)	the applicant must, as soon as practicable after making the application, give notice of the application in accordance with the regulations to the following—	9 10 11
(i)	the Local Government Minister,	12
(ii)	the Departmental Chief Executive, and	13
(b)	the Local Government Minister or Departmental Chief Executive may submit to the Court any evidence the Local Government Minister or Departmental Chief Executive considers relevant and necessary in the form determined by the Court.	14 15 16 17
(3)	Notice under subsection (2)(a) is taken to have been given to the Local Government Minister and Departmental Chief Executive on—	18 19
(a)	the day specified in the regulations, or	20
(b)	if a day is not specified in the regulations—	21
(i)	if the application was made by electronic means—the business day after the application to which the notice relates was made, or	22 23
(ii)	if the application was sent by post—3 business days after the application to which the notice relates was posted.	24 25
(4)	The Court may grant leave under this section only if the Court is satisfied of the following matters—	26 27
(a)	the Local Government Minister and the Departmental Chief Executive have been given notice of the application under subsection (2)(a),	28 29
(b)	neither the Local Government Minister nor the Departmental Chief Executive has commenced public interest proceedings in relation to the same matter,	30 31 32
(c)	neither the Local Government Minister nor the Departmental Chief Executive has applied to be added as a party to the proceedings within 30 days after being given the notice,	33 34 35
(d)	the proceedings would be in the public interest, including that the proceedings would not be an abuse of process,	36 37
(e)	the particulars of the alleged contravention of law or code of conduct demonstrate a reasonable prospect of success.	38 39
(5)	The Local Government Minister or the Departmental Chief Executive may apply to be added as a party to the proceedings within 30 days after being given notice of the application under subsection (2)(a).	40 41 42
(6)	The Court must—	43
(a)	grant an application made by the Local Government Minister or Departmental Chief Executive under subsection (5), and	44 45
(b)	add the Local Government Minister or Departmental Chief Executive as a party to the proceedings.	46 47

(7)	After considering an application for leave under this section, the Court may—	1
(a)	dismiss the application without a hearing, or	2
(b)	hold a hearing to determine whether the application must be granted.	3
(8)	The Court may order a party to the proceedings for an application for leave under this section to pay the costs of the proceedings.	4
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[6]	Section 56 Nature of decision of the Court	6
	Omit “or 8” from section 56(a). Insert instead “, 8 or 9”.	7
[7]	Section 57, heading	8
	Omit “and 8”. Insert instead “, 8 and 9”.	9
[8]	Section 57(1)	10
	Omit “or 8”. Insert instead “, 8 or 9”.	11

Schedule 3	Amendment of Civil and Administrative Tribunal Act 2013 No 2	1
		2
Schedule 5 Occupational Division		3
Omit clause 6(2).		4