



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.