



New South Wales

Local Government Amendment (Miscellaneous) Bill 2002

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* (*the Principal Act*) as follows:

- (a) to provide that council meetings, and meeting of committees of councillors, are not to be closed to the public merely because the meeting is to discuss personnel matters concerning a particular councillor,
- (b) to provide that a council may keep confidential such parts of a draft or adopted plan of management for a parcel of community land as would disclose the nature and location of a place or an item of Aboriginal significance,
- (c) to clarify requirements relating to the holding of public hearings in respect of proposed plans of management for community land,

- (d) to provide that a council may grant a lease, licence or other estate in respect of community land for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider without an express authorisation in the plan of management for that community land,
- (e) to provide for a special process for speedy renewals of approvals to operate sewage management systems (such as septic tanks),
- (f) to provide that a council employee or other person authorised by a council may enter any premises to carry out water supply work, sewerage work or stormwater drainage work on or under the premises (being work that the council is authorised by the Principal Act or any other Act to carry out),
- (g) to make various amendments relating to council ward boundaries, namely:
 - (i) to provide that the division of a council's area into wards or an alteration to ward boundaries must not result in a variation of more than 10 per cent between the number of electors in each ward in the area, and
 - (ii) to provide that, before dividing a council's area into wards or altering a council's ward boundaries, a council must consult with the Electoral Commissioner and the Australian Statistician, prepare a plan detailing the proposed division or alteration and publicly exhibit that plan, and
 - (iii) to require that a local council keep its ward boundaries under review and alter those ward boundaries in certain circumstances if the number of electors in a ward differs by more than 10 per cent from the number of electors in any other ward in the council's area,
- (h) to provide that a councillor may seek and be granted leave from a council meeting at the meeting concerned and may seek that leave in absentia,
- (i) to provide that, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months,
- (j) to provide for a simpler process for the dismissal of a council during the 12-month period following fresh elections after a previous dismissal of a council, but only if a Departmental representative's report recommends the dismissal and the Minister for Local Government is satisfied that reasonable grounds exist for that action and those grounds are substantially the same, or substantially of the same nature, as the grounds for the previous dismissal of the council,

- (k) to provide that a council may delegate the function of adopting management plans for the council, except for the function of adopting the council's general management plan under section 406 of the Principal Act,
- (l) to provide that regulations made under the Principal Act may:
 - (i) require that a council's draft management plan contain a statement with respect to certain matters not included in the Principal Act that may be, but are not limited to, social, community and cultural matters, and
 - (ii) prescribe further particulars that must be included in the statement of principal activities that forms part of a council's draft management plan,
- (m) to clarify that an auditor for a council may not be appointed or re-appointed unless tenders for that position have been called for,
- (n) to provide that any penalty, fine or forfeiture imposed for a contempt of a court order to remedy or restrain a breach of the Principal Act or any other Act (or any regulation or instrument under those Acts) recovered in proceedings instituted by or under the direction or on behalf or for the benefit of a council is to be paid to the council and allocated to the council's consolidated fund.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Freedom of Information Act 1989* set out in Schedule 2.

Schedule 1 [1] makes an amendment to section 10A (2) (a) of the Principal Act to provide that council meetings, and meetings of committees of councillors, are not to be closed to the public merely because the meeting is to discuss personnel matters concerning a particular councillor. **Schedule 1 [3]** makes a consequential amendment.

Schedule 1 [5] inserts proposed section 36DA into the Principal Act. The proposed section provides that a council may resolve to keep confidential such parts of a draft or adopted plan of management for a parcel of community land as would disclose the nature and location of a place or an item of Aboriginal significance. Councillors and council employees are not to disclose that part of a draft or adopted

plan of management that is the subject of such a resolution of confidentiality, except with the consent of the council. A council proposing to prepare a draft plan of management must (in accordance with the regulations) consult with the appropriate Aboriginal communities regarding public access to, and use of, information concerning any places or items of Aboriginal significance on the land concerned. **Schedule 1 [2]** and **[4]** make consequential amendments. **Schedule 2** makes a consequential amendment to Schedule 1 to the *Freedom of Information Act 1989* to provide that a plan of management, and a draft plan of management, for a parcel of community land is an exempt document for the purposes of that Act if it is the subject of a resolution of confidentiality as referred to in proposed section 36DA (2) of the *Local Government Act 1993*.

Schedule 1 [6] omits and replaces section 40A of the Principal Act. Proposed section 40A continues the existing requirement that a council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4) of the Principal Act. The replacement section makes it clear that a council need not hold a further public hearing in respect of the proposed plan of management if the council decides to amend the proposed plan after the public hearing has been held unless the amendment of the plan would have the effect of altering the categorisation of community land under section 36 (4) from the categorisation of that land in the proposed plan as previously exhibited.

Schedule 1 [7] inserts proposed section 46 (1) (a1) into the Principal Act. The proposed amendment removes a restriction on the operation of councils by enabling a council to grant a lease, licence or other estate in respect of community land for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider without an express authorisation under the plan of management for that community land. **Schedule 1 [8]** and **[9]** make consequential amendments.

Schedule 1 [13] inserts proposed section 107A into the Principal Act. The proposed section provides that a council may send a notice to any person who has been granted an approval to operate a system of sewage management and invite the person to apply to renew the approval. If that person simply pays the required application fee, the person will be taken to have made an application to renew the approval on the same terms as the original approval. **Schedule 1 [11]** and **[12]** make consequential amendments that elevate to the Principal Act the requirement, currently prescribed in the regulations, that a person must generally have an approval to operate a system of sewage management.

Schedule 1 [14] inserts proposed section 191A into the Principal Act. The proposed section provides that a council employee or other person authorised by a council may enter any premises to carry out water supply work, sewerage work or stormwater drainage work on or under the premises (being work that the council is authorised by this or any other Act to carry out). The proposed section does not apply to National Parks and Wildlife reserves. **Schedule 1 [10]** makes a related amendment to clarify that a council is the owner of all water supply, sewerage and stormwater infrastructure installed in or on land by the council (whether or not the land is owned by the council). Accordingly, the owner of the land will be prevented from interfering with that infrastructure by section 635 of the Principal Act (Damage to council property). **Schedule 1 [35]–[37]** make amendments to the definitions of *sewerage work*, *stormwater drainage work* and *water supply work* in the Dictionary to the Principal Act to ensure consistency between the definitions.

Schedule 1 [15] inserts proposed section 210 (7) into the Principal Act. The proposed subsection provides that a council must not divide the council's area into wards, or change the boundaries of a ward, if it results in a variation of more than 10 per cent between the number of electors in each ward in the council's area.

Schedule 1 [16] inserts proposed section 210A into the Principal Act. The proposed section provides that before dividing a council's area into wards or altering a council's ward boundaries, the local council concerned must consult the Electoral Commissioner and the Australian Statistician to ensure that, as far as practicable, the proposed boundaries of its wards correspond to the boundaries of appropriate Parliamentary subdivisions and census districts and comply with proposed section 210 (7). The local council must also prepare and publicly exhibit a plan detailing the proposed division or alteration (the *ward boundary plan*). The council must consider submissions regarding the ward boundary plan.

Schedule 1 [17] replaces section 211 of the Principal Act. The proposed section provides that a council of an area divided into wards must keep those ward boundaries under review. If, during a council's term of office, the council becomes aware that the number of electors in one ward in its area differs by more than 10 per cent from the number of electors in any other ward in its area, and that difference remains at the end of the first year of the following term of office of the council, the council must alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from the number of electors in each other ward in the area.

Schedule 1 [21] amends section 234 (d) of the Principal Act. That section currently provides that a person vacates civic office if the person is absent from 3 consecutive ordinary meetings of the council concerned without prior leave of the council. The amendment allows such leave to be granted by the council prior to or

at any of the meetings concerned. **Schedule 1 [22]** inserts proposed section 234 (2) into the Principal Act to provide that a councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of the councillor.

Schedule 1 [24] inserts section 254A (2) into the Principal Act to provide that if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, a council must not pay any annual fee, or part of an annual fee, to the councillor that relates to the period of absence that is in excess of 3 months. **Schedule 1 [23]** makes a consequential amendment.

Schedule 1 [25] inserts section 257A into the Principal Act to provide that the Governor, during a 12-month period following the holding of fresh council elections for a local government area after a dismissal of a council, may on the recommendation of the Minister by declaration dismiss the mayor and councillors of the council. A public inquiry is not required to be held before such a declaration is made. However, the Minister may only make a recommendation to the Governor for such a course of action if a Departmental representative's investigation report recommends the dismissal and the Minister is satisfied that reasonable grounds exist for making the declaration and those grounds are substantially the same, or substantially of the same nature, as the grounds for the previous dismissal of the council.

Schedule 1 [26] amends section 377 (1) of the Principal Act to provide that a council may delegate to the general manager or any other person or body (other than other employees of the council) the function of adopting management plans for the council, except for the function of adopting the council's general management plan under section 406 of the Principal Act. Other management plans that may be adopted by a council include equal opportunity management plans, environmental management plans and bush fire management plans.

Schedule 1 [27] and **[28]** amend section 403 of the Principal Act:

- (a) to clarify that the regulations made under that Act may require a council's draft management plan to contain a statement with respect to matters not included in the Principal Act including, but not limited to, social, community and cultural matters, and
- (b) to provide that the regulations may prescribe further particulars that must be included in the statement of principal activities that forms part of a council's draft management plan.

Schedule 1 [29] and [30] amend section 422 (5) of the Principal Act to clarify that an auditor for a council may not be appointed or re-appointed unless tenders for that position have been called for.

Section 694 (1) of the Principal Act provides that any penalty, fine or forfeiture under any Act recovered in proceedings instituted by or under the direction or on behalf or for the benefit of a council is to be paid to the council and allocated to the council's consolidated fund. **Schedule 1 [31]** amends section 694 of the Principal Act to provide that any penalty, fine or forfeiture imposed for a contempt of a court order to remedy or restrain a breach of the Principal Act or any other Act (or any regulation or instrument under those Acts) recovered in proceedings instituted by or under the direction or on behalf or for the benefit of a council is similarly to be paid to the council and allocated to the council's consolidated fund. **Schedule 1 [32]** inserts section 694 (1A) into the Principal Act to provide definitions for the terms *breach of this Act or any other Act* and *this Act or any other Act* as used in section 694 (1).

Schedule 1 [18]–[20] make statute law revision amendments to various provisions in Part 1 of Chapter 9. These amendments are consequential on the insertion of Divisions 2A–2C into Part 1 of Chapter 9 by the *Local Government Amendment (Amalgamations and Boundary Changes) Act 1999*.

Schedule 1 [33] and [34] make amendments to Schedule 8 to the Act of a savings or transitional nature.



New South Wales

Local Government Amendment (Miscellaneous) Bill 2002

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New South Wales

Local Government Amendment (Miscellaneous) Bill 2002

No. , 2002

A Bill for

An Act to amend the *Local Government Act 1993* in relation to council meetings, plans of management for community land, sewerage system approvals, alterations to council ward boundaries, fees for councillors, and water supply, sewerage and stormwater drainage works by councils; to make a consequential amendment to the *Freedom of Information Act 1989*; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Local Government Amendment (Miscellaneous) Act 2002</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Local Government Act 1993 No 30	8
The <i>Local Government Act 1993</i> is amended as set out in Schedule 1.	9
4 Amendment of Freedom of Information Act 1989 No 5	10
The <i>Freedom of Information Act 1989</i> is amended as set out in Schedule 2.	11 12

Schedule 1	Amendment of Local Government Act 1993	1
	(Section 3)	2
[1]	Section 10A Which parts of a meeting can be closed to the public?	3
	Insert “(other than councillors)” after “individuals” in section 10A (2) (a).	4
[2]	Section 10A (2) (h)	5
	Insert after section 10A (2) (g):	6
	(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.	7 8 9
[3]	Section 12 What information is publicly available?	10
	Insert “(other than councillors)” after “individuals” in section 12 (7) (a).	11
[4]	Section 12 (7) (e)	12
	Insert after section 12 (7) (d):	13
	(e) that part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under section 36DA.	14 15 16
[5]	Section 36DA	17
	Insert after section 36D:	18
36DA	Location of places and items of Aboriginal significance may be kept confidential	19 20
	(1) This section applies to draft and adopted plans of management for areas of community land, all or part of which consist of land to which section 36D applies.	21 22 23
	(2) A council may resolve (at the request of any Aboriginal person traditionally associated with the land concerned or on the council’s own initiative) to keep confidential such parts of a	24 25 26

draft or adopted plan of management to which this section applies as would disclose the nature and location of a place or an item of Aboriginal significance.	1 2 3
(3) Despite any other provision of this Act (including sections 38, 39 and 43) or any other law, councillors and council employees are not to disclose that part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under subsection (2), except with the consent of the council.	4 5 6 7 8
(4) A draft or adopted plan of management that is the subject of a resolution of confidentiality under subsection (2) must contain a note stating that the whole of the plan is affected by the resolution or identifying the parts that are so affected.	9 10 11 12
(5) A council proposing to prepare a draft plan of management to which this section applies must (in accordance with the regulations) consult with the appropriate Aboriginal communities regarding public access to, and use of, information concerning any places or items of Aboriginal significance on the land concerned.	13 14 15 16 17 18
[6] Section 40A	19
Omit the section. Insert instead:	20
40A Public hearing in relation to proposed plans of management	21
(1) The council must hold a public hearing in respect of a proposed plan of management (including a plan of management that amends another plan of management) if the proposed plan would have the effect of categorising, or altering the categorisation of, community land under section 36 (4).	22 23 24 25 26
(2) However, a public hearing is not required if the proposed plan would merely have the effect of altering the categorisation of the land under section 36 (5).	27 28 29
(3) A council must hold a further public hearing in respect of the proposed plan of management if:	30 31
(a) the council decides to amend the proposed plan after a public hearing has been held in accordance with this section, and	32 33 34
(b) the amendment of the plan would have the effect of altering the categorisation of community land under	35 36

	section 36 (4) from the categorisation of that land in the proposed plan that was considered at the previous public hearing.	1 2 3
[7]	Section 46 Leases, licences and other estates in respect of community land—generally	4 5
	Insert after section 46 (1) (a):	6
	(a1) may be granted for the purpose of providing pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider, or	7 8 9 10 11
[8]	Section 46 (1) (b) (iv)	12
	Omit “or”.	13
[9]	Section 46 (1) (b) (v)	14
	Omit the subparagraph.	15
[10]	Section 59A	16
	Insert after section 59:	17
	59A Ownership of water supply, sewerage and stormwater drainage works	18 19
	(1) Subject to this Division, a council is the owner of all works of water supply, sewerage and stormwater drainage installed in or on land by the council (whether or not the land is owned by the council).	20 21 22 23
	(2) A council may operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed.	24 25 26 27 28 29

[11] Section 68 What activities, generally, require the approval of the council?	1
	2
Insert at the end of Part C of the table to section 68:	3
6 Operate a system of sewage management (within the meaning of section 68A)	4
	5
[12] Section 68A	6
Insert after section 68:	7
68A Meaning of “operate a system of sewage management”	8
(1) In this Part, <i>operate a system of sewage management</i> means hold or process, or re-use or discharge, sewage or by-products of sewage (whether or not the sewage is generated on the premises on which the system of sewage management is operated).	9
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(2) Without limiting subsection (1), <i>operate a system of sewage management</i> includes the following:	14
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(a) use artificial wetlands, transpiration mounds, trenches, vegetation and other effluent polishing, dispersal or re-use arrangements in related land application areas,	16
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(b) hold or process sewage that is to be subsequently discharged into a public sewer.	19
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(3) However, <i>operate a system of sewage management</i> does not include any of the following:	21
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(a) any action relating to the discharge of sewage directly into a public sewer,	23
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(b) any action relating to sewage or by-products of sewage after their discharge into a public sewer.	25
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(4) In this section:	27
<i>public sewer</i> means a sewer operated by a council or county council, a water supply authority (within the meaning of the <i>Water Management Act 2000</i>), a State owned corporation specified in Schedule 1 or 5 to the <i>State Owned Corporations Act 1989</i> (or a subsidiary of such a corporation) or any other public or local authority.	28
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related land application area, in relation to a sewage management facility, means the area of land (if any) where it is intended that effluent and bio-solid waste from the facility will be re-used, applied or dispersed into the environment.

sewage includes any effluent of the kind referred to in paragraph (a) of the definition of *waste* in the Dictionary to this Act.

sewage management facility means:

- (a) a human waste storage facility, or
- (b) a waste treatment device intended to process sewage, and includes a drain connected to such a facility or device.

[13] Section 107A

Insert after section 107:

107A Special provision—renewal of approvals relating to operation of sewage management systems

- (1) This section applies to an approval to operate a system of sewage management.
- (2) The council may by notice in writing (in any form determined by the council) invite any person to whom an approval to which this section applies has been granted to apply to renew the approval.

Note. For example, an invitation in writing to a person to renew an approval could be made in the form of an account or invoice.

- (3) A person to whom such an invitation is made is taken to have made an application under section 107 to renew the approval on the same terms as the original approval if the person pays any required application fee (being an approved fee under section 80).

[14] Section 191A	1
Insert after section 191:	2
191A Power of entry—construction and maintenance of water supply, sewerage and stormwater drainage works	3 4
(1) Without limiting section 191, a council employee (or other person) authorised by a council may enter any premises to carry out water supply work, sewerage work or stormwater drainage work on or under the premises (being work that the council is authorised by this or any other Act to carry out).	5 6 7 8 9
(2) Subsection (1) does not apply to premises that comprise a National Parks and Wildlife reserve.	10 11
[15] Section 210 Division of areas into wards	12
Insert after section 210 (6):	13
(7) The division of a council’s area into wards, or a change to the boundaries of a ward, must not result in a variation of more than 10 per cent between the number of electors in each ward in the area.	14 15 16 17
[16] Section 210A	18
Insert after section 210:	19
210A Consultation, public notice and exhibition of proposals regarding ward boundaries	20 21
(1) Before dividing a council’s area into wards or altering a council’s ward boundaries, the council must:	22 23
(a) consult the Electoral Commissioner and the Australian Statistician to ensure that, as far as practicable, the proposed boundaries of its wards correspond to the boundaries of appropriate subdivisions (within the meaning of the <i>Parliamentary Electorates and Elections Act 1912</i>) and census districts, and to ensure that the proposed boundaries comply with section 210 (7), and	24 25 26 27 28 29 30
(b) prepare and publicly exhibit a plan detailing the proposed division or alteration (the <i>ward boundary plan</i>).	31 32 33

(2) The council must give public notice of the following:	1
(a) the place at which the ward boundary plan may be inspected,	2 3
(b) the period for which the plan will be exhibited (being a period of not less than 28 days),	4 5
(c) the period during which submissions regarding the ward boundary plan may be made to the council (being a period of not less than 42 days after the date on which the ward boundary plan is placed on public exhibition).	6 7 8 9
(3) The council must, in accordance with its notice, publicly exhibit the ward boundary plan together with any other matter that it considers appropriate or necessary to better enable the plan and its implications to be understood.	10 11 12 13
(4) Any person may make a submission to the council regarding the ward boundary plan within the period referred to in subsection (2) (c).	14 15 16
(5) The council must consider submissions made in accordance with this section.	17 18
[17] Section 211	19
Omit the section. Insert instead:	20
211 Ward boundaries	21
(1) The council of an area divided into wards must keep the ward boundaries under review.	22 23
(2) If:	24
(a) during a council's term of office, the council becomes aware that the number of electors in one ward in its area differs by more than 10 per cent from the number of electors in any other ward in its area, and	25 26 27 28
(b) that difference remains at the end of the first year of the following term of office of the council,	29 30
the council must, as soon as practicable, alter the ward boundaries in a manner that will result in each ward containing a number of electors that does not differ by more than 10 per cent from the number of electors in each other ward in the area.	31 32 33 34

(3) Nothing in subsection (2) prevents a council that has become aware of the discrepancy referred to in subsection (2) (a) from altering its ward boundaries before the end of the first year of the following term of office of the council.	1 2 3 4
[18] Chapter 9, Part 1, Division 2, note	5
Omit the note under the heading to Division 2 of Part 1 of Chapter 9.	6
Insert instead:	7
Note. This Division sets out the things that must be done before areas can be constituted.	8 9
Land may only be constituted as an area if the public has been notified of the proposal to do so and the councils and electors concerned have been given an opportunity to make representations concerning the proposal.	10 11 12
It also provides for the Boundaries Commission to consider proposals to constitute areas.	13 14
[19] Section 218 Referral of proposal for examination and report	15
Omit “or, if the Minister is of the opinion that the proposal involves a minor alteration or variation only, to the Director-General” from section 218 (1).	16 17
[20] Section 218 (2) (a)	18
Omit “or Director-General’s”.	19
[21] Section 234 When does a vacancy occur in a civic office?	20
Omit section 234 (d). Insert instead:	21
(d) is absent from 3 consecutive ordinary meetings of the council (unless the holder is absent because he or she has been suspended from office under section 482) without:	22 23 24 25
(i) prior leave of the council, or	26
(ii) leave granted by the council at any of the meetings concerned, or	27 28

[22] Section 234 (2)	1
Insert at the end of section 234:	2
(2) For the purposes of subsection (1) (d), a councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that councillor.	3 4 5 6
[23] Section 254A Circumstances in which annual fees are to be withheld	7
Omit section 254A (a). Insert instead:	8
(a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or	9 10 11
[24] Section 254A (2)	12
Insert at the end of section 254A:	13
(2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.	14 15 16 17 18
[25] Section 257A	19
Insert after section 257:	20
257A Governor may make further orders to dismiss mayor, councillors and appoint administrator	21 22
(1) During the 12-month period commencing on the holding of fresh council elections for an area after the appointment of an administrator under this Division, the Governor may, by proclamation, declare that all civic offices in relation to the council are vacant if the Minister so recommends.	23 24 25 26 27
(2) Section 256 applies to a proclamation under subsection (1) in the same way as it applies to a proclamation under section 255.	28 29

(3) The Minister may only make a recommendation under subsection (1) if:	1
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(a) a Departmental representative recommends in a report of an investigation made in accordance with Division 1 of Part 5 of Chapter 13 that such a declaration be made, and	3
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(b) the Minister is satisfied that:	7
(i) reasonable grounds exist for making such a declaration, and	8
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(ii) those grounds include grounds that are substantially the same, or substantially of the same nature, as all or some of the grounds for making the previous declaration of vacancy of the civic offices of the council.	10
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(4) The Departmental representative is, during the course of the investigation, to give the council, each of the councillors, any employee of the council and any other person or body whose actions the Departmental representative intends to adversely refer to in the report an opportunity to comment on the relevant parts of the draft report that contain the adverse references relating to the council, councillor, employee, person or body concerned before it is submitted to the Director-General and the Minister.	15
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(5) The Departmental representative's report under section 433 is to be accompanied by a copy of any submissions received by the Departmental representative under subsection (4).	24
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(6) The Governor and the Minister are not required to consider any matter, other than the Departmental representative's report and any accompanying submissions, before taking any action under this section.	27
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(7) Section 255 does not apply to a declaration under this section and section 434 does not apply to a recommendation contained in a Departmental representative's report that a declaration be made under this section.	31
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[26] Section 377 General power of the council to delegate	35
Insert "under section 406" after "• the adoption of a management plan" in section 377 (1).	36
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[27] Section 403 Content of draft management plan with respect to council's work and activities	1 2
Insert "(including, but not limited to, social, community and cultural matters)" after "such other matters" in section 403 (1).	3 4
[28] Section 403 (2)	5
Insert at the end of the subsection:	6
• such other particulars as may be prescribed by the regulations.	7 8
[29] Section 422 Appointment of auditors	9
Insert "or reappointed" after "appointed" in section 422 (5).	10
[30] Section 422 (5)	11
Insert "or reappointment" after "appointment".	12
[31] Section 694 Application of penalties	13
Omit "under any Act" from section 694 (1).	14
Insert instead "imposed under any Act, or imposed for a contempt of a court order to remedy or restrain a breach of this Act or any other Act, and".	15 16
[32] Section 694 (1A)	17
Insert after section 694 (1):	18
(1A) In subsection (1):	19
<i>breach of this Act or any other Act</i> means:	20
(a) a contravention of or failure to comply with this Act or any other Act, or	21 22
(b) a threatened or an apprehended contravention of or a threatened or apprehended failure to comply with this Act or any other Act.	23 24 25
<i>this Act or any other Act</i> includes a regulation or other instrument made under this Act or any other Act.	26 27

[33]	Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts	1 2
	Insert at the end of clause 1 (1):	3
	<i>Local Government Amendment (Miscellaneous) Act 2002</i>	4
[34]	Schedule 8	5
	Insert at the end of the Schedule with appropriate Part and clause numbers:	6
	Part Provisions consequent on enactment of Local Government Amendment (Miscellaneous) Act 2002	7 8 9
	No compensation for transfer of ownership of water supply, sewerage and stormwater drainage works	10 11
	No compensation is payable to any person as a result of the operation of section 59A.	12 13
	Renewal of approvals relating to operation of sewage management systems	14 15
	Section 107A extends to an approval to operate a system of sewerage management that was granted or renewed before the commencement of that section.	16 17 18
	Annual fees to be withheld	19
	Section 254A (2) extends to an absence of a councillor from ordinary meetings of the council that commenced before the commencement of that subsection.	20 21 22
[35]	Dictionary	23
	Omit “ or cleansing” from the definition of <i>sewerage work</i> .	24
	Insert instead “, cleansing, maintenance, repair, renewal or clearing”.	25
[36]	Dictionary	26
	Omit “ or cleansing” from the definition of <i>stormwater drainage work</i> .	27
	Insert instead “, flushing, cleansing or clearing”.	28

[37] Dictionary

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Insert “flushing, cleansing,” after “removal,” in the definition of *water supply work*.

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Schedule 2	Amendment of Freedom of Information Act 1989	1
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	(Section 4)	3
Schedule 1	Exempt documents	4
	Insert at the end of the Schedule with an appropriate clause number:	5
	Plans of management containing information relating to places or items of Aboriginal significance	6
		7
	A plan of management, and a draft plan of management, for an area of community land under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i> is an exempt document if it is the subject of a resolution of confidentiality referred to in section 36DA (2) of that Act.	8
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