



New South Wales

# Local Government Amendment (Regional Joint Organisations) Bill 2017

## Explanatory note

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

## Overview of Bill

The objects of this Bill are to amend the *Local Government Act 1993* and other legislation as follows:

- (a) to provide for the constitution of joint organisations of councils (*joint organisations*), if the councils concerned resolve to be included in the joint organisations,
- (b) to provide for the functions and operation of joint organisations,
- (c) to make consequential amendments as a result of the provision for joint organisations.

## 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 proclaimed.

## Schedule 1 Amendment of Local Government Act 1993 No 30

**Schedule 1 [10]** inserts proposed Part 7 of Chapter 12. The proposed Part provides as follows for joint organisations:

- (a) it enables the making of proclamations by the Governor to constitute joint organisations and provides for the area of the joint organisation (a *joint organisation area*) to consist of at least 2 council areas,
- (b) it prohibits a council area from being included in a joint organisation area unless the council has resolved to approve inclusion of the council's area in the joint organisation area,

- (c) a joint organisation established under a proclamation is constituted as a body corporate with the powers of an individual both in and outside the State,
- (d) the principal functions of a joint organisation are to establish strategic regional priorities, provide regional leadership and identify and take up opportunities for inter-governmental co-operation on regional matters,
- (e) joint organisations may also deliver services to or on behalf of councils and provide assistance to councils (including capacity building), subject to any restrictions imposed by the regulations,
- (f) a joint organisation is to make decisions through its board, which will contain voting and non-voting representatives. The voting representatives will be the mayor of each council whose area is included in the joint organisation (a *member council*) as well as one additional representative for each member council if the board determines that additional representatives are to be added,
- (g) the role of the board is to direct and control the affairs of the joint organisation. The board is to prepare and adopt a charter for the joint organisation,
- (h) the chairperson of the joint organisation is to be elected by the voting representatives from the representatives who are mayors and is to hold office for 2 years and may, if the board so determines, be a non-voting chairperson,
- (i) regulations may be made to enable alternates to be appointed for voting representatives and may provide that the alternates may only act for limited periods,
- (j) a voting representative will cease to hold office when he or she ceases to be the mayor or councillor of a member council, resigns, has a nomination revoked or is removed from office by the Minister and will be suspended for any period of suspension as a mayor or councillor,
- (k) a member council may request that the Minister remove the mayor of the council from the board on the ground of exceptional circumstances, with or without the consent of the mayor,
- (l) the role of the executive officer of a joint organisation is to conduct the day-to-day management of the joint organisation and to give effect to lawful decisions of the joint organisation,
- (m) the functions of the joint organisation may be exercised by means of the representatives, by a committee or by other provision or means, jointly with another person or persons or a member council or by a delegate,
- (n) a joint organisation cannot require a member council to delegate a function to it,
- (o) if an administrator is appointed for a member council, the administrator may exercise the functions, and has the same number of votes as, all of the voting representatives of that council,
- (p) the Governor may make proclamations amending the constitution of, or dissolving, a joint organisation,
- (q) provisions enabling savings and transitional provisions to be included in proclamations constituting councils will apply to proclamations made under the proposed Part,
- (r) a function of the joint organisation may be delegated to a committee, the executive officer or any other person or body. The executive officer may sub-delegate the function as well as delegate his or her functions. A joint organisation may also sub-delegate to a committee, the executive officer or any other person or body functions delegated to the joint organisation by the Chief Executive of the Office of Local Government or a member council,
- (s) the regulations will be able to provide for the making of financial contributions by member councils to a joint organisation and this may include making employees available for the purposes of the joint organisation,
- (t) limitations are imposed on the employment of staff pending certain declarations,

- (u) provisions of the *Local Government Act 1993* that apply to councils are applied to joint organisations as if they were councils, subject to specified exclusions. Regulations may also be made to exclude the application of additional provisions and to apply excluded provisions.

**Schedule 1 [1]** enables proclamations that constitute, dissolve or change a council area to contain transitional provisions that enable changed council areas to be included in or excluded from a joint organisation area. **Schedule 1 [2]** makes a consequential amendment.

**Schedule 1 [3]** enables a council to exercise its functions jointly with another council or councils by means of a joint organisation.

**Schedule 1 [4]** enables a council to delegate functions to a joint organisation, but only if the board of the joint organisation approves of the delegation.

**Schedule 1 [5]** enables a regulatory function of a council to be delegated to a joint organisation.

**Schedule 1 [6]** requires the board of a joint organisation to approve the delegation to the joint organisation of a regulatory function of a council.

**Schedule 1 [7]** enables a regulatory function that is delegated to a joint organisation to be delegated or sub-delegated to the executive officer and an employee of the joint organisation.

**Schedule 1 [8]** requires a county council to take into account the strategic regional priorities and other plans, programs, strategies and policies of a joint organisation, that apply to land within the county council's area of operations or that are relevant to its operational functions, when exercising functions.

**Schedule 1 [9]** excludes the Part containing provisions applying to the constitution of joint organisations from applying to county councils.

**Schedule 1 [12]** makes it clear that a provision that does not give rise to or affect legal proceedings retains that protection in circumstances when it is applied by another provision of the Act (for example, to a county council). **Schedule 1 [11]** makes a consequential amendment.

**Schedule 1 [13]** enables regulations to be made with respect to joint organisations, including with respect to staffing, voting and meeting procedures of the board and governance.

**Schedule 1 [14]** inserts definitions of *joint organisation*, *joint organisation area* and *member council*.

## **Schedule 2      Amendment of other Acts**

**Schedule 2** amends various Acts to apply provisions in those Acts, that already apply to county councils, to joint organisations.