

**LOCAL GOVERNMENT AMENDMENT (MEMBERS OF PARLIAMENT) BILL
2012**

PROOF

27 March 2012 Page: 39

Bill introduced on motion by Mr Donald Page.

Agreement in Principle

Mr DONALD PAGE (Ballina—Minister for Local Government, and Minister for the North Coast) [4.00 p.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Local Government (Members of Parliament) Bill 2012. The object of the bill is to remove the potential for conflicts of duties between State and local council matters by ensuring that a person can serve in only one elected position at any one time in either the Parliament of New South Wales or on a local council. To achieve this the bill proposes that the Local Government Act 1993 be amended to disqualify a person who is a member of the Parliament of New South Wales from being, at the same time, a mayor or a councillor of a local council. This bill brings New South Wales into line with the other Australian mainland States—Queensland, Victoria, South Australia and Western Australia—where it is already prohibited to serve concurrently as a State member and a councillor.

The bill will allow a sitting councillor, including a mayor, to stand for election to the New South Wales Parliament. If elected, the councillor will be able to complete his or her term of civic office provided that term does not exceed two years. This will apply to all current and future terms of civic office. This will allow most councillors who are elected to the New South Wales Parliament to see out their term of civic office. New South Wales State general elections are held on the fourth Saturday in March every four years. Local government ordinary elections in New South Wales are held approximately 18 months later, on the second Saturday of September every four years. Consequently, mayors and councillors who are elected to the New South Wales Parliament at a State general election will be able to retain their civic office until the end of the term of the council.

This phased approach will ensure continuity and certainty for councils, communities and candidates for both local government and State elections. There may be occasions when a sitting councillor or mayor is elected to the New South Wales Parliament at a State by-election. If this happens they may retain their dual role for a maximum period of two years. At the end of two years they must choose which role they wish to retain and resign from the other. Should a serving mayor or councillor who is elected to the New South Wales Parliament at a State general election nevertheless choose to resign his or her office as a councillor then in most instances he or she will be able to do so without triggering a by-election. This measure is the direct result of the Government's initiative in 2011 in amending the Local Government Act to provide councils with the opportunity to avoid filling a vacancy

in a civic office when it occurs within 18 months prior to an ordinary council election. This saves councils the time and cost of holding by-elections during the run-up to ordinary elections.

A member of the New South Wales Parliament will not be forced to resign his or her seat in Parliament to be eligible to stand for civic office. This is because the bill will allow a member of the New South Wales Parliament to stand for civic office; that is, as a mayor or councillor, either at a local government by-election or ordinary election. If elected to civic office the member of the New South Wales Parliament has a choice of either resigning as a member and entering civic office or remaining in the Parliament. This choice must be made prior to the first meeting of the council following the council election.

The Local Government Act 1993 provides a legislative framework reflecting contemporary community expectations and gives local councils broad powers to plan for and provide local community services and facilities. It ensures that leadership of councils is provided by all of the elected councillors who work together to provide good governance for the benefit of their community. Councillors can, and do, have a major impact on the health and wellbeing of the whole community. Consequently the importance of the community's confidence in the integrity of its councillors cannot be underestimated. One of the key ingredients supporting that confidence is the underlying principle that those who are elected as local government councillors should not have obligations to other governments that may limit their impartiality or their ability to act in the best interests of their local community.

Such competing obligations can impact on the effective and appropriate exercise of a person's role as a local government representative in two respects. First, the person may be influenced in the performance of their role as a mayor or councillor by the obligations owed to another level of government or by political considerations arising from service in the State Parliament. Secondly, the demands on a person's time that arise from meeting their obligations as a member of the State Parliament may inhibit their capacity to effectively represent the interests of the community the council serves. This proposal will address concerns that have been frequently raised by community groups and members of the public about the level of performance and value judgements made by some councillors who also serve as members of the New South Wales Parliament. Those concerns have included difficulties faced by ratepayers when determining who to approach when they wish to raise a problem with their local member of Parliament about their council and the member happens to be the mayor or a councillor on that council. Fairness and equity are a problem in the sense that mayors and councillors who are not members of Parliament will not have the same capacity to raise issues directly in Parliament or with Ministers with whom they do not have regular contact.

The DEPUTY-SPEAKER (Mr Thomas George): Order! The member for Sydney will have her opportunity to take part in the debate. The Minister will be heard in silence.

Mr DONALD PAGE: There is also the potential for people to have perceptions about the

inappropriate use of one position for the purposes of another. The proposal is also a further step in the implementation of the Government's policy to enhance the autonomy of councils and democracy and accountability in local government. This proposal is also made in the context that the local government sector in New South Wales has expressed a desire to more clearly define the responsibilities of State and local government.

Members will no doubt be aware of the historic Destination 2036 conference that was held in Dubbo in August of last year. That conference was a joint initiative between the New South Wales Government, the Local Government and Shires Associations of New South Wales and Local Government Managers Australia (NSW). It was attended by the leaders of all 152 local councils in the State. The primary purpose of Destination 2036 was to create a sustainable future for the local government sector. One of the key outcomes of the Dubbo conference was agreement that local government should be a strong and effective tier of government with clear responsibilities. Further, it is proposed that a new intergovernmental agreement between the New South Wales Government and local governments be developed that will also bring clarity to local government's responsibilities.

This bill will assist in ensuring that elected representation in each tier of government—that is, State and local—is distinct, thereby enhancing clear and distinct responsibilities. I stress that this proposal is not targeted at any particular member of the New South Wales Parliament nor at any local government mayor or councillor; it is about all persons currently in the New South Wales Parliament.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I remind members of the Opposition that many of them are on three calls to order.

Mr DONALD PAGE: Following the March 2011 State elections there were 29 councillors from 24 councils in New South Wales who were also elected to the New South Wales Parliament, although it is recognised that these numbers fluctuate over time. They hailed from all parties and include Independents. In fact, the majority of them are members of the Liberal-Nationals Government. However, this is not simply about numbers. I reiterate that the practice is, and has been for a number of years, prohibited in all mainland States; that is, Queensland, South Australia, Victoria and Western Australia. In that regard the bill will bring New South Wales into line with contemporary democratic practice.

In the course of developing this proposal the Government undertook consultation with the public and local government stakeholders. This involved the release of a discussion paper and the consideration of more than 450 submissions. Those submissions have not revealed a clear consensus of views. Opinions have been almost equally divided as to whether a person should or should not be able to concurrently serve as a member of the New South Wales Parliament and as a local government mayor or councillor. The proposal in this bill gives recognition to the fact that the respective roles of member of the New South Wales Parliament and local government civic office deserve the full attention and efforts of those elected to those roles.

Members of the Parliament of New South Wales have a duty to give their full attention and efforts to representing their constituents in the Parliament. Their time and attention should not be distracted by the responsibilities that are attendant upon mayors and councillors of local councils. Conversely, mayors and councillors of local councils have a duty to devote their full attention and efforts to representing their local communities at the council. Their time and attention should not be distracted by the responsibilities that are attendant upon members of the New South Wales Parliament. Both roles are extremely important in our democratic society and carry substantial responsibilities. The electors who vote at State elections and at local government elections rightly expect that the people whom they vote into public office will give their full efforts in performing the role expected of them in their respective offices. One person cannot adequately and impartially perform multiple roles such as these simultaneously. As I have noted earlier, all other mainland States have recognised this and have enacted legislation accordingly. This proposal will serve to enhance the integrity of local government in New South Wales as a distinct and essential tier of government. It will also promote the impartiality of decision making by elected councils. It will also deliver optimal governance in New South Wales at both the State and local government level. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.