



New South Wales

# Real Estate Services Council Bill 2019

## Explanatory note

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

## Overview of Bill

The object of this Bill is to establish and confer functions on the Real Estate Services Council for New South Wales.

## Outline of provisions

### Part 1 Preliminary

**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.

**Clause 3** defines certain words and expressions used in the proposed Act.

### Part 2 Constitution and management of Real Estate Services Council

**Clause 4** constitutes the Real Estate Services Council (the *Council*) as a body corporate.

**Clause 5** provides that the Council is, for the purposes of any Act, a NSW Government agency.

**Clause 6** provides that the Council is subject to the control and direction of the Minister administering the proposed Act (the *Minister*) in the exercise of its functions, except in relation to the contents of any advice, report or recommendation given to the Minister.

**Clause 7** provides for the establishment of a Board of the Council (the *Board*).

The Board is to consist of the following members—

- (a) 1 person appointed by the Minister as the Chairperson of the Board,
- (b) 1 person appointed by the Minister from a panel of 3 persons nominated by the Owners Corporation Network of Australia Ltd,
- (c) 1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Consumers' Association,
- (d) 3 persons appointed by the Minister from a panel of 5 persons nominated by The Real Estate Institute of New South Wales Limited,
- (e) 1 person appointed by the Minister from a panel of 3 persons nominated by the Australian Livestock and Property Agents Association Ltd,
- (f) 1 person appointed by the Minister from a panel of 3 persons nominated by the Head of School, School of Built Environment, Faculty of Design, Architecture and Building, University of Technology Sydney (after consulting with the senior members of that school),
- (g) the Real Estate Services Commissioner.

**Clause 8** enables the Board to may establish other committees to assist it in connection with the exercise of any of its functions. The members of a committee need not be members of the Board.

**Clause 9** provides for the appointment of a Real Estate Services Commissioner (the *Commissioner*) by the Governor, on the recommendation of the Council (other than an incumbent Commissioner). Any act, matter or thing done in the name of, or on behalf of, the Council by the Commissioner is taken to have been done by the Council.

**Clause 10** allows staff to be employed in the Public Service to enable the Council to exercise its functions.

### **Part 3 Objects and functions of Real Estate Services Council**

**Clause 11** sets out the objects of the Council, being—

- (a) to promote appropriate standards of conduct and competency for agents, and
- (b) to protect the interests of persons who deal with agents, and
- (c) to facilitate the resolution of disputes between agents and persons who deal with them.

The Council is to exercise its functions with a view to achieving these objects.

**Clause 12** sets out the functions of the Council, being—

- (a) to provide advice, reports or recommendations to the Minister relating to the following—
  - (i) the business of agents,
  - (ii) the education, training and continuing professional development of agents,
  - (iii) consumer protection,
  - (iv) any other matter requested by the Minister, and
- (b) to provide public information and guidance programs, and
- (c) other functions conferred or imposed on it by or under the proposed Act or any other Act.

### **Part 4 Miscellaneous**

**Clause 13** deals with the recovery of amounts due to the Council.

**Clause 14** deals with the service of documents.

**Clause 15** protects persons involved in the administration of the proposed Act from personal liability if acting in good faith.

**Clause 16** enables the Council and the Commissioner to delegate their functions to specified other persons.

**Clause 17** makes it an offence for a person to disclose information obtained in connection with the administration or execution of the proposed Act except in certain circumstances. The maximum penalty is 20 penalty units (currently, \$2,200).

**Clause 18** provides that proceedings for an offence under the proposed Act may be dealt with summarily before the Local Court.

**Clause 19** enables the Governor to make regulations for the purposes of the proposed Act.

## **Schedule 1 Savings, transitional and other provisions**

**Schedule 1** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

## **Schedule 2 Constitution and procedure of Board**

**Schedule 2** sets out the provisions relating to the appointed members of the Board, including their appointment, term of office and vacancy and removal. The Schedule also deals with the procedure of meetings of the Board.

## **Schedule 3 Provisions relating to Real Estate Services Commissioner**

**Schedule 3** contains provisions relating to the office of Commissioner, including provisions dealing with the term of office, vacancy and removal from that office. The Schedule also makes provision for an Acting Commissioner.

## **Schedule 4 Amendment of Acts**

**Schedule 4** makes amendments to the following Acts—

- (a) the *Property, Stock and Business Agents Act 2002* to give the Council certain functions under that Act currently exercised by the Commissioner for Fair Trading,
- (b) the *Statutory and Other Offices Remuneration Act 1975* regarding the determination of the remuneration of the Commissioner.