



New South Wales

Local Government Amendment Bill 2021

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*—

- (a) to give effect to certain recommendations made by the Independent Pricing and Regulatory Tribunal concerning the local government rating system, and
- (b) to make miscellaneous changes about local government elections and the terms of office of chairpersons of county councils and joint organisations, and
- (c) to provide for the payment of superannuation contributions for councillors.

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.

Schedule 1 Amendment of Local Government Act 1993 No 30

1.1 Amendments concerning local government rating system

Schedule 1.1[3] allows special rates to be levied for or towards meeting the costs of works, services, facilities or activities provided or undertaken, or proposed to be provided or undertaken, by councils together with certain government entities.

Schedule 1.1[4] enables orders of the Minister specifying percentages for the variation of councils' incomes to specify different percentages for different councils or a methodology for calculating a percentage.

Schedule 1.1[7] creates a new rating category for environmental land. **Schedule 1.1[1],[2], [5], [6], [8] and [9]** make consequential amendments.

Schedule 1.1[10]–[15] revise the ways in which sub-categories may be determined for categories of ordinary rates, including by requiring sub-categories to be identified by geographical names.

Schedule 1.1[16]—

- (a) enables the Minister to issue guidelines for—
 - (i) the determination of ordinary rates for rateable land in contiguous urban areas, and
 - (ii) the factors or circumstances that may, or may not, be used by councils in determining a residential sub-category or the ordinary rate for a residential sub-category, and
- (b) enables the regulations to specify a factor by which the highest ordinary rate for rateable land in a contiguous urban area cannot exceed the average rate payable for other rateable land, and
- (c) enables the Minister to specify a different factor than the one prescribed by the regulations, and
- (d) requires a council to publish reasons if the council decides to make different ordinary rates for residential sub-categories.

Schedule 1.1[19]and [20] consolidate exemptions for rates other than water supply and sewerage special rates into a single section with revised exemptions for—

- (a) land reserved or acquired under the *National Parks and Wildlife Act 1974*, and
- (b) land that is the subject of a conservation agreement, but only if the owner of the land is not receiving regular State financial assistance in relation to the agreement.

Schedule 1.1[17], [18], [22] and [23] make consequential amendments.

Schedule 1.1[24] provides water supply special rates and sewerage special rates may be levied on land that is the subject of a conservation agreement, but only if the owner of the land is not receiving regular State financial assistance in relation to the agreement.

Schedule 1.1[25] and [26] enable a council to grant exemptions for other rates in addition to water supply and sewerage special rates in certain circumstances.

Schedule 1.1[28] limits the ability of a council to postpone the payment of rates for land on the application of a rateable person to cases where a change in the zoning or other designation of the land under an environmental planning instrument mentioned in section 585 of the *Local Government Act 1993* happens if—

- (a) the change happened within the period of 20 years before the application for postponement is made, and
- (b) a determination or redetermination made by the Valuer-General of the attributable part of the land value having regard to the change is in force, and
- (c) the rateable person making the application—
 - (i) occupies the land when the application is made, and
 - (ii) owned the land when the change happened, but did not initiate or request the change, and
- (d) the council is satisfied on reasonable grounds that the case falls within a category of hardship for which the council has determined payment should be postponed.

Schedule 1.1[27] makes a consequential amendment.

Schedule 1.1[29] removes the requirement for a council to write off unpaid rates after 5 years and replaces it with a discretion to do so.

Schedule 1.1[30] alters the overdue period for unpaid council rates or charges after which the council may sell the land concerned from 5 years to 3 years.

Schedule 1.1[31] contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1.1[32] inserts a definition for *conservation agreement*. **Schedule 1.1[21]** makes a consequential amendment,

Schedule 1.1[33] inserts a definition for *regular State financial assistance* in relation to a conservation agreement.

1.2 Amendments concerning elections and terms of office

Schedule 1.2[1] makes it clear who is to be the returning officer in certain countback elections. **Schedule 1.2[2]** provides that a by-election is to be held if a returning officer cannot be appointed to conduct a countback election.

Schedule 1.2[3] provides that postal votes in an election must be received by the returning officer before the time and day following the close of the poll prescribed by the regulations, rather than before 6pm on the first business day immediately following the close of the poll.

Schedule 1.2[4] provides that a chairperson of a county council is to hold office for 2 years, rather than 1 year. The amendment also provides that a person who is a chairperson also vacates office on the polling day of the ordinary election of councillors of which the person is a councillor.

Schedule 1.2[5] provides that a person who is a chairperson of a joint organisation vacates office on the polling day of the ordinary election of councillors of which the person is a councillor.

1.3 Amendments concerning superannuation payments for councillors

Schedule 1.3 provides for councils to make superannuation contribution payments to superannuation accounts nominated by councillors from the financial year commencing on 1 July 2022.

Currently, councils are not required to make superannuation contribution payments for councillors under Commonwealth superannuation legislation because councillors are not employees of councils.

The amount of the contribution payment will be the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.