

LOCAL GOVERNMENT AMENDMENT (TARGETED REVIEW) ACT 2017

INFORMATION SHEET
December 17

This information sheet covers the changes to the *Local Government Act 1993* that have resulted from the *Local Government Amendment (Targeted Review) Act 2017*.

Background

The *Local Government Amendment (Targeted Review) Act 2017* (Amendment Act) was the result of recommendations arising from the targeted review of the *Local Government Act 1993* (the Act).

The Amendment Act received Royal Assent on 22 November 2017.

Why are the changes being made?

The targeted review of the Act was aimed at improving governance arrangements within councils in line with increasing community expectations for transparency and accountability. A number of recommendations came out of the process, aimed at improving the Act, and the majority of recommendations have been implemented in the Bill.

When do the changes start?

The majority of the amendments apply from the date that the Amendment Act received Royal Assent.

Some amendments will commence at a date to be proclaimed and are explained in further detail below.

What are the main changes?

Boundary Adjustments (section 16)

- A Local Government Board review is no longer required to approve minor boundary adjustments.

Role of the Mayor (section 27)

- The role of the Mayor has been clarified under the legislation.
- New functions include promoting good governance, and acting as chairperson of the council and chairing meetings of council in a manner that supports decision-making processes.
- A new provision has been inserted which provides the Minister for Planning and Local Government (the Minister) with the power to make a Ministerial Order to expand and clarify the role of the mayor or a councillor.

General Manager (section 61)

- Clarified provisions that outline the arrangements for the appointment of acting general managers.

- A new provision provides the Minister with the power to make a Ministerial Order about the functions and powers, selection, reappointment and the monitoring and appraisal of performance of general managers.

Qualified Persons Advice (section 65)

- This section has been amended to ensure that any qualified advice, including verbal advice, is provided to councillors in writing by the general manager.

Performance Improvement Directions (Part 12B)

- A Performance Improvement Direction (PID) is a new, simple and streamlined mechanism that will be used to require a council, a councillor or some councillors to take, refrain from taking or cease taking action to improve their performance with respect to statutory compliance.
- A PID is designed to provide a mechanism in between a Director's investigation powers and a Board of Inquiry. The aim is to resolve an issue using a PID before it escalates into a Board of Inquiry.

Boards of Inquiry (part 13)

- This section has been amended so that an individual councillor, or a number of councillors, or all councillors may be suspended and such a suspension can occur at any time during the Board of Inquiry process.

- A Board of Inquiry has been provided with the power to require a person to provide written answers to a formal request for information.
- The Minister now has the flexibility to dismiss an individual councillor, several or all councillors following recommendations from a Board of Inquiry Report.
- Further clarification about what is intended by the phrase "operation of the council" has been provided.

Electoral Changes

- Changes have been made to the vacation of office (schedule 5) provisions to address the unintended technical consequence from councillors moving residence outside of their municipal area while still being eligible to be on the general manager's electoral roll.
- The timeframe of elections has been increased by one week (sections 260, 269 and 274). This is to accommodate changes to Australia Post's services which have increased the time taken for mail to be delivered.

Audit Panel Members (section 55)

- This section has been amended to ensure members of an audit panel are bound by both confidentiality and conflict of interest requirements under the Act.
- The changes reflect that audit panel members consider and review sensitive or confidential information.

Director of Local Government (section 339E and 339EA)

- Provisions clarify the ability of the Director to determine the procedure for handling/investigating complaints. The Director can accept or reject a complaint, as well as investigate or dismiss a complaint (section 339E).
- Amended to include provisions relating to the ability of the Director to instigate own motion investigations (section 339EA). This is to clarify that the Director can determine the procedure for such investigations, and may refer any information gained to an approved third party authority such as the Integrity Commission.

Electronic petitions (section 57)

- This section has been amended to allow for electronic petitions to be accepted by councils.

Changes to be proclaimed at a later date

The following amendments will come into effect at a date to be proclaimed:

Gifts and Donations (part 5A)

- New provisions will require a councillor (or candidate) to notify the general manager if they receive a gift or donation and for the general manager to keep a register of those gifts and donations.
- The *Local Government (General) Regulations 2015* will prescribe detail around the gifts and donations register.

Model Financial Statements (section 83A)

- A new section that will require councils to issue their financial statements in line with model financial statements issued by the Director of Local Government for each financial year.

Electoral Changes

- The definition of electoral advertising will include advertising on the internet. Candidates will need to declare any costs for advertising on the internet as part of their return to the Electoral Commissioner.

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