

# Recent amendments made to the Local Government Act 1993 No 30

**Date :** July 31, 2019

The *Local Government Amendment Bill 2019* (NSW) ('**Bill**') which was assented to and commenced on 25 June 2019 has amended a number of sections of the *Local Government Act 1993 No 30* (NSW) ('**LGA**'). The Bill amends the LGA in relation to election planning, rates, tendering requirements, mutual recognition of approvals as well as other regulatory matters and other purposes.

Under the Bill, a total of 21 amendments to the LGA were introduced. 14 of such amendments have already been implemented into the updated LGA whilst the remaining seven amendments are yet to commence on a day or days to be appointed by proclamation.

## Changes to election planning

The new section 296 (5A) has been inserted into the LGA to enable a council to enter into an arrangement with the Electoral Commissioner to administer the election of ordinary councillors in 2020, or all elections including that election, if the council resolves to do so on or before 1 October 2019 and enters into the arrangement on or before 1 January 2020. Under the previous LGA, an arrangement would have been required to have been entered into by June 2019.

## Changes to rates

Section 55 of the LGA has been amended to omit 'at a rate not exceeding the rate so specified' from section 55(3) (a) and (g) wherever occurring. Instead, 'if a rate is so specified, at a rate not exceeding the rate so specified' has been inserted. Consequently, the new section 55 has removed the requirement that a rate for the purchase of goods, materials and services be specified for certain contracts to be exempted from the requirement a council is to invite tenders before entering into a contract.

Additionally, section 218CB of the LGA has been amended to increase the period from 3 rating years to 4 rating years for which the Minister for Local Government may continue to apply the existing rate path for amalgamated councils.

## Changes to tendering requirements

The Bill has also brought about some more significant changes in regards to the threshold amount for tendering requirements. Under the previous section 55 (3) (n) of the LGA, Councils were not required to invite tenders before entering into contracts that involved an estimated expenditure or receipt of an amount of below \$100,000. This threshold has subsequently been increased to \$250,000 with the insertion of the new amended section 55 (3) (n) of the LGA.

In conjunction with this change has been the introduction of section 55 (3) (q) into the new LGA,



which exempts councils from the requirement to invite tenders prior to entering into a contract if the contract is entered into with a disability employment organisation that has been approved for the particular goods and services concerned under the *Public Works and Procurement Act 1912 No 45* (NSW).

### **Mutual recognition of approvals**

Although the new item 8AA has yet to be implemented under schedule 6 in the LGA, the insertion of item 8AA will allow regulations to be made that prescribe a scheme for the mutual recognition of council approvals for regulatory activities such as policies of councils relating to mutual recognition and the enforcement of recognised approvals by councils.

Overall, there have been a number of various amendments made to the LGA that may impact issues relating to the mutual recognition of approvals, election planning, rates, tendering requirements and other general regulatory matters.

For more information, visit

<https://www.parliament.nsw.gov.au/bill/files/3643/Passed%20by%20both%20Houses.pdf>

(external link) or feel free to contact our office.

MatthewsFolbigg Lawyers, Parramatta, are specialist environmental lawyers in Western Sydney who are able to advise in relation to all matters relating to governance, planning and environmental law.