

<b>Circular Details</b>	21-07 / 27 May 2021 / A767595
<b>Previous Circular</b>	20-42
<b>Who should read this</b>	Councillors / General Managers / Finance & Rating Staff / Corporate Governance & Legal Staff
<b>Contact</b>	Policy Team / 02 4428 4100 / <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>Action required</b>	Council to implement

## Commencement of *Local Government Amendment Act 2021*

### What's new or changing

- The *Local Government Amendment Act 2021* (Amendment Act) was passed by the NSW Parliament on 13 May 2021 and has come into effect, although some reforms will commence by proclamation, as indicated below.
- This Amendment Act includes reforms to ensure a fairer and more flexible rating system for councils and ratepayers, councillor superannuation and minor changes that relate to council elections and the terms of office of chairs of county councils and joint organisations.

### What this will mean for your council

- Councillors, general managers and staff should familiarise themselves with the key reforms in the Amendment Act, with a particular focus on those changes that came into effect on commencement, as outlined below.
- Councils created by merger in 2016 that have yet to harmonise their rating structures have more flexible options for their rating structures, including the option to harmonise rates gradually over up to eight years. See key points for merged councils below.

### Key points

- The Government remains committed to strengthening the performance and sustainability of local government, including councils created by merger in 2016. The Amendment Act delivers key reforms to achieve these outcomes.
- Rating reforms will ensure councils have a stable and reliable revenue base, provide greater flexibility for councils and ratepayers, enabling a fairer distribution of the rating burden. This implements key elements of the Government's response to the Independent Pricing and Regulatory Tribunal's (IPART's) review of the local government rating system.
- The Amendment Act will be subject to a Statutory Review within 2 years.

### Key points for merged councils

- Importantly, the Act now provides greater flexibility for those councils formed in 2016 as they prepare to harmonise rates from 1 July 2021. These councils can choose, in consultation with their communities:
  - to harmonise their rating structures gradually over up to eight years - councils that take up this option must apply no more than 50% of the total increase in rates for each rating category over the period, in any year;

- to set separate rates for different residential land within a contiguous urban area, like Greater Sydney and the Central Coast; and
- to set separate rates for farming land based on geographic location.
- It is a matter for each merged council to determine whether or not to take up one or more of these options as they develop a rating structure for their area.
- The Amendment Act also provides a process for councils constituted within the last 10 years to submit a business case with supporting reasons to the Minister for a de-amalgamation of an area. Further information on this process will be provided separately.

### **Key points about rating changes for all NSW councils**

- Changes to improve flexibility for residential and farmland rates can also be used by all NSW councils.
  - Councils are able to set different residential rates within a contiguous urban area and can choose to set different rates for farmland based on geographic location. These provisions commence on assent.
  - Councils will be able to set business rates based on whether the land is predominantly used for industrial activities. This will commence by proclamation.
  - A new rating category for environmental land will be created for land where meaningful development is constrained by geography or regulation that imposes significant restrictions on use, such as conservation agreements. This provision will commence by proclamation, once regulations are made.
  - The Act now clearly allows for multiple rate pegs to be set, if required, as part of limiting councils' general income each year. This will enable the Government to deliver on its commitment to align councils' general income to population growth in future to help relieve pressure in growing communities. This provision commences on assent. IPART will recommend a proposed rate peg methodology to the Minister.
  - To reduce red tape, the Act will allow councils to levy a new kind of special rate for infrastructure jointly funded with other government entities. These special rates are not limited to funding council functions and resulting income does not form part of councils' general income under the rate peg. This provision will commence by proclamation, once regulations are made.
  - The Act also allows for regulations to be made to specify circumstances under which the rating exemption for land subject to a conservation agreement may be removed. This will not commence until regulations are made following consultation with key stakeholders to ensure incentives for land conservation remain in place.
  - The Act will provide any councils that provide water and sewerage services and levy special rates for that purpose with discretion about whether to exempt certain properties from those rates.
  - Limits will be placed on ratepayers eligible to postpone rates due to a change in the permitted use of their land. This will still allow owner occupiers who would face hardship to apply to council for a postponement of the portion of their rates that have increased due to rezoning.

### **Key points about other changes**

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- Councils will have the option to make superannuation contribution payments for councillors from 1 July 2022 equivalent in amount to superannuation guarantee payments. The decision to make superannuation contribution payments must be made by resolution at an open meeting.
- Minor amendments have been made to allow the time for the receipt of postal votes to be prescribed by regulation and to allow greater flexibility for the NSW Electoral Commission and other electoral service providers in the administration of countbacks to fill vacancies.
- The term of office of chairpersons of county councils has been extended to two years, aligning it with the terms of office of mayors elected by councillors and chairpersons of joint organisations. Technical amendments have also been made to clarify that the terms of chairpersons of county councils and joint organisations expires on the election day of their member councils.
- Further rating reforms that do not rely on the Amendment Act will be implemented by making changes to regulations and releasing new guidance later this year.
- In part, this includes aligning rating income growth with population growth to help councils provide for growing communities within the rate pegging system while still protecting residents from sudden and excessive rate rises.
- To give effect to this commitment, the Minister has asked IPART to recommend a proposed rate peg methodology that allows the general income of councils to be varied each year in a way that accounts for population growth.
- IPART has been asked to ensure that councils with lower population growth are not disadvantaged, to undertake public consultation and to provide a final report by September.
- There is no change to the requirement for councils to pay an annual Emergency Services Levy (ESL) contribution from within councils' general income.

#### **Where to go for further information**

- The Local Government Amendment Act 2021 is available at <https://www.legislation.nsw.gov.au>.
- The Government's response to IPART's review of the local government rating system is available at [www.olg.nsw.gov.au/wp-content/uploads/2020/06/IPART-Rating-Review-Government-Response.pdf](http://www.olg.nsw.gov.au/wp-content/uploads/2020/06/IPART-Rating-Review-Government-Response.pdf)
- IPART's final report on the local government rating system is available at [www.ipart.nsw.gov.au/Home/Industries/Local-Government/Reviews/Local-Government-Rating-System/Local-Government-Rating-System](http://www.ipart.nsw.gov.au/Home/Industries/Local-Government/Reviews/Local-Government-Rating-System/Local-Government-Rating-System)



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