
Local Government Act 1993 No 30

Current version for 30 April 2021 to date (accessed 13 May 2021 at 12:51)

Chapter 2

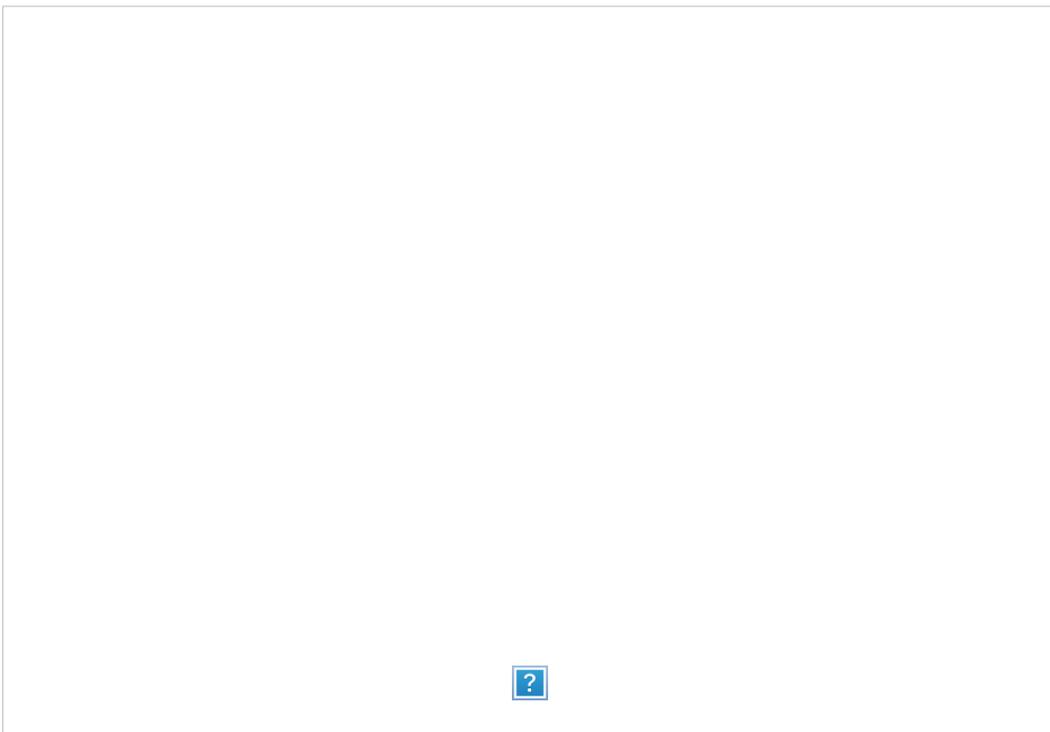
Chapter 2 What are the purposes of this Act?

7 Purposes of Act

The purposes of this Act are as follows—

- (a) to provide the legal framework for the system of local government for New South Wales,
- (b) to set out the responsibilities and powers of councils, councillors and other persons and bodies that constitute the system of local government,
- (c) to provide for governing bodies of councils that are democratically elected,
- (d) to facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government,
- (e) to provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

The system of local government in New South Wales



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Chapter 3

Chapter 3 Principles for local government

8 Object of principles

The object of the principles for councils set out in this Chapter is to provide guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous.

8A Guiding principles for councils

(1) **Exercise of functions generally** The following general principles apply to the exercise of functions by councils

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

(2) **Decision-making** The following principles apply to decision-making by councils (subject to any other applicable law)—

- (a) Councils should recognise diverse local community needs and interests.
 - (b) Councils should consider social justice principles.
 - (c) Councils should consider the long term and cumulative effects of actions on future generations.
 - (d) Councils should consider the principles of ecologically sustainable development.
 - (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.
- (3) **Community participation** Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

8B Principles of sound financial management

The following principles of sound financial management apply to councils—

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following—
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following—
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services.

8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils—

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.

- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.

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Chapter 4

Chapter 4 How can the community influence what a council does?

Part 1 Open meetings

9 Public notice of meetings

- (1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.
- (2) A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2A) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public—
 - (a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
 - (b) the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.
- (3) The copies are to be available to the public as nearly as possible to the time they are available to councillors.
- (4) The copies are to be available free of charge.
- (5) A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form.

10 Who is entitled to attend meetings?

- (1) Except as provided by this Part—
 - (a) everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and
 - (b) a council must ensure that all meetings of the council and of such committees are open to the public.
- (2) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such a committee if expelled from the meeting—

- (a) by a resolution of the meeting, or
 - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

10A Which parts of a meeting can be closed to the public?

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises—
- (a) the discussion of any of the matters listed in subclause (2), or
 - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following—
- (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed—
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
 - (i) alleged contraventions of any code of conduct requirements applicable under section 440.
- (3) A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (4) A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.
- (5), (6) (Repealed)

10B Further limitations relating to closure of parts of meetings to public

- (1) A meeting is not to remain closed during the discussion of anything referred to in section 10A(2)—
 - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret—unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- (2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that—
 - (a) are substantial issues relating to a matter in which the council or committee is involved, and
 - (b) are clearly identified in the advice, and
 - (c) are fully discussed in that advice.
- (3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).
- (4) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that—
 - (a) a person may misinterpret or misunderstand the discussion, or
 - (b) the discussion of the matter may—
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the council or committee.
- (5) In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Departmental Chief Executive.

10C Notice of likelihood of closure not required in urgent cases

Part of a meeting of a council, or of a committee of the council of which all the members are councillors, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if—

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A(2), and
- (b) the council or committee, after considering any representations made under section 10A(4), resolves that further discussion of the matter—
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public.

10D Grounds for closing part of meeting to be specified

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following—
 - (a) the relevant provision of section 10A(2),
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

10E (Repealed)

11 Public access to correspondence and reports

- (1) A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This section does not apply if the correspondence or reports—
 - (a) relate to a matter that was received or discussed, or
 - (b) were laid on the table at, or submitted to, the meeting,when the meeting was closed to the public.
- (3) This section does not apply if the council or committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10A(2), are to be treated as confidential.

Part 2

12–13 (Repealed)

Part 3 Expressions of community opinion

Division 1 Council polls

14 Council polls

A council may take a poll of electors for its information and guidance on any matter.

Division 2 Constitutional referendums

15 What is a constitutional referendum?

A constitutional referendum is a poll initiated by a council in order to give effect to a matter referred to in section 16.

16 What matters must be dealt with at a constitutional referendum?

A council may not do any of the following unless approval to do so has been given at a constitutional referendum

- (a) divide its area into wards or abolish all wards in its area,
- (b) change the basis on which the mayor attains office (that is, by election by the councillors or by election by the electors),
- (c) increase or decrease the number of councillors in accordance with the limits under section 224,
- (d) change the method of ordinary election of councillors for an area divided into wards.
- (e) (Repealed)

17 What is the effect of a constitutional referendum?

- (1) The decision made at a constitutional referendum binds the council until changed by a subsequent constitutional referendum.
- (2) However, such a decision does not apply to a by-election held after the constitutional referendum and before the next ordinary election.

Division 3 General provisions concerning a council poll or constitutional referendum

18 What provisions apply to the conduct of a council poll or constitutional referendum?

Part 1 and Part 6 (except Divisions 3, 4 and 5) of Chapter 10 (How are people elected to civic office?) apply to a council poll, and Part 1 and Part 6 (except Divisions 3 and 5) of that Chapter apply to a constitutional referendum, with such modifications as may be necessary, in the same way as they apply to an election.

Note—

Part 1 of Chapter 10 identifies the people who are entitled to vote in council elections, and Part 6 governs the conduct of those elections.

Division 3 of Part 6 of that Chapter deals with nominations for election, Division 4 with failure to vote and Division 5 with miscellaneous matters such as irregularities of form or procedure in elections, overdue elections and those declared void.

19 Day for taking council poll or constitutional referendum

A council poll or constitutional referendum may be taken on any Saturday, including the Saturday of an ordinary election.

20 When is a question at a council poll or constitutional referendum carried?

- (1) The question at a council poll or constitutional referendum is carried if it is supported by a majority of the votes cast.
- (2) The reference to votes in subsection (1) does not include a reference to any vote that, pursuant to the regulations, is found to be informal.

Expressions of community opinion

Types of expression	
Council Poll	Constitutional Referendum
Question to be determined	
Any question	<ul style="list-style-type: none"> • Creation or abolition of all wards • Change in the way in which the mayor is chosen • Change in number of councillors • Change in the way councillors are elected for an area divided

Change in the way councillors are elected for an area divided into wards

Result of Poll

If Yes	If No	If Yes	If No
Council chooses whether or not to proceed		Change must proceed	Change cannot proceed until passed by a later constitutional referendum