



New South Wales

# Local Land Services Amendment Bill 2017

## 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 Land Services Act 2013* as follows:

- (a) to provide for the day-to-day management of Local Land Services to be carried out by a Chief Executive Officer rather than the Chair of the Board of Chairs,
- (b) to provide for the Chair to be appointed by the Minister,
- (c) to rename the Board and to clarify its functions,
- (d) to increase the maximum term of office of members of local boards from 3 years to 4 years,
- (e) to reinstate and extend a ministerial power to require Local Land Services to contribute to the cost of pest management,
- (f) to clarify an object of the *Local Land Services Act 2013*,
- (g) to make amendments in the nature of statute law revision.

## 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 Land Services Act 2013 No 51**

**Schedule 1 [2]** transfers responsibility for the day-to-day management of the affairs of Local Land Services from the Chair of the Board of Chairs to the newly created position of Chief Executive Officer of Local Land Services. The Chief Executive Officer is to act in accordance with the policies and directions of the Board. **Schedule 1 [18]** permits the Chief Executive Officer to attend, but not vote at, meetings of the Board.

**Schedule 1 [11]** provides for the Chair of the Board to be appointed by the Minister. **Schedule 1 [19]** makes further provision with respect to the Chair's terms of employment.

**Schedule 1 [9]** changes the name of the Board from the "Board of Chairs" to the "Local Land Services Board". **Schedule 1 [3], [6]–[8], [15], [17] and [25]** make consequential amendments.

**Schedule 1 [10]** clarifies that the Board has the function of determining the general policies and strategic direction of Local Land Services.

**Schedule 1 [16]** increases the maximum term of office of members of local boards from 3 years to 4 years.

**Schedule 1 [14]** enables the Biosecurity Minister to require Local Land Services to contribute to the cost of managing animal pests. These contributions are paid for by rates on landowners. The amendment reinstates and extends the contribution arrangements that were in place before the enactment of the *Biosecurity Act 2015*. The new arrangements require contributions to be made towards the cost of managing all animal pests under that Act (not just insect pests). **Schedule 1 [13] and [22]** make consequential amendments. **Schedule 1 [12]** transfers, from the *Biosecurity Act 2015* to the proposed Act, the repeal of the pest management provisions of the *Local Land Services Act 2013*. **Schedule 1 [20], [21], [23] and [24]** make consequential amendments.

**Schedule 1 [1]** clarifies an object of the *Local Land Services Act 2013* by making the object of establishing local boards consistent with the functions of local boards set out in section 29 of that Act (which do not include operational management and planning functions).

**Schedule 1 [4] and [5]** effect statute law revision by standardising terminology relating to the staff of Local Land Services.

## **Schedule 2      Amendment of other legislation**

**Schedule 2.1** amends the *Biosecurity Act 2015* consequentially on the amendment to the *Local Land Services Act 2013* made by Schedule 1 [12].

**Schedule 2.2** provides that the Chief Executive Officer of Local Land Services, rather than the Chair of the Board of Chairs, is the head of the Local Land Services Staff Agency.

**Schedule 2.3** amends the *Local Land Services Regulation 2014* consequentially on the amendment to the *Local Land Services Act 2013* made by Schedule 1 [14].



New South Wales

# Local Land Services Amendment Bill 2017

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New South Wales

# Local Land Services Amendment Bill 2017

No. , 2017

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## A Bill for

An Act to amend the *Local Land Services Act 2013* to make further provision with respect to the management of Local Land Services; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Local Land Services Amendment Act 2017*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedules 1 [2], [3], [6]–[9], [11], [12], [15]–[21], [23] and [25] and 2.2 commence on a day or days to be appointed by proclamation.

<b>Schedule 1</b>	<b>Amendment of Local Land Services Act 2013</b>	1
	<b>No 51</b>	2
<b>[1] Section 3 Objects of Act</b>		3
	Omit “operational” from section 3 (c).	4
<b>[2] Section 10 Control and management of Local Land Services</b>		5
	Omit “Chair of the Board of Chairs” wherever occurring in section 10 (2) and (3).	6
	Insert instead “Chief Executive Officer”.	7
<b>[3] Section 12 Control and direction in emergency responses</b>		8
	Omit “Board of Chairs” from section 12 (2). Insert instead “Local Land Services Board”.	9
<b>[4] Section 12 (2) (b)</b>		10
	Omit “the staff of Local Land Services” and “to Local Land Services and the staff”.	11
	Insert instead “its staff” and “to Local Land Services and its staff”, respectively.	12
<b>[5] Sections 16 (3) (c), 17 (4) (d), 18 (3) (d), 31 (3) (b) and 35 (3) (e) (i)</b>		13
	Omit “the staff of” wherever occurring. Insert instead “staff of”.	14
<b>[6] Sections 17 (4) (b), 18 (3) (b), 25 (2) (a) and 205 (d)</b>		15
	Omit “Chair of the Board of Chairs” wherever occurring. Insert instead “Chair”.	16
<b>[7] Part 3, heading</b>		17
	Insert “ <b>Local Land Services</b> ” before “ <b>Board</b> ”.	18
<b>[8] Part 3, Division 1, heading</b>		19
	Omit “ <b>Board of Chairs</b> ”. Insert instead “ <b>Local Land Services Board</b> ”.	20
<b>[9] Section 25 Establishment of Local Land Services Board</b>		21
	Omit “Board of Chairs” from section 25 (1). Insert instead “Local Land Services Board”.	22
<b>[10] Section 26 Functions of the Board</b>		23
	Omit section 26 (1). Insert instead:	24
	(1) The Board has the following functions:	25
	(a) to determine the general policies and strategic direction of Local Land Services,	26
		27
	(b) to determine the policies, procedures and directions of Local Land Services in accordance with which a local board must exercise its functions,	28
		29
		30
	<b>Note.</b> See section 29 (2).	31
	(c) such other functions as are conferred or imposed on it by or under this or any other Act or law.	32
		33
	(1A) Without limiting subsection (1) (a), the Board is to determine the general policies and strategic direction of Local Land Services with respect to the following:	34
		35
		36
	(a) organisational governance and strategy,	37
	(b) risk management,	38

	(c) service delivery priorities,	1
	(d) community engagement.	2
<b>[11]</b>	<b>Section 26A</b>	3
	Insert after section 26:	4
	<b>26A Chair of Local Land Services Board</b>	5
	(1) There is to be a Chair of the Local Land Services Board.	6
	(2) The Chair is to be appointed by the Minister.	7
	(3) Schedule 2A contains provisions relating to the Chair.	8
<b>[12]</b>	<b>Part 10 Pests</b>	9
	Omit the Part.	10
<b>[13]</b>	<b>Sections 154 and 155</b>	11
	Omit the sections.	12
<b>[14]</b>	<b>Section 200A</b>	13
	Insert before section 201:	14
	<b>200A Contributions towards management of pests under Biosecurity Act 2015</b>	15
	(1) The Biosecurity Minister may, by notice, require Local Land Services to pay to the Biosecurity Minister an amount as a contribution to the cost of any action taken or to be taken to manage pests under the <i>Biosecurity Act 2015</i> .	16 17 18
	(2) A contribution is payable within such period after the notice is given as is specified in the notice or within such other period as the Biosecurity Minister allows.	19 20 21
	(3) Any contribution that remains unpaid is recoverable by the Biosecurity Minister from Local Land Services in a court of competent jurisdiction.	22 23
	(4) The regulations may make provision for or with respect to notices and contributions under this section.	24 25
	(5) In this section:	26
	<i>Biosecurity Minister</i> means the Minister administering the <i>Biosecurity Act 2015</i> .	27 28
	<i>manage</i> a pest means to prevent, eliminate, minimise or manage the biosecurity risk posed by, or the biosecurity impact of, a pest, within the meaning of the <i>Biosecurity Act 2015</i> .	29 30 31
	<i>pest</i> means a pest within the meaning of the <i>Biosecurity Act 2015</i> (other than a pest that is a plant).	32 33
<b>[15]</b>	<b>Schedule 2 Constitution and procedure of Board and local boards</b>	34
	Omit “Board of Chairs” wherever occurring in clauses 1 and 5.	35
	Insert instead “Local Land Services Board”.	36
<b>[16]</b>	<b>Schedule 2, clause 2 (1)</b>	37
	Omit “3 years” wherever occurring. Insert instead “4 years”.	38

<b>[17] Schedule 2, Part 2, Division 2, heading</b>	1
Omit “the Board of Chairs”. Insert instead “Local Land Services Board”.	2
<b>[18] Schedule 2, clause 14 (2)</b>	3
Insert at the end of clause 14:	4
(2) The Chief Executive Officer may attend meetings of the Board and participate in discussions of the Board but is not entitled to vote at a meeting.	5 6
<b>[19] Schedule 2A</b>	7
Insert after Schedule 2:	8
<b>Schedule 2A Provisions relating to Chair of Local Land Services Board</b>	9 10
	(Section 26A (3)) 11
<b>1 Term of office</b>	12
The Chair of the Local Land Services Board holds office for such term, not exceeding 4 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	13 14 15
<b>2 Basis of office</b>	16
The office of the Chair may be a full-time or part-time office, according to the terms of appointment.	17 18
<b>3 Employment and remuneration</b>	19
(1) The employment of the Chair is (subject to this Schedule) to be governed by a contract of employment between the Chair and the Minister.	20 21
(2) The following provisions of or made under the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service senior executives apply to the Chair (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister):	22 23 24 25 26
(a) provisions relating to the band in which an executive is to be employed,	27
(b) provisions relating to the contract of employment of an executive,	28
(c) provisions relating to the remuneration, employment benefits and allowances of an executive,	29 30
(d) provisions relating to the termination of employment of an executive.	31
<b>4 Vacancy in office</b>	32
(1) The office of the Chair becomes vacant if the holder:	33
(a) dies, or	34
(b) completes a term of office and is not re-appointed, or	35
(c) resigns the office by instrument in writing addressed to the Minister, or	36
(d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	37 38 39
(e) becomes a mentally incapacitated person, or	40

(f)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	1 2 3 4
(g)	is removed from office by a termination of employment as referred to in clause 3 (2) (d).	5 6
(2)	If the office of the Chair becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	7 8
<b>5</b>	<b>Chair not Public Service employee</b>	9
	The office of the Chair is a statutory office and the provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).	10 11 12 13
<b>6</b>	<b>Acting Chair</b>	14
(1)	The Minister may, from time to time, appoint a person to act in the office of the Chair during the illness or absence of the Chair (or during a vacancy in the office of the Chair) and the person, while so acting, has all the functions of the Chair and is taken to be the Chair.	15 16 17 18
(2)	The Minister may, at any time, remove a person from office as acting Chair.	19
(3)	An acting Chair is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.	20 21 22
<b>[20]</b>	<b>Schedule 3 Charges on land for unpaid amounts</b>	23
	Omit “(Sections 94 and 153)”. Insert instead “(Section 94)”.	24
<b>[21]</b>	<b>Schedule 3, clause 1</b>	25
	Omit the clause. Insert instead:	26
<b>1</b>	<b>Definition</b>	27
	In this Schedule, <i>compliance notice</i> means a notice under section 94 (Compliance notice—fencing).	28 29
<b>[22]</b>	<b>Schedule 5 Sale of land for unpaid money owing to Local Land Services</b>	30
	Omit paragraph (c) of the definition of <i>charge</i> in clause 1.	31
<b>[23]</b>	<b>Schedule 5, clause 1</b>	32
	Omit the clause. Insert instead:	33
<b>1</b>	<b>Definition</b>	34
	In this Schedule, <i>charge</i> means a charge or an amount payable under section 94 (Compliance notice—fencing).	35 36

<b>[24] Schedule 6 Savings, transitional and other provisions</b>	1
Insert at the end of the Schedule, with appropriate Part and clause numbering:	2
<b>Part Provision consequent on enactment of Local Land Services Amendment Act 2017</b>	3
	4
<b>Repeal of Part 10</b>	5
Schedules 3 and 5, as in force immediately before the repeal of Part 10 by the <i>Local Land Services Amendment Act 2017</i> , continue to apply to compliance notices given, and charges imposed, under that Part before that repeal.	6
	7
	8
<b>[25] Dictionary</b>	9
Omit the definitions of <i>Board</i> and <i>Chair of the Board of Chairs</i> .	10
Insert in alphabetical order:	11
<i>Board</i> means the Local Land Services Board established by section 25.	12
<i>Chair</i> means the Chair of the Local Land Services Board.	13
<i>Chief Executive Officer</i> means the person employed in the Public Service as the Chief Executive Officer of Local Land Services.	14
	15

<b>Schedule 2</b>	<b>Amendment of other legislation</b>	1
<b>2.1</b>	<b>Biosecurity Act 2015 No 24</b>	2
	<b>Schedule 8 Amendment of other legislation</b>	3
	Omit Schedule 8.26 [10].	4
<b>2.2</b>	<b>Government Sector Employment Act 2013 No 40</b>	5
	<b>Schedule 1 Public Service agencies</b>	6
	Omit “Chair of the Board of Chairs under the <i>Local Land Services Act 2013</i> ” from the matter relating to the Local Land Services Staff Agency in Part 2.	7 8
	Insert instead “Chief Executive Officer of Local Land Services”.	9
<b>2.3</b>	<b>Local Land Services Regulation 2014</b>	10
	<b>Clause 7 Special purpose pest management rates</b>	11
	Omit “to the costs of eradicating pests that are insects under section 154 of the Act” from clause 7 (1).	12 13
	Insert instead “, under section 200A of the Act, to the costs of managing pests under the <i>Biosecurity Act 2015</i> ”.	14 15