

Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

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Local Government (Empowering Councils) and Other Legislation
Amendment Bill 2025

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Enhancing the Statutory and Executive Capacity of the Mayor

Introduction

The proposed amendments within the Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025 demonstrate a strong commitment to clarifying governance roles within local government, particularly regarding integrity provisions. I commend the Department and the Minister for advancing these reforms.

This submission supports measures aimed at strengthening the office of the Mayor but respectfully suggests urgent legislative clarification in three key areas where the practical execution of my, and other Mayors' statutory responsibilities under section 12(4) of the Local Government Act 2009 (LGA) remains vulnerable to political obstruction or legal ambiguity.

Support for Current Legislative Clarifications

I affirm my support for the measures that formalise the Mayor's leadership and administrative authority:

1. **Official Spokesperson Role:** The explicit insertion of 'being the official spokesperson of the local government about local government matters' into the Mayor's extra responsibilities provides necessary clarity. The accompanying provision that this does not prevent other councillors from communicating with the community ensures transparency.
2. **Involvement in Senior Appointments:** The requirement for the Mayor to participate in the panel appointing senior executive employees (LGA s 196(4)) formalises the Mayor's executive oversight in high-level administration.
3. **Caretaker Period Authority:** The framework clarifying circumstances under which the local government, with Ministerial approval, may make major policy decisions during a caretaker period due to exceptional circumstances or disaster recovery funding arrangements provides necessary contingency powers.

Summary of Key Legislative Deficiencies Undermining Executive Capacity

For a Mayor to effectively fulfil the mandate of 'leading, managing, and providing strategic direction to the chief executive officer in order to achieve high-quality administration of the local government', Mayors require legislative certainty and adequate independent resources.

4. **Ambiguous Scope of Directional Power:** A Mayor's authority to give directions to the CEO (LGA s 170) is constrained if the direction is deemed 'inconsistent with a resolution.' Broadly worded resolutions can be used to limit strategic sequencing or operational timing.

5. Lack of Entitlement to Independent Legal Advice: When disputes arise concerning a direction to the CEO, the Mayor cannot rely on legal officers managed by the CEO, creating a structural conflict of interest.
6. Vulnerability of Mayoral Resources: The requirement for a Council resolution to permit the appointment of councillor advisors (LGA s 197A(1A)) allows a hostile majority to veto essential staff support.
7. Accountability for the CEO: The Mayor's ability to manage or influence the CEO is fundamentally constrained by reliance on majority councillor support for disciplinary action, undermining executive leadership.

Recommendations for Legislative Certainty and Robustness

8. Recommendation 1: Clarify Scope of Mayoral Directions - Narrow interpretation of 'inconsistent with a resolution' to safeguard executive functions.
9. Recommendation 2: Guarantee Independent Legal Advice - Legislate an entitlement for the Mayor to obtain independent legal advice at Council expense, subject to reasonable caps.
10. Recommendation 3: Strengthen CEO Accountability - Define performance failure triggers, grant the Mayor power to commission independent reviews, and require Council to consider findings.
11. Recommendation 4: Secure Advisor Resources - Remove the requirement for Council resolution to appoint councillor advisors and legislate entitlement for a prescribed number of advisors.

Conclusion

These recommendations aim to ensure that the Mayor's statutory responsibilities under section 12(4) of the *Local Government Act 2009* can be executed effectively, free from political obstruction, and with appropriate safeguards for integrity and accountability.

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