

# Prospective Councils

## Background

Prospective councils are created during periods of transition, such as when local government areas are merged, abolished, or have their boundaries altered. The *Local Government Act 2019* was not clear on the responsibilities and powers a prospective council has at any point in time. This is especially confusing when a single individual is appointed to oversee the functions of a prospective council before a general election is called, and a newly elected council comes into being.

The *Local Government Legislation Amendment Act 2025* clarifies the rights, responsibilities, and obligations of prospective councils by specifying the operational functions of the prospective council and establishing clear guidelines for managing land, assets, and the transition of by-laws.

## Key changes

Recognising that each local government area and council may have unique circumstances requiring tailored transitional arrangements, the amending Act grants the Administrator the authority to make a transitional order to facilitate a smooth transition. The amending Act mandates that a council or prospective council comply with the order, and for the council's Chief Executive Officer (CEO) and the person constituting the prospective council to take all reasonable steps to facilitate compliance with the order.

The amending Act also makes it clear that during a transitional period the default position is that a newly elected local government council does not take over responsibilities and obligations until the day after the election results are declared.

The amending Act provides clarification that a prospective council is afforded the same liability protections as a local council when performing its functions.