



15 MARCH 2013

LATE ITEMS

**Ordinary Meeting of Council Meeting No. 4/13
TUESDAY, 12 MARCH 2013**

**Council Chambers, Level 6, Civic Centre,
1 Devlin Street, Ryde - 7.30pm**

Meeting Date: Tuesday 12 March 2013
Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde
Time: 7.30pm

NOTICE OF BUSINESS

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LATE ITEMS

PRECIS OF CORRESPONDENCE

2 LOCAL GOVERNMENT AMENDMENT (EARLY INTERVENTION) BILL
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LATE ITEMS**2 LOCAL GOVERNMENT AMENDMENT (EARLY INTERVENTION) BILL 2013**

Report prepared by: Section Manager - Governance**File No.:** MYR/07/10/7 - BP13/430

CORRESPONDENCE:

Submitting correspondence from the Lord Mayor of Sydney, Clover Moore, dated 13 March 2013 and from Local Government NSW, dated 14 March 2013, regarding Local Government Amendment (Early Intervention) Bill 2013.

RECOMMENDATION:

That the correspondence be received and noted.

ATTACHMENTS

- 1 Letter from the Lord Mayor of Sydney, Clover Moore sent via email on 13 March 2013 regarding Local Government Amendment (Early Intervention) Bill 2013
- 2 Urgent communique from Local Government NSW in relation to the State Government's proposed early intervention legislation

Precis of Correspondence 2 (continued)

ATTACHMENT 1

From: Clover Moore [mailto:cmoore@cityofsydney.nsw.gov.au]
Sent: Wednesday, 13 March 2013 5:46 PM
To: The Mayor
Subject: Letter from the Lord Mayor of Sydney Clover Moore - Local Government Intervention Bill

Councillor Ivan Petch
Mayor
Ryde City Council
By email: mayor@ryde.nsw.gov.au

Dear Councillor Petch

Local Government Amendment (Early Intervention) Bill 2013

I write to urge you to ask the Minister for Local Government to immediately withdraw or defer his Local Government Amendment (Early Intervention) Bill 2013, which is before Parliament and could pass into law within days.

Under the guise of addressing poor performance by councils, the Bill will increase the power of the Minister for Local Government to intervene in Councils, including suspending them for up to six months without a publicly accountable process.

I am extremely alarmed by the scope of this Bill, which could effectively make democratically elected local councils into state corporations, accountable to the Minister and subject to his direction.

This legislation will enable the Minister to issue a Council with a “performance improvement order”. If the Council does not comply, the Minister can suspend it for up to three months and appoint a temporary administrator. The Minister can suspend the Council for a further three months without notice.

The Bill has no definition of “poor performance” and leaves it with what the Minister “reasonably considers” is needed (proposed new section 438A). While there is a 21 day “consultation period”, it can be waived if the Minister considers the issue is “urgent” or if notice would serve “no useful purpose”.

There are no avenues of appeal or review.

The current open and transparent process of a public inquiry is appropriate because dismissing a group of democratically elected representatives is serious.

Precis of Correspondence 2 (continued)

ATTACHMENT 1

A further amendment to Chapter 13 of the *Local Government Act* will **make Councils accountable to the Minister**. Currently, the Minister has a “supervisory role” and Councils are solely accountable to their residents and ratepayers.

This will create conflicts for Councils, particularly those seeking to advocate against State Government proposals on behalf of their residents and ratepayers. The legislation can be a tool against Councils that disagree with the State Government.

The legislation goes substantially beyond what is needed and does not provide the genuine support needed for effective local governance. It pre-empts two local government reviews now underway and due to report later this year.

You can read the Bill and the Minister’s Speech which are available at <http://www.parliament.nsw.gov.au/prod/parlment/nswbills.nsf/131a07fa4b8a041cca256e610012de17/5e626a0246d67264ca257b1900140a78?OpenDocument>

If you share my serious concern about this Bill, I urge to ask the Minister to withdraw or defer it for public consultation to determine appropriate and just measures for effective and democratic local government. You can contact the minister at office@page.minister.nsw.gov.au.

Please also contact the Local Government NSW, the amalgamated Local Government and Shires Associations, so that it can take action on this legislation. You can contact Local Government NSW at lgnsw@lgnsw.org.au.

If you would like more information, please call my policy officer, Larry Galbraith on 02 9265 9499 or email him at lgalbraith@cityofsydney.nsw.gov.au

Yours sincerely

Clover Moore
Lord Mayor of Sydney

Precis of Correspondence 2 (continued)

ATTACHMENT 2

Sent: Thursday, March 14, 2013 5:41 PM

Subject: Early Intervention Legislation - Update

Dear Councillor

Please find an urgent communique from Local Government NSW in relation to the State Government's proposed early intervention legislation.

Communique on Early Intervention Bill

Local Government NSW (LGNSW) has responded to the concerns of member councils about the Local Government Amendment (Early Intervention) Bill 2013. Until recently, LGNSW was only aware of the broader details of the proposed legislation and was not privy to the details, which can be interpreted to signify a fundamental shift in power.

Earlier today the Joint Presidents of LGNSW Cr Keith Rhoades AFSM and Cr Ray Donald held an urgent meeting with the Minister of Local Government, Hon Don Page seeking the deferral of the NSW Government's Early Intervention Bill until greater detail on the proposed legislation is released and explained.

The LGNSW Joint Presidents questioned the Minister for Local Government as to why LGNSW and the 152 councils impacted by this proposed legislation were not briefed on and consulted on the detail of the Bill. The Joint Presidents strongly urged him to do so before putting it back before Parliament.

The Joint Presidents stressed that NSW councils are entitled to be consulted on major issues impacting the Local Government sector in NSW, as outlined in the proposed Intergovernmental Agreement with the NSW Government.

The Joint Presidents have supplied the Minister with the issues that are of concern.

If passed, this legislation will undermine the democratic responsibilities of Mayors and councils elected by residents by making councils responsible to the Minister.

The lack of detail on and potential broad scope for the Performance Improvement Order criteria is extremely worrying. The NSW Government needs to give a clearer definition of what constitutes a 'non-functioning' and 'non-effective' council.

While the Bill provides for councils to respond to an intention of suspension notice, there is no explanation given on the situations that would qualify for a council's suspension. This leads to questions as to how can councils rebut or defend their effectiveness or position to the Minister when there are no clear parameters for suspension defined in the proposed legislation.

Compounding our concerns is the provision for the Minister for Local Government to completely bypass the 'notice of intention' requirement and immediately suspend a council if it is a matter of urgency. Councils have the right to know what constitutes an emergency and how they can access a fair and transparent review process.

Precis of Correspondence 2 (continued)

ATTACHMENT 2

LGNSW has contacted the Shadow Minister for Local Government, the Hon. Sophie Cotsis MLC, asking for her support on this issue to help ensure the NSW Government implements transparent and just processes to manage council performance.

We request your council to contact your local member also calling for an immediate deferral of this Bill until such time as proper consultation with LGNSW on the issue has taken place.

For more information contact Noel Baum, LGNSW Director – Policy on 9242 4014 or email noel.baum@lgnsw.org.au

Note: Cr Keith Rhoades AFSM and Cr Ray Donald will both carry out the duties of Joint President of the LGNSW Interim Board until the election of the first LGNSW President and Board in October 2013.

Regards

BILYANA MITREVSKI

OFFICE COORDINATOR – CORPORATE SERVICES

LOCAL GOVERNMENT NSW

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On 1 March 2013 the LGSA merged to become LGNSW – please note change of website and email address.