SUBJECT:  Commencement of Phase 1 Amendments to the Local Government Act

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EXECUTIVE SUMMARY:

The Office of Local Government has provided details about the commencement dates of amendments to the Local Government Act 1993 made by the Local Government Amendment (Governance and Planning) Act 2016 (the Phase 1 Amendments).

An overview of the amendments that have commenced and those that are yet to commence is attached.

FINANCIAL IMPLICATIONS:

Nil

RECOMMENDATION:

1. THAT the Commencement of Phase 1 Amendments to the Local Government Act report be received.
LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 5. Our Civic Leadership
Outcome: 5.1 Council leads the strategic direction of North Sydney

BACKGROUND

As notified in Circular 16-30, the NSW Parliament passed amendments to the *Local Government Act 1993* (the LGA) in the *Local Government Amendment (Governance and Planning) Act 2016*. These reforms are known as the Phase 1 amendments. Some Phase 1 amendments commenced on 30 August 2016, 23 September 2016 and 1 October 2016 and were notified to councils in Circulars 16-30 and 16-35.

CONSULTATION REQUIREMENTS

Community engagement is not required.

SUSTAINABILITY STATEMENT

The sustainability implications are of a minor nature and did not warrant a detailed assessment.

DETAIL

Further Phase 1 amendments relating to the appointment of financial controllers and temporary advisers have now been commenced by proclamation. An amending regulation (the *Local Government (General) Amendment (Performance Management) Regulation*) has also been made.

Both the proclamation and regulation were published on 25 November 2016.

Some provisions have not yet commenced, in order to allow for consultation and the development of supporting regulatory frameworks. The consultation process for many of these has commenced and the supporting regulatory frameworks are currently under development.

The remaining Phase 1 amendments will be put in place over time.

Councils will be advised by circular when these provisions are being commenced and will be given sufficient notice to allow them to implement and comply with new requirements.
Commencement of Phase 1 Amendments – An Overview

Commenced on 30 August 2016

<table>
<thead>
<tr>
<th>GOVERNING BODY</th>
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<tbody>
<tr>
<td><strong>Mayoral term</strong></td>
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<tr>
<td>• The mayoral term for councillor-elected mayors has increased to two years (from one year) (s230)</td>
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<tr>
<td><strong>Councillor oath or affirmation of office</strong></td>
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<tr>
<td>• Councillors, including mayors, must take an oath or affirmation of office before commencing their duties (s233A)</td>
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<tr>
<td><strong>Councillor expenses and facilities policy</strong></td>
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<tr>
<td>• Policies must be adopted within 12 months of the commencement of the new council term, instead of annually (s252)</td>
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<tr>
<td>• Copies of the policy are no longer required to be provided to the Office of Local Government</td>
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<td><strong>Councillor fee increases</strong></td>
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<td>• Clarification that the State wages policy (currently limiting councillors’ fee increases to 2.5%) does not apply to determinations by the Local Government Remuneration Tribunal that change a council’s fee category (s242A)</td>
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<td><strong>Organisation structure</strong></td>
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<td>• The council is to determine the organisation structure for the senior staff level in consultation with the general manager, with the general manager to determine the balance of the organisation structure (s332)</td>
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<tr>
<th>ELECTIONS</th>
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<tr>
<td><strong>Casual vacancies</strong></td>
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<td>• Casual vacancies may only be filled by a countback election once a date to do so has been prescribed by regulation (s291A)</td>
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<tr>
<td>• A date has not yet been prescribed</td>
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**Commenced on 23 September 2016**

**LOCAL GOVERNMENT PRINCIPLES AND COUNCIL ROLES AND FUNCTIONS**

**New purposes and principles** (ss7-8C)
- General principles
- Decision making principles
- Integrated planning and reporting principles
- Community participation principle
- Sound financial management principles

**New roles**
- Governing bodies (s223)
- Mayors (s226)
- Councillors (s232)
- Administrators (s258)

**New functions**
- General manager (s335)

**DELEGATION OF TENDERS AND FINANCIAL ASSISTANCE**

Councils may now delegate:
- Acceptance of tenders, except for services currently provided by council staff (s377(1)(i))
- Payment of financial assistance as part of a program specified in the council’s operational plan that is not more than 5% of the council’s rates income and that applies uniformly to all persons within the council’s area or to a significant proportion of all the persons within the council’s area (s377(1A))

**GOVERNING BODY**

**Mayoral term**
- A mayor elected by councillors ceases to be mayor once that person ceases to hold office as a councillor (s234)

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**Commenced on 1 October 2016**

**AUDIT**

**External auditor**
- The Auditor-General is appointed as the external auditor for all councils from the 2016-17 financial year (s422)

**Performance audits**
- The Auditor-General may conduct performance audits of all or any activities of one or more councils to determine whether the councils are carrying out those activities effectively, economically and efficiently and in compliance with relevant laws (s421B)
Commenced on 25 November 2016

**FINANCIAL CONTROLLER**
- The Minister may appoint a financial controller to a council in association with a performance improvement order and after considering prescribed criteria (s438HB)

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**Yet to commence (consultation either commenced or soon to commence)**

**INTEGRATED PLANNING AND REPORTING (IP&R)**
- Streamlined IP&R requirements

**GOVERNANCE**

**Induction and professional development for mayors and councillors**
- New requirements for the provision of, and reporting on, induction and ongoing professional development programs for mayors and councillors

**Model Code of Conduct and Procedures**
- Consolidation of the pecuniary interest provisions into the Model Code of Conduct for Local Councils in NSW

**Model Code of Meeting Practice**
- Prescription of a new Model Code of Meeting Practice
- Councils will not be required to adopt a new Meeting Code based on the Model Meeting Code until after the next ordinary election following commencement

**Meetings – reduced number**
- One-off opportunity for prescribed councils to seek the approval of the Minister for Local Government to reduce the minimum number of council meetings to less than 10 a year

**Councillors – reduced number**
- One-off opportunity for prescribed councils to seek the approval of the Minister for Local Government to reduce their councillor numbers (without a constitutional referendum)

**PERFORMANCE MEASUREMENT FRAMEWORK**
- Prescription of a performance measurement framework for councils

**AUDIT COMMITTEES, INTERNAL AUDIT AND RISK**

**Audit, risk and improvement committees**
- Requirement for councils to appoint audit, risk and improvement committees
- Councils will not be required to appoint an audit, risk and improvement committee until 6 months after the next ordinary election following commencement