



AGENDA

Notice is hereby given that an Extraordinary Meeting of Council will be held at the Civic Centre, Dee Why on

Tuesday 23 February 2016

Beginning at 6.00pm for the purpose of considering and determining matters included in this agenda.

Malcolm Ryan
Acting General Manager

Issued: 19 February 2016



OUR VISION

A vibrant community, improving our quality of life by living and working in balance with our special bush and beach environment

OUR VALUES

Respect

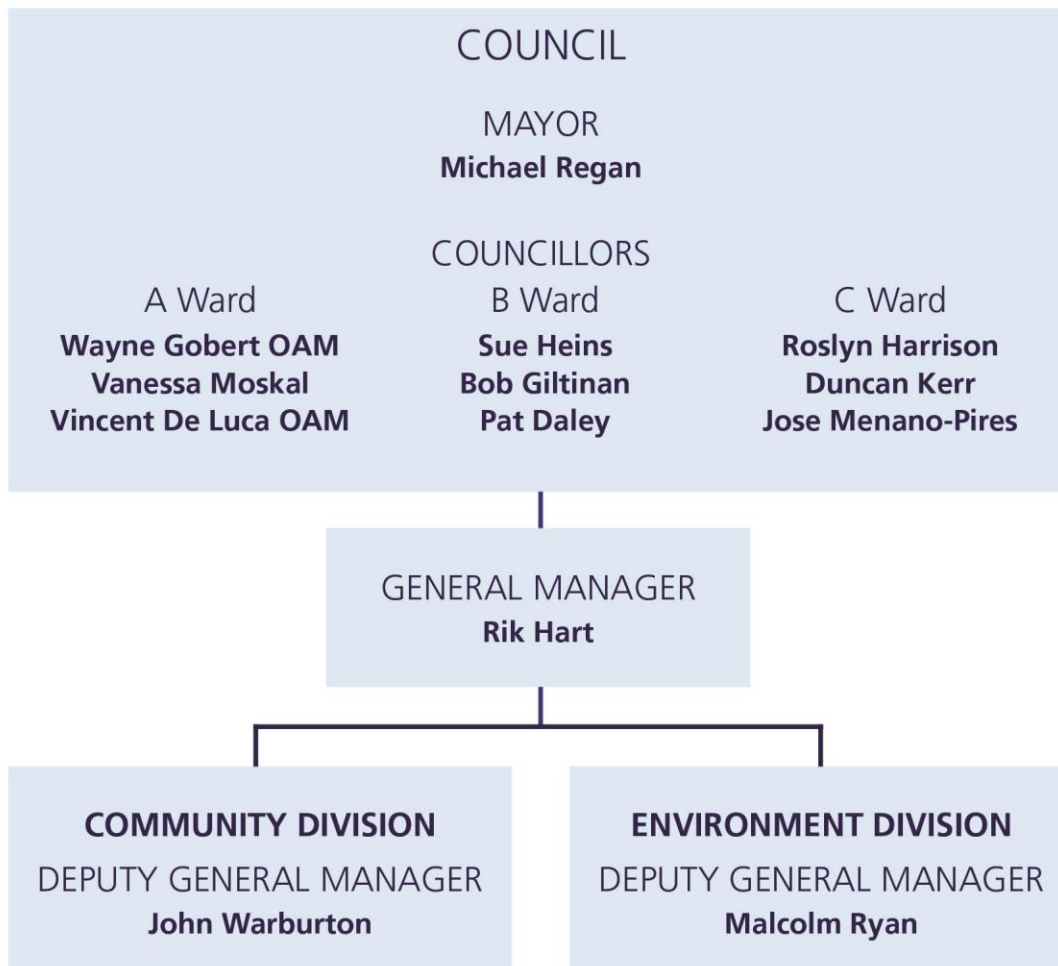
Integrity

Teamwork

Excellence

Responsibility

ORGANISATIONAL STRUCTURE



**Agenda for an Extraordinary Meeting of Council
to be held on Tuesday 23 February 2016
at the Civic Centre, Dee Why
Commencing at 6.00pm**

ACKNOWLEDGEMENT OF COUNTRY

1.0 APOLOGIES

2.0 DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST

3.0 PUBLIC FORUM

4.0 MAYORAL MINUTES

Nil

5.0 GENERAL MANAGER'S REPORTS.....

**5.1 Warringah Council Submission - Local Government Act - Phase 1
Amendments 1**

**5.2 Submission on Council Boundary Reviews
(Report not available at the time of publishing and will be circulated on
Monday 22 February 2016)**

6.0 COMMUNITY DIVISION REPORTS

Nil

7.0 ENVIRONMENT DIVISION REPORTS

Nil

8.0 NOTICES OF RESCISSION

Nil

9.0 NOTICES OF MOTION

Nil

10.0 QUESTIONS ON NOTICE

Nil

11.0 RESPONSES TO QUESTIONS ON NOTICE

Nil

12.0 REPORT OF RESOLUTIONS PASSED IN CLOSED SESSION

Nil

ITEM 5.1	WARRINGAH COUNCIL SUBMISSION - LOCAL GOVERNMENT ACT - PHASE 1 AMENDMENTS
REPORTING MANAGER	DEPUTY GENERAL MANAGER ENVIRONMENT
TRIM FILE REF	2016/050543
ATTACHMENTS	1 Warringah Council Submission - Phase 1 Amendments - Local Government Act

EXECUTIVE SUMMARY

PURPOSE

To seek Councils endorsement of Warringah Council's submission to the phase 1 amendments of the *Local Government Act 1993*.

SUMMARY

A Taskforce was appointed by the Minister for Local Government, the Hon Don Page MP in 2012 to undertake a comprehensive review of the *Local Government Act 1993* and the *City of Sydney Act 1988*. The basis of the review was to modernise the legislation to ensure that it would meet the future needs of councils and communities.

A number of workshops across the state were held, and a discussion paper was prepared for individuals and councils to respond to. In conjunction with this review, the Independent Local Government Review Panel (ILGRP) also made a number of recommendations with regards to changes to the *Local Government Act 1993*.

In January 2016, the State Government released its first paper titled 'Towards New Local Government Legislation Explanatory Paper: proposed Phase 1 amendments. Councils have until 15 March 2016 to respond to the paper and this report seeks Councils endorsement of Warringah Council's submission.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF ACTING GENERAL MANAGER

That Council endorse Warringah Council's submission as attached to phase 1 amendments of the *Local Government Act 1993*.

REPORT

BACKGROUND

A Taskforce was appointed by the Minister for Local Government, the Hon Don Page MP in 2012 to undertake a comprehensive review of the *Local Government Act 1993* and the *City of Sydney Act 1988*. The basis of the review was to modernise the legislation to ensure that it would meet the future needs of councils and communities.

A number of workshops across the state were held, and a discussion paper was prepared for individuals and councils to respond to. In conjunction with this review, the Independent Local Government Review Panel (ILGRP) also made a number of recommendations with regards to changes to the *Local Government Act 1993*.

In January 2016, the State Government released its first paper titled 'Towards New Local Government Legislation Explanatory Paper: proposed Phase 1 amendments. Councils have until 15 March 2016 to respond to the paper and this report seeks Councils endorsement of Warringah Council's submission.

The explanatory paper suggests that the fundamentals of the *Local Government Act 1993* remain sound, and that the phase 1 amendments are the first step in developing modern principles based on local government legislation. Phase 1 focuses on governance and strategic business processes. Later phases will focus on how councils raise revenue and how they exercise their regulatory functions.

The explanatory paper suggests that phase 1 is designed to:

- *"Embed strategic business planning principles across the range of council functions and practices*
- *Promote independent and sustainable councils engaged with and accountable to their local communities that have the capacity to deliver in local and regional needs*
- *Support a culture of continuous improvement in councils to ensure the effective and efficient service delivery of the strategic goals agreed to with their local communities"*

The explanatory paper and the online survey, forms the initial consultation stage to the phase 1 amendments. These are divided into the following sections:

- Structural framework of local government
- The governing body of councils
- Elections
- Council's workforce
- Ethical standards
- Councils' strategic framework
- Council performance

The proposed amendments to the *Local Government Act 1993* are broadly intended to:

- Clarify roles and responsibilities of councillors, mayors, administrators and general managers
- Introduce new guiding principles for local government
- Improve governance of councils and professional development for councillors

- Expand on the framework for strategic business planning and reporting, prioritise community engagement and financial accountability and
- Streamline council administrative process including in relation to delegations.

Overall, nothing of note has been presented in the phase 1 amendments that has not previously been raised by the Taskforce or ILGRP as such, much of Warringah's submission has been based on responses to our previous two submissions.

Areas of note within the submission include:

- Item 2.2 – The number of councillors

Whilst we agree with this item in principle, we believe that the application of this should be limited to councils where the Mayor is elected by the councillors. This will address the issue of the election of the mayor being determined by lot. Where the Mayor is popularly elected a council should be at liberty to determine whether an odd or even number of councillors is appropriate based on the level of councillor representations expected by the local community.

The use of a casting vote is currently not a significant problem in Warringah, and it should be noted that the issue can arise in any event as a result of councillors not being able to attend every meeting.

- Item 3.3 – The role of councillors

We agree with this item, as the Act has shifted the role of councillors to emphasise that their role is to represent the collective interests of residents, ratepayers and the wider community.

- Item 5.1 – Determination of the organisation structure

As per previous submissions, we continue to oppose this amendment. The requirement for Council to determine the organisation structure to the level that directly reports to the GM does not align with IP&R requirements. The General Manager should be able to make decisions regarding senior staff appointments, direct appointments and terminations and inform Council, not necessarily consult (as this could mean different things to different people).

Modern best-practice organisations have different levels of roles reporting to the GM e.g. Chief Financial Officer, Human Resources Director as well as Deputy General Manager's. Taking this to Council itself is irrelevant to strategic responsibilities. It is not appropriate for Council to determine this operational structure.

- Item 8.1 – Annual Reports

Whilst we support this, it appears to be an extremely onerous task to ask an Audit Committee to endorse an annual report as 'factually correct'. We would propose that the wording be amended to read '*...audit committee to have considered and discussed the Annual Report with management*' rather than '*endorse as factually correct*'.

Following consideration of submissions to the phase 1 amendments, it is anticipated that amended legislation could be introduced and passed by NSW Parliament in 2016.

CONSULTATION

Councillors were given a briefing on the changes to the *Local Government Act 1993*, presented in the discussion paper on 9 February 2016. Relevant staff across the organisation have been consulted and had input into the submission that is before council tonight.

TIMING

The explanatory paper was released in January 2016. Councillors were briefed on 9 February 2016 and relevant staff across the organisation were consulted throughout the month of February. The submission is being presented to council tonight (23 February) for endorsement with submissions being due via the on-line survey by 15 March 2016.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

**Submission Warringah Council – Proposed Phase 1
Amendments – Local Government Act**

Question	Yes/ No/ Neutral	Comment
1.1. Do you support the proposed amendment regarding the <i>purposes of the Local Government Act</i>	Yes	
1.2. Do you support the proposed amendment regarding the <i>role of local government</i> ?	Yes	
1.3. Do you support the proposed amendment regarding the <i>guiding principles of local government</i>	Yes	
2.1. Do you support the proposed amendment regarding the <i>role of the governing body</i> ?	Yes	<p>The issues relating to financial matters under 3.3.18 of the ILGRP Report are dealt with under the following paragraphs and don't need to be referred to in this point</p> <ul style="list-style-type: none"> • 7.5 Financial Sustainability • 8.6 Financial Management • 8.7 Financial Reporting • 8.8 External Audits
2.2. Do you support the proposed amendment regarding the <i>number of councillors</i> ?	Yes	<p>Yes, we agree in principle. However, the application should be limited to councils where the Mayor is elected by the councillors. This will address the issue of the mayoralty being determined by lot. Where the mayor is popularly elected a council should be at liberty to determine whether an odd or even number of councillors is appropriate based on the level of councillor representations expected by the local community. The use of a casting vote is not a significant problem in Warringah and may arise in any event as a result of councillors not being able to attend every meeting.</p>
2.3. Do you support the proposed amendment regarding <i>rural councils</i> ?	Neutral	<p>This does not apply to Warringah Council and as such we neither agree or disagree with the proposal.</p>
3.1. Do you support the proposed amendment regarding the <i>role of the mayor</i> ?	Yes	<p>As with item 2.1 the issues relating to financial matters under 3.3.18 of the ILGRP Report are dealt with under the following paragraphs and don't need to be referred to in this point</p> <ul style="list-style-type: none"> • 7.5 Financial Sustainability • 8.6 Financial Management • 8.7 Financial Reporting • 8.8 External Audits

Question	Yes/ No/ Neutral	Comment
3.2. Do you support the proposed amendment regarding the <i>mayor's term of office</i> ?	Yes	
3.3. Do you support the proposed amendment regarding the <i>role of councillors</i> ?	Yes	The Act has shifted the role of councillors to emphasise that their role is to represent the collective interests of residents, ratepayers and the wider community, which is a good thing.
3.4. Do you support the proposed amendment regarding <i>councillors' terms of office</i> ?	Yes	As with item 2.1 and 3.1 the issues relating to financial matters under 3.3.18 of the ILGRP Report are dealt with under the following paragraphs and don't need to be referred to in this point <ul style="list-style-type: none"> • 7.5 Financial Sustainability • 8.6 Financial Management • 8.7 Financial Reporting • 8.8 External Audits
3.5. Do you support the proposed amendment regarding an <i>oath or affirmation of office</i> ?	Neutral	This is a formality and should not affect how a councillor or mayor carries out their civic duties. Each councillor must abide (at minimum) by the Model Code of Conduct, or a Councils adopted Code (which should be stronger than the Model Code), and as such this amendment has no real impact.
3.6. Do you support the proposed amendment regarding <i>councillors' expenses and facilities</i> ?	Yes	This will reduce the compliance burden currently placed on local councils to review this policy on an annual basis which is unnecessary. There are a number of policies that are currently required to be reviewed within 12 months of a council term, so this will be in line with current practice and will foster a more meaningful review process.
3.7. Do you support the proposed amendment regarding <i>mayor/ councillor professional development</i> ?	Yes	Warringah has previously had a comprehensive councillor Induction program in place made up of a combination of mandatory, in-house and externally provided training and professional development for councillors and offers its councillors all training opportunities made available through the OLG and other organisations supporting Local Government. This clause concretes a lot of what Warringah is already doing.
3.8. Do you support the proposed amendment regarding the <i>role and functions of administrators</i> ?	Yes	
3.9. Do you support the proposed amendment regarding <i>financial controllers</i> ?	Yes	This strengthens the current provisions to focus on financial matters.
3.10. Do you support the proposed amendment regarding <i>meetings</i> ?	Yes	It is important that a council has an adopted meeting code. The Model Code of Meeting Practice will continue to provide the mandatory (or minimum) requirements that a council must follow, and continues to allow for individual

Question	Yes/ No/ Neutral	Comment
		councils (like Warringah) to have the ability to strengthen their Codes if they wish to.
3.11. Do you support the proposed amendment regarding the <i>delegation of functions</i> ?	Yes	These changes will reduce red tape and put greater emphasis on IP&R and effective budget management.
4.1. Do you support the proposed amendment regarding the <i>extension of the option of universal postal voting to all councils</i> ?	Yes	
5.1. Do you support the proposed amendment regarding the <i>determination of the organisation structure</i>	No	<p>We continue to oppose this amendment. The requirement for Council to determine the organisation structure to the level that directly reports to the GM does not align with IP&R requirements. The General Manager should be able to make decisions regarding senior staff appointments, direct appointments and terminations and inform Council, not necessarily consult (as this could mean different things to different people).</p> <p>Modern best-practice organisations have different levels of roles reporting to the GM e.g. Chief Financial Officer, Human Resources Director as well as Deputy General Manager's. Taking this to Council itself is irrelevant to strategic responsibilities. It is not appropriate for Council to determine this operational structure.</p>
5.2. Do you support the proposed amendment regarding the <i>role of general managers</i> ?	No	<p>We continue to oppose the requirement of Council to determine the organisation structure as per Item 5.1 above.</p> <p>The General Manager should be able to make decisions regarding senior staff appointments, direct appointments and terminations and inform Council, not necessarily consult (as this could mean different things to different people).</p>
5.3. Do you support the proposed amendment regarding the <i>requirement to report annually to the council on senior staff contractual conditions</i>	Yes	This Clause is redundant as Designated Senior Staff contracts are standardised by the Office of Local Government (OLG).
6.1. Do you support the proposed amendment regarding the <i>consolidation of the prescription of ethical standards</i> ?	Yes	

Question	Yes/ No/ Neutral	Comment
6.2. Do you support the proposed amendment regarding the <i>investigation of pecuniary interest breaches</i> ?	Yes	
7.1. Do you support the proposed amendment regarding <i>integrated planning and reporting principles</i> ?	Yes	These changes will reduce red tape and further align IP&R processes and effective budget management.
7.2. Do you support the proposed amendment regarding <i>streamlining the existing integrated planning and reporting provisions</i> ?	Yes	
7.3. Do you support the proposed amendment regarding <i>councils' integrated planning and reporting to reflect regional priorities</i> ?	Yes	
7.4. Do you support the proposed amendment regarding the <i>expended scope of delivery programs</i> ?	Yes	
7.5. Do you support the proposed amendment regarding <i>fiscal sustainability</i> ?	Yes	This further consolidates improvements achieved to date.
7.6. Do you support the proposed amendment regarding the <i>expanded scope of councils' community engagement strategies</i> ?	Yes	We support the need for an overarching Engagement Framework to be applied across all Council activities. We would suggest changing the word "Strategy" to "Framework", as the document guides the development of specific Engagement and Consultation Strategies and Plans for projects and activities.
8.1. Do you support the proposed amendment regarding <i>annual reports</i> ?	Yes	This appears extremely onerous to ask the Audit Committee (ARC) to endorse the annual report as 'factually correct'. To achieve this as written, in the least this would require the Committee members (including councillors, who themselves are not required to have any financial experience) to conduct their own audit/review of the financial statements (which would be in addition to the external auditor's audit), plus a detailed review of each key

Question	Yes/ No/ Neutral	Comment
		<p>initiative and project listed in that year's Operational Plan (we have over 200 of these annually).</p> <p>Feedback was sought by the independent ARC members who advise- The external auditors have a much better handle on the systems and processes used to generate the annual financial statements and annual report than an ARC would.</p> <p>For an ARC it would be very difficult to attain this level of comfort from the work it may do and/or the assurances it might seek from management. There may be some comfort to Council by an ARC endorsing the process behind an Annual Report.</p> <p>Normally the ARC can endorse i.e. support, a process as reasonable however this does not equate to signing off in any way on the accuracy of the information in an Annual Report. Even with audited accounts for a listed entity, the Auditor reviews the Annual report to see if there is anything significantly out of line with what is said in the Audited Annual financial statements without the Auditors endorsing the Annual Report publically. The Annual Report is reviewed for consistency with the Audited Financial Statements and where appropriate, questions are raised with management and /or the Board in an ARC forum. This does not equate to endorsement of factual detail.</p> <p><i>*A listed entity should have formal and rigorous processes that independently verify and safeguard the integrity of its corporate reporting</i></p> <p><i>While ultimate responsibility for a listed entity's financial statements rests with the full board, having a separate audit committee can be an efficient and effective mechanism to bring the transparency, focus and independent judgement needed to oversee the corporate reporting process.</i></p> <p>In practical terms, the ARC (independents) are in a better position than Councillors to challenge what is in the Annual Report regarding process and consistency. However, to endorse factual accuracy would mean testing every value comment.</p> <p>Propose - Audit Committee to have considered and discussed the Annual Report with management. Rather than 'endorse as factually correct'.</p> <p><small>*Corporate Governance Principals and Recommendations - 3rd Edition ASX Corporate Governance Council - 27 March 2014</small></p>
8.2. Do you support the proposed amendment regarding <i>state of the environment reports</i> ?	Yes	We support the proposed change. This eliminates an additional level of reporting which can comfortably be managed via the annual and end of terms if appropriate measures are settled on.
8.3. Do you support the proposed amendment	Yes	These changes should result in greater consistency. We support the "capacity for a state-wide community



Question	Yes/ No/ Neutral	Comment
regarding <i>performance measurement?</i>		satisfaction survey" or to include set questions in existing satisfaction surveys.
8.4. Do you support the proposed amendment regarding <i>internal audit?</i>	Yes	<i>Internal Audit</i> function – agree. <i>Audit Committee</i> function – agree with membership and the Chair reporting biannually to a council meeting – must be in open session.
8.5. Do you support the proposed amendment regarding <i>sector wide performance audits by the Auditor-General?</i>	Yes	These changes will create additional compliance requirements but to the long term benefit of local government.
8.6. Do you support the proposed amendment regarding <i>financial management?</i>	Yes	The change to a principals based approach is in line with Council's position on the ILGRP Report.
8.7. Do you support the proposed amendment regarding <i>financial reporting</i>	Yes	The change to a principals based approach is in line with Council's position on the ILGRP Report.
8.8. Do you support the proposed amendment regarding <i>external audit?</i>	Yes	Yes, however the current proposal does not extend audit to cover Long Term Financial Plan (LTFP) on an annual basis. We should look to strengthening the proposal to ensure that the external auditor is also required to audit the LTFP annually.

