



Local Government Amendment (Early Intervention) Bill **A threat to local governance and democracy**

FACTSHEET AND CALL TO ACTION – 12 APRIL 2013

On 26 February 2013, the Minister for Local Government, the Hon. Donald Page, MP, introduced the *Local Government Amendment (Early Intervention) Bill* to the NSW Legislative Assembly, where it remains currently.

This Bill substantially increases the power of the Minister for Local Government to intervene in Councils, including suspending them, without a publicly accountable process.

The Bill also makes Councils accountable to the Minister. This creates a conflict for Councils. Currently, the Minister has a “supervisory role” and Councils are solely accountable to their residents and ratepayers. However if the changes go through, this will mean that the Bill can be used against Councils that advocate against State Government proposals on behalf of their residents and ratepayers.

What you can do

Before 30 April 2013 (when the NSW Parliament resumes), send off a short email or letter to all of the following:

- **The Minister for Local Government**
The Hon. Donald Page, MP at office@page.minister.nsw.gov.au
- **The Shadow Minister for Local Government**
The Hon. Sophie Cotsis, MLC at sophie.cotsis@parliament.nsw.gov.au
- **Your local NSW Member of Parliament**
[Click here](#) for email addresses
- **The NSW Greens Spokesman for Planning**
Mr David Shoebridge, at
david.shoebridge@parliament.nsw.gov.au
- **The Christian Democratic Party**
Reverend The Hon. Fred Nile, MLC at F.Nile@parliament.nsw.gov.au and The Hon. Paul Green, MLC at paul.green@parliament.nsw.gov.au

Information to include in your email/letter:

- Express your views about the Bill.
- Ask that any legislation managing council performance should be a transparent and democratically just process.
- Call for the present Bill to be withdrawn and ask for proper consultation to take place between local government, the Minister and most importantly the community.
- Call for the 'Local Government Review Panel' to be involved.
- Remind the Government about the recently signed 'Intergovernmental Agreement' between State Government and Local Government NSW (on behalf of NSW councils), where it was agreed that consultation and communication would be based on "mutual trust and respect" and that both parties would "engage with each other collaboratively". This DID NOT happen over this Bill.

Background:

The Bill

The stated aim of this legislation is to address 'collective dysfunction' and "poor performance' of Councils. Neither of these terms is defined. The Minister states in his second reading speech amongst other things that *"it is important that the Government has the ability to take action to ensure Councils deliver local and State priorities"*.

Good legislation required

Whilst there may be a need to devise ways to assist Councils that are dysfunctional or that really need to improve performance, this requires carefully drafted legislation to ensure objectivity, clarity and fairness, and to guard against any abuse by Government. Councils should not be overborne by a Minister for 'political' or 'priority' considerations.

Fundamental change

The Bill brings about a fundamental shift in the relationship between local government and the State. The present position is that Councils are accountable to their residents and ratepayers, with a supervisory role played by the Minister. Under the present Bill Councils "are also accountable to the Minister".

Minister's wide discretion

The Bill gives the Minister and the Director-General of his Department extraordinary powers. The Minister can issue a Performance Improvement Order (PIO) "if the Minister reasonably considers that action must be taken to improve the performance of the Council". A PIO can "include any actions the Minister considers necessary to improve or restore the proper or effective functioning of the Council". The Minister can also suspend a Council for up to 6 months if he "reasonably believes that the appointment of an interim administrator is necessary to improve or restore the proper or effective functioning of the Council". The interim administrator takes over "all the functions of the Council" and all "persons holding civic office" are suspended. There is also the power to hold a public enquiry and to dismiss the Council.

The problem

The real problem with the Bill is that the Minister would have the power to issue orders, suspend or dismiss a Council if he feels its performance could be improved, and that this could be when a Council is in his view not delivering on State priorities. It is clear from the Green Paper and the Draft Sydney Metropolitan Strategy that the Government is pressing hard for massive growth in housing and rapid approvals for developers. If the Minister is of the view that Councils are not performing satisfactorily in relation to any aspect of these or other priorities, it is possible that the Government would use these new powers to suspend Councils so that developments or favoured developments can be quickly approved by 'interim administrators'.

Ted Mack Article

The highly respected former independent member of both State and Federal Parliament, and a former Mayor of North Sydney, wrote an article on this Bill that was published in the Sydney Morning Herald on 21 March 2013. This article [‘Grab for power’](#) is highly critical of the Bill in its present form.

The Better Planning Network

This information has been prepared by the *Better Planning Network*, an affiliation of more than 350 community groups across the State, seeking to achieve a fair and balanced NSW planning system. To learn more about the *Better Planning Network* - here's a short 2 minute video: <http://www.youtube.com/watch?v=dJfrSgxpYY> .

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