

## **Session 6A**

# **Office of the Local Government (OLG) update**

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# Local Government Internal Audit Forum

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Office of  
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# Update on implementation of phase 1 amendments

- Review of the Model Code of Conduct and Procedures
- Development of the Model Code of Meeting Practice
- Prescription of new requirements for councillor induction and ongoing professional development
- Development of regulatory framework for internal audit for councils



# The Phase 1 amendments: The story so far

- The *Local Government Amendment (Governance and Planning Bill 2016)* was introduced into Parliament in June 2016 following a public consultation process and passed with minor amendments in August
- The reforms draw on the outcomes of the work of the Independent Local Government Review Panel and the Local Government Acts Taskforce
- Phase 1 reforms relate to the “system of local government” – that is, the structural, governance, strategic and performance frameworks councils operate under
- Many amendments are yet to commence



# Review of the Model Code of Conduct and Procedures

- Consultation drafts of Model Code of Conduct and Procedures have been released for comment
- The new 2017 version of the Model Code of Conduct will see, for the first time, all ethical standards for local government prescribed in a single statutory instrument
- The new 2017 versions of the Model Code of Conduct and Procedures will see new provisions that will improve ethical standards, more effectively deter non-compliance and lead to improved transparency and accountability



# Key changes to Model Code of Conduct

- New standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, use of social media, access to information and maintenance of council records
- New rules governing the acceptance of gifts including mandatory reporting
- A new requirement for council staff and delegates to keep records of meetings and other communications with planning applicants and objectors and for councillors to disclose such meetings and communications in writing at council and committee meetings



# Key changes to Model Code of Conduct

- Pecuniary interests provisions are included
- A new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them
- Councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a corporation that is a property developer
- Information in councillors' returns of interests other than their principal places of residences will be published on the council's website



# Key changes to Procedures

- Expanded and clearer definition of what is a “code of conduct complaint”
- Greater flexibility to allow GMs and mayors to delegate complaints management functions
- Clearer guidance on what complaints can be declined at the outset
- Clearer prescription of what complaints are sufficiently serious to warrant investigation
- Requirement for conduct reviewers to consult with OLG before recommending referral for disciplinary action under misconduct provisions
- New sanctions against complainants who publicly disclose information about complaints



# Development of Model Code of Meeting Practice

- Model Meeting Code will give effect to yet to commence amendments to the LGA which provide for the prescription of council meeting rules under a model code of meeting practice
- There is currently no uniform set of meeting rules for councils - in developing the Model Meeting Code, OLG has identified significant variability in meeting practices and rules across councils
- Once commenced, the Model Meeting Code will replace the meeting rules currently prescribed by the Regulation – it will contain mandatory rules and non-mandatory best practice rules



# Model Meeting Code Objectives

- To promote as the principal object of meetings, the making of decisions by the governing bodies of councils that are in the best interests of the council and the community as a whole
- To promote more accessible, orderly, effective and efficient meetings and to provide councils with the tools to achieve these outcomes
- To prescribe principles to inform the way in which meetings are conducted and to prescribe meeting rules that are consistent with these principles



# Model Meeting Code Objectives

- To promote greater consistency between councils across the State in key areas of meetings practice without losing the ability to allow some variation in practice to meet local needs or expectations
- To allow greater flexibility in the conduct of meetings to accommodate a range of potential scenarios that are not addressed by the current meeting rules
- To simplify the language currently used to make the prescribed meeting rules more accessible and easier to understand
- To modernise the rules to accommodate current and emerging technologies (eg electronic notice, electronic voting systems and webcasting)



# Councillor induction and professional development

- Section 232(1)(g) places a responsibility on each mayor and councillor to *“make all reasonable efforts to acquire and maintain the skills necessary to perform their roles”*.
- This will soon be complemented by regulations requiring councils to deliver to elected members:
  - an induction program in the first six months, and
  - an ongoing professional development program over the council term to address skills and knowledge gaps
- These requirements will be supported by comprehensive guidelines



# Snapshot of proposed framework

Councils' induction and professional development program is proposed to consist of three elements:

## 1. Pre-election information sessions

- not a regulatory requirement but encouraged
- ensures candidates are fully aware and informed of what will be expected of them if they are elected
- provides understanding of roles and responsibilities; legislative requirements; time commitment necessary; and skills, knowledge and personal attributes required



# Snapshot of proposed framework

## 2. Induction program

- provides essential knowledge so councillors and mayors can perform their role effectively in first few months – i.e. information about council's structure, operations, finances, meetings, policies and procedures etc
- focuses on building positive, collaborative relationships between councillors
- ensures councillors and mayors are more productive in a shorter period of time
- includes a supplementary induction program for mayors
- must be delivered within 6 months of election



# Snapshot of proposed framework

## 3. Professional development program

- ensures mayors and councillors fill any skills or knowledge gaps that may prevent them from effectively fulfilling their role, or that the governing body as a whole lacks
- individual professional development plan to be developed for, and in consultation with, each councillor and mayor
- content to be based on both the needs of council and the needs of the councillor or governing body
- statutory guidelines will contain a checklist of the skills, knowledge and personal attributes required to fulfil legislative roles



# Other key aspects

- Proposed framework sets minimum benchmark – can be implemented flexibly and councils with existing programs will not be disadvantaged
- Takes into account the new roles of councillors, mayors and the governing body under the LGA
- Strong focus on team building and establishing a positive and collaborative focus for the governing body
- Councillor/mayor's attendance to be reported annually to a council meeting and on council's website



# New internal audit framework for councils

- The Phase 1 amendments in effect mandate internal audit for all councils - The LGA requires all councils to appoint Audit, Risk and Improvement Committees (councils may share committees)
- The internal audit provisions are yet to commence - Under the transitional provisions, the internal audit provisions do not take effect until 6 months after the next ordinary election following commencement (likely to be March 2021)
- The internal audit provisions will be supported by regulation/guidelines which will contain most of the prescriptive detail



# Why internal audit?

- The Government sees internal audit in councils as an integral part of its reform agenda for Local Government to achieve improved governance and performance.
- The reforms contemplate internal audit operating not only as an internal assurance mechanism but also as a powerful business improvement tool to support councils to better achieve their strategic objectives and to meet the needs of their communities more effectively and efficiently.
- Internal audit is used extensively in the private sector, and in NSW and Australian Government public sector agencies



# Policy objectives

- The regulatory framework is being designed to ensure that internal audit :
  - operates effectively as an internal assurance mechanism and business improvement tool
  - conforms with standards and best practice
  - meets the “Brewarrina test” i.e. it is deliverable by all councils regardless of size, budget and capacity
  - is cost effective and adds value



# Progress so far

- Development of the new internal audit framework is well-advanced - a discussion paper will be released for consultation in 2018 on the key elements of the proposed regulatory framework for internal audit and the content of the regulation and guidelines
- The proposed framework will be based on:
  - NSW public sector model developed by NSW Treasury
  - International standards (IIA)
  - OLG's 2010 Internal Audit Guidelines
  - ICAC inquiry recommendations
  - Independent Local Government Review Panel recommendations



# Next steps

- Consultation drafts of the new Model Code of Conduct and Procedures have been issued for comment
- A consultation draft of the Model Code of Meeting Practice will be issued in 2018 for comment
- OLG will be undertaking limited consultation on the councillor induction and professional development regulations and guidelines
- The internal audit discussion paper will be issued in 2018
- Councils will be given generous timeframes to implement these changes once they have been finalised