



# **RESPONSE TO THE STRENGTHENING YOUR COMMUNITY: NSW INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL CONSULTATION PAPER**

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## INTRODUCTION

WSROC welcomes the opportunity to respond to the Independent Review Panel's Discussion Paper, "Strengthening Your Community."

WSROC represents ten Western Sydney councils – Auburn, Bankstown, Blacktown, Blue Mountains, Fairfield, Hawkesbury, Holroyd, Liverpool, Parramatta and Penrith. These councils serve a population of 1.7 million people and with rapidly growing populations, face significant challenges in the years ahead. In fact, the cultural, social and economic diversity of Western Sydney makes it a microcosm of the broader Sydney community.

WSROC recognises that "Strengthening Your Community" is a preliminary explorative paper and that further consultation will occur in response to the more specific "Options for Change" and "Future Directions" papers to be released at later dates. Accordingly, rather than attempting to answer each of the questions posed, the WSROC submission is focussed on what we see as the key issues for local government in meeting the challenges ahead.

Local Government has the potential to most directly affect the quality of life of local communities through its delivery of local services and infrastructure, its protection of local environment and heritage and its support for local economic activity. Yet the sector faces significant challenges in its capacity to do this.

### 1. The Need for Financial Sustainability

Arguably, the most pressing challenge for Local Government is the need for financial sustainability. This is fundamental to the ability of councils to deliver the services and infrastructure expected by their local communities. It includes both their current financial capacity and the adequacy of projected revenue streams in light of potential challenges including population growth, an aging population, technological change, climate change and the overdue renewal of aging infrastructure.

These challenges are particularly acute for Western Sydney which faces a projected population increase of 1 million over the next twenty five years and the increased infrastructure and service requirements this will bring.

Reflecting the priorities expressed at the Destination 2036 Summit, the Destination 2036 Action Plan acknowledges that "Financial sustainability is arguably the key requirement to achieving strong and sustainable councils that can deliver services that the community wants and can afford." (p25)

Yet for too long Local Government has been caught in an inexorable squeeze between falling Commonwealth Financial Assistance Grants (only partially ameliorated by the Roads to Recovery Program), cost shifting - mainly from State Governments - and rising community expectations of service delivery. This has put many councils in an unsustainable position.

### **Cost-Shifting and Service Expectations**

The 2006 PWC Report (National Financial Sustainability Study of Local Government) commissioned by ALGA identifies "...that local government is responding to rising community expectations by providing a growing range of essential services and infrastructure that underpin local communities."

The demand for increased spending on human services, such as health, welfare, public safety and environmental projects, has trebled in the past three decades at the expense of traditional services such as roads, thus contributing to the severe run down of local roads and other infrastructure.

In addition to rising community expectations, the rise in expenditure by local government, particularly in human services, has been prompted, or in some cases forced, by cost shifting from the other levels of government either through their withdrawal of some services or by short term inducements for councils to expand further into these areas.

This expansion in roles and service quality, coupled with growth in input prices generally exceeding the average rate of revenue growth, has seen a significant number of councils develop financial operating deficits. ALGA adds that "To moderate the size of these deficits, some councils have deferred or reduced expenditure on infrastructure renewals. Hence many local councils across the country have sizable financial sustainability challenges which require major reforms in the way councils are funded and the way they operate."

Clearly a situation where councils are forced to defer necessary infrastructure renewal in order to meet rising recurrent deficits, is unsustainable. In fact, the same PWC Report found that between 10% and 30% of Councils would face sustainability problems without reform to their revenue or expenditure.

Of particular interest to WSROC is the Productivity Commission's 2008 finding, referred to in the Destination 2036 Action Plan (p25), that urban fringe councils have on average the lowest fiscal capacities. With the population growth projected for Western Sydney over the next two decades, there will be a significant growth in community service needs and infrastructure requirements, potentially exacerbating those financial pressures.

WSROC questions the Discussion Paper's statement that claims about cost-shifting "need to be tested" but does agree that the burden of such cost shifting needs to be quantified. Accordingly, WSROC recommends that as part of the NSW Treasury investigation of the financial sustainability of councils, a comprehensive study be undertaken into cost shifting from the other two levels of government with a view to compensating councils for the extra costs incurred, both for recent years and also going forward.

### **Infrastructure Backlog**

The Discussion Paper rightly points to “a very large infrastructure backlog ... due to inadequate funding of depreciation and asset renewal”, estimated by the 2006 Allan Inquiry to be \$6.3 billion for NSW (and estimated by PWC to be \$14.5 billion nationwide). The figure has no doubt increased over the past six years. The PWC report also calls for a range of reforms to deal with the national total backlog in Local Government infrastructure renewal work, including the establishment by the Australian Government of a Local Community Infrastructure Renewals Fund (LCIRF).

The provision of subsidised loans through the State Government’s Local Infrastructure Renewal Scheme, while welcomed, has only assisted marginally.

WSROC welcomes initiatives by the Division of Local Government to conduct a council-by-council audit of the local infrastructure backlog including maintenance, renewal and new infrastructure needs. However, it is imperative that this study is backed up by a financial commitment to adequately support councils to meet the identified infrastructure needs.

WSROC also strongly supports an amendment to Section 96 of the Australian Constitution to ensure the validity of Commonwealth grants to Local Government and to secure the continuation of the Roads to Recovery Program.

### **Rate Pegging**

Since the introduction of rate pegging nearly three decades ago, the ability of councils to be in charge of their own finances has been severely curtailed. As a result their financial sustainability has been impaired, restricting their capacity to plan strategically, to provide the level of services expected by their communities and to adequately maintain existing assets and provide new infrastructure.

While the process of application through IPART for special rate variation was designed to provide some flexibility for councils on the basis of the cost pressures they face, the process is still too restrictive and there are serious doubts about the effectiveness of approved rate rises to cover the increasing costs faced by councils. If councils are to have the fiscal autonomy they require to meet future challenges, the rate pegging regime must be ended.

Ultimately it is individual councils who know what is best for their own communities, who are responsible for delivering the services required by their communities and who should be answerable to their communities for the rates they charge.

This is a view shared by the Allan Inquiry (Independent Inquiry into the Financial Stability of NSW Local Government) and the Henry Tax Review, which argued that “If local governments are to be accountable to ratepayers for their expenditures it follows that they should have full or at least greater autonomy over the setting of the tax rate applied to properties in their jurisdiction.” (ACELG Working Paper 3, *The Henry Australia’s Future Tax system: Implications for Australia*, p9)

## **Section 94 Contributions**

Provisions under Section 94 of the Environmental Planning and Assessment Act 1979 which enable councils to levy contributions from developers are essential for funding the provision of public amenities and services required as a consequence of development.

However, the current \$30,000 cap means that the amounts raised by such levies are far from adequate to fund the required level of services. This is particularly the case for greenfield developments and thus severely impacts on growth area councils, seriously impeding their capacity to fund the infrastructure required in new communities.

The shortfall across Western Sydney is estimated to be close to \$3 billion, thus imposing unacceptable pressure on the finances of many of the region's councils, as well as impacting on the communities who are forced to suffer with inadequate infrastructure. As a matter of urgency this needs to be addressed. As a minimum, reforms should provide much greater flexibility by reinstating exemptions to the cap when councils can show that current levels are inadequate and by allowing contributions to be used for the full range of community facilities expected in new developments.

## **Financial Assistance Grants**

The program of Commonwealth Financial Assistance Grants (FAGs) to Local Government program is over 30 years old and despite adjustments for inflation and population increases, has not kept pace with the changing demand placed on councils.

The value of FAGs (including the local roads component) as a proportion of total Commonwealth revenue has fallen from 1.18% in 1993-94 to just 0.74% in 2008-09. It is essential that Commonwealth Financial Assistance Grants return to at least 1% of Commonwealth revenues and it is also essential that the Commonwealth ensures the permanency of the Roads to Recovery Program. State governments need to make this point strongly to the Federal Government on behalf of their local councils.

## **2. More Effective Service Delivery**

The first two priorities in the Panels' Terms of Reference are focussed on the essential roles of local government – their “ability to support the current and future needs of local communities” and their “ability to deliver services and infrastructure efficiently and effectively and in a timely manner”.

As discussed above, this is very much dependent on the financial capacity and sustainability of councils.

In addition to those revenue and cost factors, initiatives which lead to increased efficiency, shared services and enhanced service delivery, resource and cost sharing, reduced duplication and joint procurement all offer significant potential in improving the financial sustainability of councils and their capacity to improve service delivery.

However, a number of barriers reduce the capacity of councils to benefit from these arrangements. Specifically, improvements are needed to facilitate service sharing and joint procurement activities undertaken on behalf of councils, often by Regional Organisations of

Councils. Under current legislation councils cannot delegate authority for contractual arrangements on their behalf to third parties such as ROCs and must secure individual Council resolutions to accept tenders at the conclusion of the tender process. Clearly, in practice this often means delays in finalising contracts, thus at times preventing ROCs from maximising benefits for their member councils.

This situation could be rectified in one of two ways.

Firstly, a change in the legislation which allows councils to delegate the tender function to regional organisations such as their ROC with authority to accept or reject tenders on their behalf would facilitate the process. Measures already in place under Section 55 of the Act would ensure appropriate accountability standards are maintained during the tender process.

This would allow ROCs to undertake the complete process including tendering, negotiation where appropriate and the acceptance or rejection of tenders and to negotiate on behalf of member councils without needing specific case-by-case resolutions to do so. Under this arrangement the subsequent contractual arrangements required by the tender would still need to be executed by individual councils participating in the process.

A more substantial change which would facilitate arrangements further would be to allow ROCs to conduct the tender process and to enter into contracts on behalf of their member councils, thus removing the need for individual contractual arrangements for each tender. This would require a change to the Act to confer prescribed entity status on the ROCs and would also require ROCs to be corporate entities.

Allowing councils to delegate the contractual arrangements as well as the tendering to their ROC where they so choose, would expedite the joint procurement arrangements and improve the opportunities for ROCs to maximise benefits for their member councils. Clearly this would require an agreed audit process to ensure the appropriateness and probity of the procedures in place with the regional organisations.

### **3. Regional Planning and Growth Strategies**

Most councils face the challenge of strategic regional planning which supports growth, provides the necessary infrastructure and enhances service delivery for the growing communities.

Arguably these challenges are greater in Western Sydney than in most regions. With a population of 1.9 million in Greater Western Sydney, and another 1 million projected over the next twenty five years, the pressures on the region will be substantial.

Western Sydney already has a job deficit of 182,000 requiring that number of people to travel eastwards each day for employment. Projections indicate that this number will grow to 290,000 in the next twenty five years. Not only will this create extra social and economic burdens for those families, but it will add almost insurmountable problems to Sydney's transport system. The imperative, therefore, is for integrated strategic regional planning which ensures the generation and location of jobs in Western Sydney for its growing population. This is critical not only for Western Sydney, but for the sustainability and liveability of the whole of Sydney.

The ad hoc approach to planning which has occurred in the past cannot continue and reforms are needed which:

1. adopt a regional approach rather than separate, uncoordinated LGA-specific approaches;
2. which ensure that residential developments are accompanied by employment generating activities;
3. which provide the bulk of new housing through urban renewal and densification rather than greenfield development, urban sprawl and its associated problems
4. which ensure the timely provision of necessary transport infrastructure to provide essential connections, particularly to workplaces;
5. which immediately identify and quarantine future transport corridors;
6. which provide essential social infrastructure **concurrently** with residential development.

A reliance on market forces to ensure an adequate supply of residential land and commercial/industrial land will not suffice and it will certainly not ensure the provision of critical infrastructure.

To ensure this strategic approach to planning, reforms need to provide the structural arrangements for greater collaboration between the State Government, WSROC (and MACROC) and local councils and greater alignment between state and local planning.

#### **4. Relationship With Other Levels of Government**

WSROC welcomes Destination 2036 Action Plan's acknowledgement of the strong feeling expressed at Destination 2036 that "... Local Government has not been treated as an equal partner by the other spheres of government" and the determination that it is no longer treated as "... just another stakeholder for consultation" but rather as "... a legitimate and equal partner in strategic decision making." However, this acknowledgement must translate into action.

There have been some encouraging signs that the NSW government is serious about redressing some of the past grievances on this matter but much of the consultation which has occurred to date appears to be tokenistic rather than substantial.

The action initiatives outlined in the 2036 Action Plan provide opportunity for the lack of consultation and genuine partnership to be corrected.

WSROC notes the Government's acknowledgement that the current Inter-Governmental Agreement "...does not reflect the current Government's strong commitment to working in partnership with the Local Government sector" and welcomes its intention to establish a

working group to explore ways to strengthen the IGA. Again, these changes must be more than platitudes and good intentions. They must be backed by action.

This requires a clearer delineation of the respective roles and responsibilities of each level of government, a stronger commitment of the State Government to work with Local Government as equal partners in regional planning and development and a commitment to either directly or indirectly ensuring Local Government has the resources needed to carry out its role.

An essential part of strengthening this relationship is a better alignment of State and Local Government planning frameworks, and the need to better integrate land use and infrastructure planning, as discussed above. WSROC member councils appreciated the abolition of Part 3A of the EP&A Act. However, there is still a critical need to carefully better integrate the needs of state-wide or regional planning with the needs of local councils and their communities.

How the reforms to the planning system achieve this integration will be a key test of the State Government's resolve to work constructively with Local Government. The signs are not greatly encouraging, with the very short time frame between the close of submissions on the Planning Green Paper and the release of the Planning White Paper making it most unlikely that any of the responses to the former will influence the thinking for the latter.

Specifically, aspects of the Green Paper raise concerns that the views of councils will be overridden by State planning needs. Its declaration of "... a fundamental shift in the planning system which will see decision making on development applications streamed to appropriate, independent and expert decision makers" is a case in point. While a more strategic regional approach to planning is needed, there are real concerns that the proposed Regional Planning Boards will override the legitimate role of councils in determining what is best for their communities and that the views of councils will not be adequately considered in assessing State Significant Developments.

It is imperative that care is taken to ensure that State planning priorities are as consistent as possible with the work councils have done with local communities in developing their Community Strategic Plans.

## 5. The Role of Regional Organisations of Councils

WSROC urges continued consideration of the critical role that ROCs can play in strengthening Local Government and its relationship with other levels of government and welcomes the increased focus on the role of ROCs, both at Destination 2036 and the subsequent Action Plan. Comments last year by the Minister, the Hon. Don Page that the Government anticipates that the ROCs will have “...an expanded and more important role to play in the future of local government” reinforce this.

The ROCs play at least three critical roles which can assist councils and the State Government.

1. The ROCs can greatly facilitate liaison between State and Local Government. Dealing with 18 ROCs which are representatives of their member councils must be far easier and more efficient for the State Government than dealing with 152 individual councils. Some would argue that this role can be better filled by broader organisations such as the LGSA. That may be the case on very general issues but in terms of the diversity of specific issues affecting particular regions, the ROCs are best placed to represent those specific regional issues to State authorities.
2. As discussed above, one of the key challenges for the Government is to improve the quality and effectiveness of strategic regional planning. The ROCs can play a pivotal role in providing a regional focus on planning issues, helping to synthesise the priorities of their member councils into a strategic whole.

This “... strengthened recognition of ROCs as a mechanism for regional strategic planning” is recognised by the Destination 2036 Action Plan which reaffirms that the State Government is “... looking to ROCs as a key regional planning, consultation and delivery mechanism for the new State Plan – NSW 2021, as well as other regional planning initiatives such as Regional Transport Plans.” (p20).

Involvement of ROCs in the Regional Planning Boards proposed in the Planning Green Paper may be a means of coordinating local needs with State planning priorities, although this would depend on exactly what is proposed for those boards.

3. The 2036 Action Plan recognises that stronger ROCs have the potential to significantly improve service delivery and savings for councils by resource sharing, shared services and joint procurement activities. The ever growing financial pressures faced by Local Government make this role increasingly important. The changes to the Act regarding tendering and contractual arrangements recommended above would facilitate the effectiveness of the ROCs in this role.

It is also worth noting the role of the ROCs in context of the debate about council amalgamations. WSROC notes that part of the brief of the Independent Local Government Review Panel is “...to consider barriers and incentives for voluntary boundary changes”. It is acknowledged that calls from a broad cross-section of the community, particularly the business sector, see amalgamation as a means of increasing efficiency through the economies of scale it potentially offers.

The Australian Government’s *Our Cities* 2010 discussion paper also questioned the “...patchwork of Local Government jurisdictions covering relatively small land areas” in major cities and the associated “... wasted resources and opportunities” arguing for debate on “...reforming local Government through the creation of larger entities that can plan, finance and coordinate over larger population areas and achieve greater economies of scale in service delivery and asset management” (p53).

WSROC notes and supports the NSW Government’s commitment to no forced amalgamations, but recognises the need for improved efficiencies in service delivery and for improved financial sustainability. Thus, rather than councils facing forced amalgamations, an enhanced role for the ROCs would assist individual councils to continue their pivotal role in meeting the needs, aspirations and priorities of their local communities, but at the same time benefitting from the economies of scale and scope which some argue would come with amalgamation.

The report by A.Gooding for the Australian Centre for Excellence in Local Government, *A Comparative Analysis of Regional Organisations of Councils in NSW and Western Australia*, cites studies by Dollery and Johnson which conclude that “... there are cheaper alternative methods (to amalgamation) of capturing scope economies, like ROCs.”

An enhanced role for Regional Organisations of Councils in regional and sub-regional planning would also reduce the need for amalgamation by providing the strategic planning role often presented as an argument for amalgamation.

The involvement of the ROCs in the formulation of regional and sub-regional action plans has been welcomed as have the structural arrangements to strengthen relationships between councils, their ROCs and their respective Regional Coordinators and Regional Ministers.

As stated above, changes will need to be made to facilitate the procurement activities and resource sharing of the ROCs. Changes will also need to be made to better incorporate the ROCs in regional planning.

As a basis for a clarification and expansion in their role, WSROC recommends legislated recognition of the ROCs to provide increased clarity and certainty regarding the nature of their interaction with both Local and State Government.

Further, if a greater role is to be provided for the ROCs, consideration needs to be given to a minimum level for resourcing to allow them to effectively carry out this expanded role, otherwise this could again constitute cost shifting from State to Local Government.

None of these changes need confirm concerns expressed in some quarters that an enhanced role for the ROCs would somehow constitute a fourth tier of government. WSROC is certainly not recommending this. However, some degree of formal recognition of and resourcing for ROCs would enhance their capacity to assist both Local Government and State Government in their roles.

## **CONCLUSION**

The ability of Greater Western Sydney to provide for its markedly increased population over the coming decades is critical, not only for the wellbeing of its residents, but also because of the profound impact it will have on the social, cultural and economic well-being of the whole of Sydney. Much of that depends on the policies of the State and Federal Governments, but fundamental to the effectiveness of their policies is the quality of their collaboration with Local Government in the region. This requires a commitment to working with Local Government as equal partners in the areas of shared responsibility and requires changed resourcing arrangements to ensure councils' financial sustainability.

WSROC looks forward to the opportunity to respond to subsequent stages in the deliberations of the Independent Review Panel and contributing to reforms which will strengthen Local Government and the sector's ability to meet the needs of its communities.

WSROC Ltd

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