Advocating for the people of Western Sydney

RESPONSE TO THE INDEPENDENT LOCAL GOVERNMENT REVIEW PANEL PAPER *BETTER, STRONGER LOCAL GOVERNMENT: THE CASE FOR SUSTAINABLE CHANGE*

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INTRODUCTION

WSROC welcomes the opportunity of making further comment on the review of local government in response to the Independent Review Panel's paper, *The Case for Sustainable Change.*

As WSROC made a submission on the first discussion paper, it is not intended to respond to all "signposts" identified in the latest paper, but to comment on those of most interest to western Sydney councils.

SIGNPOST 2: FISCAL RESPONSIBILITY AND FINANCIAL MANAGEMENT

WSROC endorses the view expressed at Destination 2036 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."

This is broader than merely ensuring that current revenue flows are adequate for meeting current expenditure requirements. It necessarily includes the capacity to maintain existing infrastructure and to fund the renewal of aging infrastructure. It also includes the capacity to meet potential challenges including population growth, an aging population, technological change and climate change. 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.

STATE AND FEDERAL GRANTS

Fundamental to the long term financial sustainability of local government is the need for an adequate and secure revenue base which allows it to meet current and projected expenditure requirements.

WSROC acknowledges that there is no "silver bullet" and that it is unlikely that local government will see the increases in revenue they would like from state and federal governments. However, the point still must be emphatically made that the decline in these revenue sources has seriously added to the pressure being faced by local government and that the other two tiers of government therefore have a responsibility to work with local government to ameliorate those pressures which they have either created or exacerbated.

The decline in Financial Assistance Grants from 1.18% of total Commonwealth revenue to just 0.74% between 1993 and 2008 has certainly been a major contributor to this and must be addressed. So must the regular pattern of cost shifting which has added significantly to the burden of local government. The recent LGSA Report on cost shifting estimates the impact of cost shifting on local government at around $500 million in the 2010-2011 year, equivalent to 5.75 % of their total revenue. This has been exacerbated further by growing community expectations of the range and level of services which can be provided by their council, often caused by short term seed funding by the state or federal government for new projects, creating an expectation that councils will continue those services when that funding ceases.

It definitely should not be the case that"…Local Government cannot expect increases in total state and federal funding" (p 14). However, if it is the case, then it is at least incumbent upon those governments to address the processes that are making it worse.

COUNCIL REVENUE AND RATE PEGGING

WSROC supports the IRP's view that better financial management requires "… a greater effort to boost own-source revenues –especially rates" (p18).

To this end, the current regime of rate pegging must be seriously questioned. WSROC notes the Panel's support for "further streamlining of rate pegging" but questions if this goes far enough.

WSROC supports the view of the Henry Tax Review that Local Government needs more autonomy in setting rates and contends that this requires the abolition of rate pegging.

NSW is the only Australian Sate or Territory which regulates council income through rate pegging. Notwithstanding recent improvements which have seen IPART allowing rises above inflation and more in line with increasing costs of local government, WSROC argues that rate pegging has still limited the ability of many councils to adequately vary their rates and to better secure their own financial positions.

Studies by Allen et.al. (in Dollery et.al. *The Assessment of Rate Pegging in NSW Local Government* 2010, Commonwealth Journal of Local Governance) show that rate increases in NSW have been far lower than other states and lower than the growth in GDP:

<u>% rate increases 1995-96 to 2003-04</u>

NSW	20.2
ACT	35.2
Tas	36.3
SA	55.1
Qld	55.6
WA	64.8
Vic	66.1
GDP	61.8

Thus Allan concluded that "rate pegging has been a constraint on NSW Councils' revenue raising capacity causing it to fall behind other states".

IPART's figures quoted by the IRP (p17) show that this trend has continued with NSW rates rising by only 4.4% between 2001-02 and 2010-11, compared to 8% for the other states, resulting in a situation where rates per capita in NSW are significantly lower than for all the other states ($120 or 22% lower in 2008-09). Thus the rate pegging regime has clearly prevented local government funding the level of services and infrastructure needed by their communities.

WSROC acknowledges the provision for councils to apply to IPART for special variations but the evidence suggests that this is not fully utilised by councils. For instance, in 2008-09 only 26 of 155 councils made applications for rate variations, even though approvals were granted to between 71% and 100% of applications between 2002-03 and 2008-09. The reluctance of councils to apply for special variations may be due to a number of factors including the fear of being accused of financial mismanagement, the costs and time of the application process or the difficulty in providing the required proof that ratepayers can afford the desired rate increase.

The other issue is one of principle. Surely if local government is to be regarded as an equal and responsible partner in the system of government, it must have the autonomy to set its own rates, realising that it is ultimately accountable to its own community for its delivery of services and its fiscal management.

Rate pegging provides an easy default position for management, allowing councils to blame the State Government for financial deficiencies and somewhat absolves councils from responsibility for their own financial affairs. It can also make it harder for them to undertake long term planning. Because of the financial pressures it creates, it can also lead councils to impose higher user charges on other services, resulting in potentially more inequitable outcomes.

The requirement for Integrated Planning and Reporting (IPR) which requires greater community engagement in the planning process is more consistent with fiscal autonomy for councils than it is with a centralised and restrictive regime of rate pegging. It is acknowledged that the revised guidelines for the next financial year will better integrate the two. WSROC also acknowledges IPART's commitment to a "…more light handed regulatory approach" (p18) , but sees this as merely trying to improve a flawed system. Rather than "further streamlining of rate pegging" (p18), it should be abolished altogether. This would more effectively restore the financial autonomy councils require.

However the important point which needs to be reiterated is that the need for greater rate autonomy and the pressure to raise rates stems largely from the long term decline in Financial Assistance Grants and the parallel increase in expenditure expectations of Local Government. While rate flexibility would provide some relief for many councils, it must be recognised that it would impose greater burdens on low socio-economic communities across many parts of western Sydney. While individual councils should have the right to decide their own rate levels, equity considerations demand that those fundamental funding questions which put so much pressure on council finances must be addressed as a matter of urgency.

SECTION 94 CONTRIBUTIONS

The current $30,000 cap on developer contributions means that the amounts raised by such levies are far from adequate to fund the required level of amenities and 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. Alternatively the State Government needs to take on greater responsibility for funding necessary local infrastructure.

COST SHIFTING

As stated above, a recent LGSA Report estimates the impact of cost shifting on local government at around $500 million in the 2010-2011 year, equivalent to 5.75 % of their total revenue.
A breakdown shows the impact on a number of western Sydney councils (NSW LGA *The Impact of Cost Shifting on NSW Local Government: A Survey of Councils 2010-2011*).

Bankstown	$15.3m	11.97% of revenue
Blacktown	$10.4m	4.76%
Blue Mountains	$6.0m	6.91%
Fairfield	$ 8.1m	5.92%
Hawkesbury	$4.7m	8.43%
Liverpool	$7.3m	4.82%
Parramatta	$8.7m	5.44%
Penrith	$9.4m	5.71%

Cost shifting originates form a number of sources : services not previously provided by Local Government, now required by legislation ; extra responsibilities placed on Local Government; requirements to undertake increased compliance activity without adequate compensation; costs associated with the transfer of infrastructure from other levels of government; fees and charges not being indexed; increasing consumer expectations; more rapid population growth; expectations to continue pilot projects after the cessation of state or federal funding, etc.

ALGA's submission to the 2013-14 Federal Budget outlines steps to address cost shifting by the Commonwealth and state governments and these need to be given close consideration.

OTHER FACTORS

i) Borrowing

WSROC notes the IPR's encouragement of "… increased use of borrowing to fund long term assets" where council finances support this. However, this is not a viable option for many struggling councils. Debt financing of assets only creates a future burden for servicing and repayment unless those assets are sufficiently productive to generate revenue greater than the associated debt servicing costs.

Most community assets, even though they may add significantly to community amenity and well-being, are unlikely to be in this category. Thus while borrowing might help councils address their infrastructure backlog, it may not do anything to improve their long term financial sustainability. Further, while future revenue sources remain uncertain, those risks are increased.

Of WSROC's ten councils two have no debt and two others have quite minimal levels of debt. Councils which have worked hard to reduce debt and thereby free themselves of the associated interest charges are unlikely to want to return to where they had been. Addressing their inadequate revenue source seems a better option.

ii) Controlling Expenditure.

IPR's exhortation for "more concerted efforts to control costs and expenditure" might be appropriate for some councils, but most would argue that this is being done already.

WSROC supports the concept of the Division of Local Government and the NSW Auditor General playing "stronger advisory and oversight roles" to help councils control their costs and it is quite likely that a number of councils would benefit from this. However, it is easy to overlook the fact that councils face increasing costs for reasons outside their control. As already discussed, on-going cost shifting by federal and especially state governments, have added significantly to the financial burden of Local Government and rising community expectations have added to the pressure. In this context it may be useful if the revisions to the Local Government Act clearly spell out the core functions of Local Government, thus possibly helping residents realise that any spending programs beyond these core functions may have to be funded by the community. This may slow the almost inexorable increase in the expectations the community place on their local Council.

MORE STRATEGIC PROCUREMENT PRACTICES AND RESOURCE SHARING

An increasing number of councils are involved in shared services, resource sharing and joint procurement activities, usually operating through their ROCs, thus generating significant cost savings. WSROC has an expanding joint procurement program, totalling around $36 million last year and saving councils around 11% on their expenditure. Increased resource sharing, service sharing and joint procurement activities would generate financial savings for councils. However, as discussed below, legislative changes are needed to facilitate these activities.

SIGNPOST 3: SERVICES AND INFRASTRUCTURE

As already stated, rising community needs and expectations have increased the range of local government services provided over recent decades and it is unlikely that these can be wound back. As the discussion paper points out, when revenues have been tight, in an effort to maintain spending on services, maintenance and capital work programs have often suffered.

WSROC agrees that "NSW local government faces a backlog of infrastructure maintenance and renewal." The quantum of this problem has no doubt increased since Allan inquiry's 2006 estimate that across the state this backlog totalled some $6.3 billion (although the Urban Taskforce's estimate is a little less than this). It will continue to increase unless the underlying financial problems are rectified. WSROC welcomes the assessments currently being conducted by the Division of Local Government and NSW Treasury, but cautions against blaming councils for a situation that has arisen as a result of a number of factors discussed above. It is these underlying financial pressures which must be addressed.

The main reason for this backlog is inadequate revenue. When faced with financial pressures, it is too often easier for councils to reduce spending on infrastructure maintenance and to delay capital renewal projects than it is to cut spending on community services.

The IRP paper suggests "poor asset planning and management; over-investment in new assets without proper consideration of whole-of-life costs" as possible reasons. While these may be the case in some situations, the feedback from WSROC councils is that the reason is overwhelmingly the inadequacy of council revenue base. For councils in growth areas, this problem is exacerbated by the need to fund new community infrastructure. WSROC welcomes the Government's current review of infrastructure contributions and is cognisant of the tension between encouraging housing affordability on one hand and councils' ability to fund infrastructure on the other. A broadening of the revenue base for the provision of growth area infrastructure must be considered in this context, including a general infrastructure levy spread across the whole state population.

Another aspect of inadequate infrastructure spending, rarely considered, is its impact on inter-generational equity. If revenue collected currently is inadequate to adequately finance the maintenance of existing infrastructure and the provision of necessary new infrastructure, the cost of this neglect is shifted to future generations.

SIGNPOST 4: STRUCTURES AND BOUNDARIES

AMALGAMATIONS

Recent years have seen an increase in the level of debate about council size and the potential benefits from amalgamation, with arguments espousing the potential benefits of scale met with claims that empirical evidence indicates that these do not materialise in practice.

The Australian Government's Our Cities 2010 discussion paper 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).

The IRP seems to agree with respect to NSW, arguing that the state "…has too many local councils and that various forms of consolidation should be pursued to strengthen capacity and sustainability." (p23)

The report by Jeff Tate Consulting into the outcomes of the 2004 boundary changes in NSW, commissioned by the IRP, listed a number of benefits including "… service and infrastructure improvements, greater capacity of Councils to tackle important projects and issues and a stronger voice with other levels of government" despite the fact that "processes… were generally seen as being poor and the costs were significant." (p3)

WSROC acknowledges that there may be a case for amalgamation where inner metropolitan councils are small but cautions against the assumption that size necessarily yields economies of scale. In any case, as *The Case For Sustainable Change* recognises, the average population of Western Sydney councils is expected to reach 220,000 by 2036, (not far short of the 250,000 – 300,000 often suggested as the optimal size for councils.

WSROC would be very concerned about any attempts to pursue theoretical goals without serious consideration of the diversity of issues, communities of interest, geographical features, projected population growth, local identity centres, existing asset structures, levels of debt, financial performance and a raft of other factors that may limit any benefits from amalgamation. WSROC supports the list of factors identified by the Panel for assessing local government boundaries (p29).

While the theoretical claim is for economies of scale, not all services benefit from these and it would be wrong to simply assume that such economies would eventuate. The Allan inquiry (2006) concluded that "all the empirical evidence suggests that big is not better when it comes to local government" and that "…at the administrative level the efficiency and effectiveness of local council is not a function of size."

Perhaps one of the reasons that scale does not produce the cost savings expected is that the focus of council activities has increasingly moved from less labour intensive property and infrastructure provision to more labour intensive service people-based community services. Thus fixed costs have fallen as a percentage of total operating costs, reducing the potential savings from scale.

A Queensland Parliamentary Inquiry found that after the process of forced amalgamation, Queensland local government debt levels had risen from $2 billion in 2008 to $4.8 billion in 2011 and is projected to continue to increase (Qld Courier Mail 2012). This may have been due to a number of other factors but does suggest that amalgamation does not necessarily yield the financial savings frequently advocated.

SHARED SERVICES

However, WSROC agrees with the IRP assessment that "… for some local government functions, notably infrastructure and 'back office' services, increased scale does bring efficiencies and cost savings." (p230) The key is in identifying and exploiting those opportunities rather than forcing amalgamation which may achieve some of those benefits but at much greater cost. Government support for this process would be beneficial.

This could be done through the ROCs. 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."

To maximise this potential, action is needed to remove the barriers which currently work against this. 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.

As outlined in WSROC's response to the *Strengthening Your Community* discussion paper, this situation could be rectified in one of two ways.

First, 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. Concerns about probity and integrity could be covered by an appropriate audit system.

REGIONAL PLANNING

Another argument advanced in favour of amalgamation is the improved capacity for regional strategic planning rather than having councils mired in their own parochial concerns. Yet this could be achieved without amalgamation. An enhanced role for Regional Organisations of Councils in regional and sub-regional planning would reduce the need for amalgamation by providing a more strategic regional approach to planning issues.

Joint Regional Planning Boards proposed in the Government's planning Green Paper could take on the role of planning for larger projects and those of strategic or regional significance. If these were based on existing ROC boundaries, it would help ensure that the rights of individual councils are not overridden in this process. This would also facilitate the coordination of State and Local Government on key development and planning issues.

OTHER ISSUES

It would be too easy to allow the discussion of amalgamations to focus only on the claimed economic benefits.

The extra responsibility placed on councillors in large councils also needs to be considered along with its impact on their capacity to do their job and to engage effectively with their constituents. This could increase pressure on the role to be a full time one, thus denying the contribution that many otherwise employed or self-employed councillors can and do make to their communities through their role as councillors. The role of mayor is different and WSROC endorses the view that the mayoral position is a fulltime paid one. However, while there is a strong case for increasing the remuneration of local councillors, WSROC's view is that they should not be forced into full time roles.

Consideration also needs to be given to protecting democratic rights and ensuring they are not reduced or perceived to have been reduced through amalgamation. The decline in councillor-to-resident ratios, would almost certainly lead to a reduction in access, and it is imperative that this does not also lead to a reduction in accountability.

For these reasons, WSROC favours an increased focus on service sharing rather than forced amalgamations to generate the savings required.

However, it is acknowledged that amalgamation may be beneficial to some smaller inner metropolitan councils and WSROC supports the Panel's proposed examination of barriers and incentives to voluntary amalgamation.

If the amalgamation option is considered seriously, it is imperative that the process is carefully planned in a fully consultative way that takes into account all the local variables involved. To this end, the checklist proposed by the Tate review would be instructive.

SIGNPOST 6: A COMPACT FOR CHANGE AND IMPROVEMENT

WSROC agrees with the IRP's assessment that "there are welcome signs of improvement" in State-Local Government relationships. The lack of commitment to a meaningful relationship with Local Government which prevailed for too many years must be replaced by a productive and well-defined partnership. The Government's engagement with *Destination 2036* project and its recommendations have generally been positive.

WSROC acknowledges that work is currently being conducted on a new Governmental Inter-Governmental Agreement. 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.

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 subsequent deliberations such as the development of regional action plans and various planning workshops.

Comments in 2011 by Minister 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, although it does seem that the Government's enthusiasm for this has waned a little over the past twelve months. It is to be hoped that this does not reflect a change in direction.

While WSROC agrees that "…the co-drivers of change must be the Division of Local Government and the new single association, Local Government NSW" (p35) this must not ignore the valuable role that can be played by the ROCs which bring a highly valuable regional focus that cannot be achieved by state-wide organisations. This is essential for strategic regional planning, for regional advocacy and for regional service and resource sharing.

WSROC maintains that an enhanced role for the ROCs provides a viable and less disruptive alternative to amalgamations in most situations. It carries the potential for significant savings through resource sharing, provides for a regional focus in strategic planning and allows easier engagement with the other levels of government. At the same time it allows for a continuation of the strong advocacy undertaken by ROCs such as WSROC.

However, WSROC also maintains that the ability of the ROCs to carry out their roles can be strengthened. We acknowledge the significant range in the scope and effectiveness of the various ROCs as identified in the work by Gooding Davies commissioned by the IRP.

Again, WSROC agrees that Section 377 of the Local Government Act is one of the major constraints on ROC-based resource sharing and regional tendering and agrees that "…the single most important change for a number of ROCs would be amendments to the Act to facilitate regional tendering." (Gooding Davies Consultancy, *Options to Enhance Regional Collaboration Amongst Councils in NSW,* November 2012).

Of the two models discussed in this report to strengthen regional collaboration– the incremental model which would facilitate regional collaboration through the ROC framework or the more comprehensive "Council of Mayors" model – WSROC endorses the former. However, it is acknowledged that greater mayoral involvement in ROCs would be beneficial, but that could be achieved by requiring mayoral membership of ROC boards.

The incremental approach to greater collaboration through the ROC system could also be enhanced by mandating council membership of a ROC. It would be advisable that the particular choice of ROC(s) be left to individual councils based on their geographic, historical, cultural and economic alignments.

While WSROC acknowledges the arguments of the Urban Taskforce regarding separate service centres run by a separate legal/commercial entity (along the Hunter Councils model) we do not see these as necessary. So long as the previously discussed impediments are removed, the movement to much increased service sharing could operate through the ROC structure.

CONCLUSION

WSROC supports the extensive analysis of Local Government that is being undertaken by the Independent Review Panel and acknowledges the need to improve the efficiency and viability of the sector.

WSROC agrees that the financial sustainability of the sector is one of the critical issues and reiterates the need to remove the pressures creating this problem, rather than leaping to sweeping structural changes that may not achieve the desired outcomes. It may be that some of the more comprehensive changes recommended to the Panel, and perhaps ultimately by the Panel, may have merit. However, it is imperative that radical change is not adopted simply for its own sake. Where incremental changes can achieve similar results, these need to be given careful consideration.

WSROC
March 2013