



Advocating for the people of Western Sydney

RESPONSE TO THE NSW DEPARTMENT OF LOCAL GOVERNMENT ON THE *LOCAL GOVERNMENT ACT DISCUSSION PAPER*

JULY 2013

Western Sydney Regional Organisation of Councils Ltd

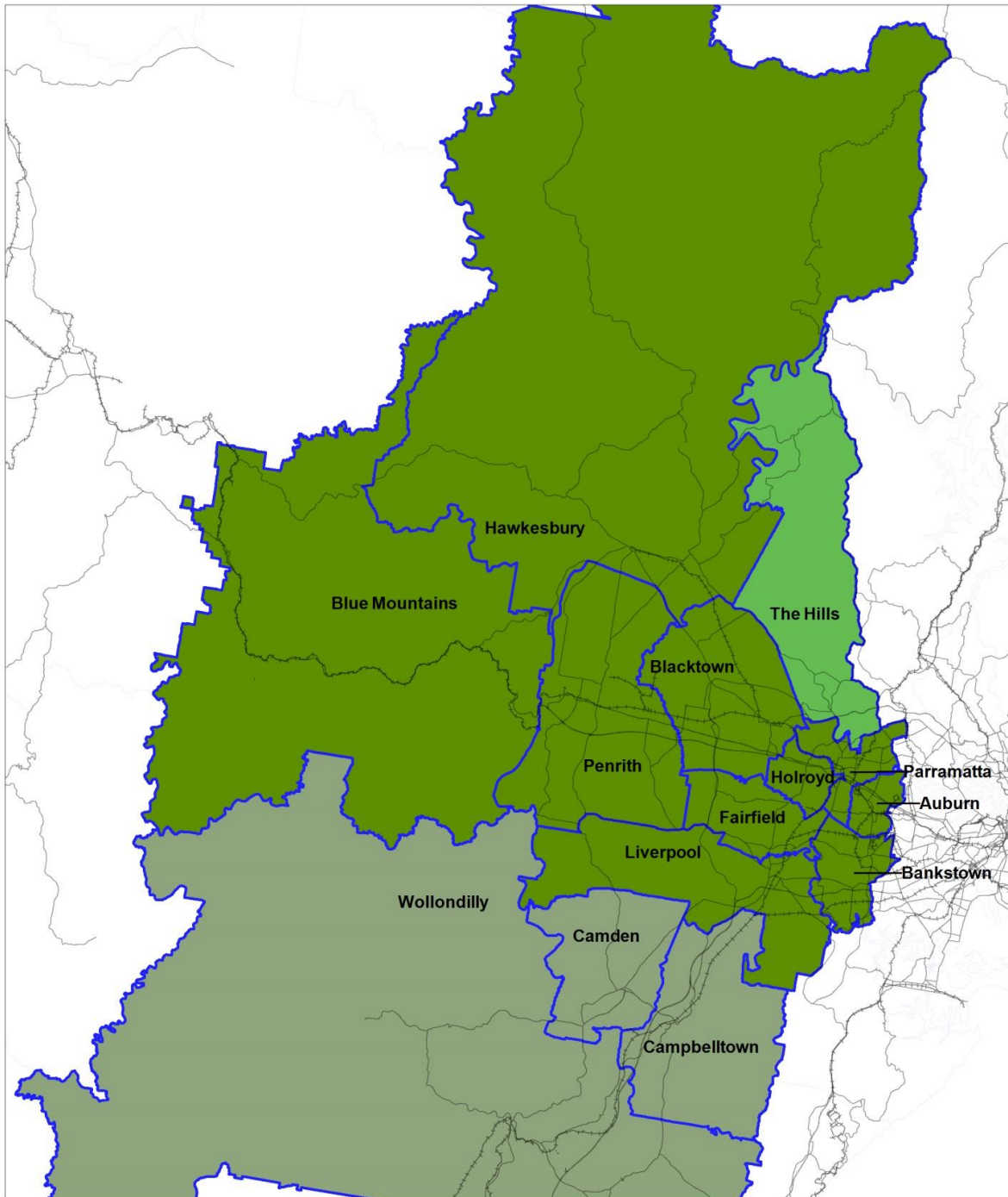
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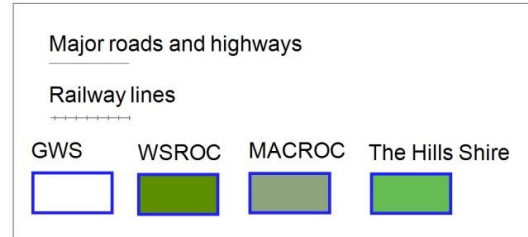
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GREATER WESTERN SYDNEY



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KEY CONCERNS FOR WSROC

While WSROC recognises that many of the topics for review in the *Local Government Act* will be impacted by the outcomes of the Independent Local Government Review Panel, there are two key areas which we believe need to be established in the new Act.

Legislate the ROCs

The first is to legislatively recognise the role of ROCs and to facilitate the role they play in shared services and procurement on behalf of their member councils. This could be achieved by granting Regional Organisations of Councils (ROCs) prescribed entity status for these activities. Currently WSROC undertakes a range of significant regional procurement activities on behalf of our member councils, totalling close to \$40 million a year and saving our councils several million dollars a year on their procurement. However, our ability to expand these activities is hampered by the fact that we cannot accept tenders and enter into contracts on behalf of our member councils. If ROCs had prescribed entity status they would be able to more easily expand their activities in line with the Government's stated preference for increasing shared services between LGAs at a regional level. Alternatively a relatively simple change to Section 377(1) of the *Local Government Act* would achieve this by allowing Councils to delegate authority to their ROCs to accept tenders and sign contracts on their behalf in relation to pre-agreed activities.

Secondly, membership of ROCs should be mandated for local government to ensure they are able to take advantages of the procurement activities and economies of scale which a regional organisation can provide, in addition to participating in other regional activities such as strategic planning. Both the Independent Review Panel and the Minister have indicated they would like to see an enhanced use of regional strategic alliances to provide greater synergies, cost savings and economic benefits from co-ordinating some service delivery on a regional basis. ROCs are already well placed to provide these services however, as the Panel has noted, ROCs are inhibited in their ability to fulfil this role as membership is prone to fluctuation based on the whim of individual member councils. Mandating membership will provide ROCs with the certainty to negotiate purchasing and plan service delivery on a regional scale, and ensure that all councils have access to the multiple benefits that membership of a properly prescribed ROC brings.

Define the roles of Mayors and General Managers

The other key area for reform and which WSROC believes should be enacted in legislation is to clearly define the roles and responsibilities of Mayors and General Managers.

This is arguably the most significant and dynamic relationship in local Government: a strong collaborative approach with recognised and mutually respected areas of responsibility results in a highly successful organisation. Unfortunately, when this relationship is competitive, combative and antagonistic with ill-defined roles and responsibilities, councils become increasingly unworkable and services suffer.

For this reason WSROC believes that basic roles and responsibilities need to be outlined in the legislation to establish clear guidelines on who does what and perhaps even protocols and guidelines for dismissal of GMs to avoid a repeat of some past situations.

ADDITIONAL POINTS ON SPECIFIC PROPOSALS

1.3 Approach and Principles for the Development of the New Act

WSROC supports the goal of a flexible principles-based framework for the new Act supported by specific regulations, codes and guidelines as needed. However, we would suggest the Act includes a requirement for frequent review of the supporting mechanisms so that they do not end up multiplying out of control, resulting in a myriad of confusing and contradictory items.

Part I - Guiding Principles for a New Local Government Act

3.1.1 Purposes of the Local Government Act

WSROC supports the draft purposes of the Act, in particular the need to define the nature and extent of councils and responsibilities of local councils. WSROC believes that in line with the goal of strengthening the partnership between state and local government, the NSW Constitution could also be amended to recognise the role of local government. A clearer specification of the responsibilities of local government might also slow the inexorable growth in financial pressure on councils caused by the combination of increasing community expectations and cost shifting from the other tiers of government, especially state government. WSROC also welcomes the inclusion of the term “sustainable” as a key goal for local government and would like to see this term defined separately in the Act as including environmental considerations, as well as economic and social ones.

3.1.2 Role and Principles of the Local Government Act

The new definition of the roles and principles of local government are supported for inclusion in the Act.

Part II – Strategic Framework for Local Government in NSW

3.2.1 Integrated Planning and Reporting

WSROC supports the view that Integrated Planning and Reporting should form the central theme of the new Act – but urge that the logistics of managing the requirements of this system are well planned and co-ordinated so that councils do not end up putting all their energies into meeting onerous and unnecessarily detailed reporting requirements at the expense of delivering services. The timing of reporting requirements is also important: currently our councils are constantly reporting on various things to various agencies so it would be helpful if reporting timelines are co-ordinated across all Government agencies to streamline and improve the efficiency of the system. We also welcome the recognition of the need for flexibility as the very nature of “local” government means that it is impossible to rely on “one-size fits all” systems and solutions.

3.2.2 Community Consultation and Engagement

WSROC believes that this has to be a fundamental part of all council activities, including those undertaken in partnership with the State or Federal Governments. This is also a key platform of the NSW Planning Reform. However, as WSROC has noted in our submissions to the Planning White Paper, achieving genuine, in-depth and meaningful community consultation is a complex, time consuming and resource intensive process. While the fundamental principles outlined here are sound, they do have the potential to contradict or

counteract the proposals under consideration for the new Planning Act which limits the involvement of residents in planning decisions beyond a certain point.

WSROC would urge the Taskforce to look closely at the goals and potential impacts of the new Planning legislation in relation to these key points to avoid any contradictions between the two new Acts.

3.2.3 Technology

The principle of increasing the use and variety of technology is supported, although we note that the Taskforce has recognised the need for individual councils to tailor this to the needs and demands of their own constituents.

Part III – Council Operations

Governance Framework

3.3.1 Elections

WSROC welcomes measures aimed at improving the voting system, bearing in mind the principles of accessibility, transparency, security and efficiency. We support the introduction of postal voting as a means of improving ease of participation in local elections and the requirement for more accessible and adequate information on candidates. We are open to most of the other suggested possible changes including reviewing the preference system and the introduction of electronic voting. However, the suggestion to abolish the ward system requires a great deal of careful consideration, especially in light of the proposals for amalgamations put forward by the Independent Local Government Review Panel. As councils' populations and geographic boundaries expand, it may be that wards should be retained in order to provide fair representation for different communities or demographic groups within a single LGA.

This is also the case in relation to community consultation processes – retaining the ward system allows targeted representation and conversations to be held on a genuinely local scale and this is an important aspect to maintain.

The proposal to consider half term elections does have some merit in terms of providing greater continuity of representation and experience. However, the extra cost would be a significant problem. Councils already bear the significant burden of running council elections and cannot be expected to carry an even greater financial load.

3.3.2 Meetings

The proposals for meetings are supported, especially in relation to a mandated Code of Meeting Practice.

3.3.3 Appointment and Management of Staff

WSROC strongly supports the recognition of the need to have clearly defined roles and relationships for Councillors, Mayors and General Managers, as noted in our introductory comments. The proposed definitions and clarifications outlined in this section are supported. It may also be useful to consider the issues involved in terminating a general manager's employment – although this subject is also under consideration by the

Independent Local Government Review Panel. We expect the Taskforce and Panel will collaborate to provide a single agreed set of protocols which can then be enshrined in the legislation.

3.3.4 Formation and Involvement in Corporations and Other Entities

WSROC notes that the taskforce has deferred this item until the Independent Panel releases its findings. However, we would urge the Taskforce to give preliminary consideration to enshrining Regional Organisations of Councils (ROCs) in the legislation as prescribed entities to assist in our procurement activities and other services with which we support our member councils. Mandating membership of a ROC would also benefit both councils and the ROCs by providing certainty and stability to both organisations. Refer above to our earlier introductory comments.

3.3.6 Code of Conduct

WSROC notes the Taskforce does not propose to make any changes to the Code of Conduct which has recently been subject to its own review.

3.3.7 Pecuniary Interest

The proposals to review pecuniary interest provisions are supported. WSROC would recommend that information provided to councillors – especially first-time councillors should also be made available in a range of other languages to assist councillors from culturally and linguistically diverse (CALD) communities. This could be included with general information as to the roles and responsibilities for councillors.

3.3.8 Delegations

WSROC supports the review of delegations and recommends that any proposed changes are taken in the context of the defined roles and responsibilities for Mayors, Councillors and General Managers.

Financial Governance

3.3.9 Financial Management

WSROC notes that some of these issues will be dependent on the outcomes from the Independent Review Panel. However the general move towards streamlined processes is supported, together with greater emphasis on systems and risk management, rather than prescriptive practices. This flexibility will particularly assist those councils who are facing financial challenges to determine the best solution for their specific situations.

3.3.10 Procurement

WSROC strongly supports the review of the mechanisms of the Act to facilitate councils entering into collaborative procurement agreements such as those provided through ROCs. WSROC already arranges a number of major contracts for our councils, which saves our councils several million dollars each year through bulk buying and economies of scale that these collaborations allow. There is potential to greatly increase the number and size of these projects if ROCs were prescribed entities and could enter into contracts in their own right. Alternatively a change to Section 377 of the Act could allow ROCs to accept tenders

and enter contracts on behalf of their member councils. This also aligns with the Government's stated objective of increasing shared services among councils and, if properly legislation, ROCs would provide the ideal vehicle to achieve this.

3.3.11 Capital Expenditure Framework

The proposal to establish a capital expenditure and monitoring framework to assist councils in managing risk is supported in principal, however WSROC cautions against making the framework too rigid to allow consideration of the unique circumstances of individual councils. The Independent Review Panel is also considering a number of issues relating to councils' management of capital expenditure and ways to address the infrastructure backlogs, so it would be prudent to wait and see what comes out of that review and ongoing work by the Treasury Corporation on the financial status of councils.

3.3.12 Public Private Partnerships

WSROC supports this proposal in principal however recognises that PPPs may not always be suitable for achieving the needs of local councils and that alternate mechanisms should always remain an option.

3.3.13 Acquisition of Land

WSROC notes the Taskforce does not plan to make any changes to this area, although the situation should be monitored on an ongoing basis as other reviews, notably the Planning Review have flagged potential options for compulsory acquisition. In this case this area may need to be amended to reflect any changes that are proposed.

3.3.14 Public Land

WSROC supports the proposals in this section in relation to management of public land, and recognises the benefits in aligning council management of public lands with general Crown Land management practices. Including public land as an asset and including it as part of general IPR requirements will save unnecessary duplication of reports.

Regulatory Functions

3.3.15 Approvals, Orders and Enforcement

WSROC supports the 'high level' approach proposed for this section, and the streamlining of the prescriptive processes of approvals and orders. With regard to transferring some approvals and orders to other areas of legislation, while there is merit in the proposal it is important that those approvals and orders which require some degree of community information or consultation are not removed entirely from council involvement. Councils should continue to be notified of any approvals or orders sought which would previously have been lodged with the council, and the outcome of those applications. For example, filming in a public place has the potential to seriously disrupt civic life and councils should still be consulted on these activities, even if they no longer have right of refusal.

3.3.16 Water management

WSROC notes that the findings of the Independent Panel in relation to provision of Water services will have a significant impact on the role and responsibilities of councils in this area

of activity and concurs with the decision to delay consideration on these issues until the Panel's recommendations are known.

3.3.18 Performance of Local Government

WSROC notes the Taskforce decision to await the findings of the Independent Panel on this issue, but broadly agrees with the need to review the areas for which councils are monitored or required to report with a view to streamlining existing provisions and identifying new issues – such as the need to recognise the increased participation in councils by CALD communities and to ensure that they are encouraged and supported in this activity.