

# FFTF – LGNSW Submission: Independent Expert Panel February 2015

## Independent Expert Panel for *Fit for the Future* Proposals

### ***Purpose***

This paper proposes an approach to ensure a balanced assessment of councils' *Fit for the Future* (FFTF) proposals.

### ***Background***

The NSW Government's *Fit for the Future* Package proposes that:

“*Fit for the Future* proposals will be assessed by an independent Expert Panel. The Panel will be supported by a Technical Panel, with key experts able to analyse council submissions. The Panel will make recommendations to the Minister for Local Government before the end of 2015, on which councils it considers are *Fit for the Future*.”<sup>1</sup>

To date, the Government has not publicly announced a preferred model for how the assessment or technical panels would work, nor confirmed the selection process for panel members.

### ***Issues***

The composition and deliberations of the independent Expert Panel for *Fit for the Future* assessment will be crucial factors in the overall outcome for councils.

Key to ensuring the integrity of this process will be:

- a) Confirmation of an agreed vision for the future of Local Government.
- b) Establishing a set of guiding principles for the panels;
- c) Developing the terms of reference for the panels;
- d) The process and criteria for selecting panel members; and
- e) Development of assessment procedures, criteria and guidelines.

Councils have an expectation that their proposals will be assessed by a panel of independent experts, based on principles of impartiality, fairness and consistency, and a balanced set of criteria.

#### **a) Agreed Vision**

As a starting point, it is important to have an agreed understanding between the NSW Government and the Local Government sector of the overall future vision for Local Government. A working draft of a vision statement was developed during the course of the two day Destination 2036 workshop in August 2011. The vision articulated in the [Destination 2036 Communiqué](#)<sup>2</sup> provides a good basis for an agreed approach. This is shown in Attachment 1.

#### **b) Guiding Principles**

The assessment process should be predicated on good governance and achieving the best outcomes for the community. The panels should be therefore guided by the following principles:

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<sup>1</sup> “Fit for the Future - A roadmap for Stronger, Smarter Councils”, NSW Government, September 2014

<sup>2</sup> “Destination 2036 Communiqué”, 18 August 2011

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- **Independence** - It is essential that the Expert panel members are independent of the NSW Government if the panel is to have any credibility.
- **Transparency** – The deliberations of the panels must be based on principles of openness and transparency, and a willingness to listen. The panels should be required to document and clearly explain their conclusions and recommendations, and demonstrate how these are consistent with the overall agreed vision. These should be made publicly available.
- **Two-way Communication** - In the spirit of openness and a willingness to listen, councils should be given the opportunity to present and discuss their proposals with the Expert panel. This would allow all reasonable options to be fully explored and help realise the best possible outcome for all parties.
- **Consistency, Fairness and Impartiality** – The assessment process and deliberations of the panels should be applied consistently, fairly and impartially across all councils state-wide regardless of their template category.

### **c) Terms of Reference**

The terms of reference for the Expert Panel should include:

- Role and purpose of the panel – Is it advisory or determining/decision-making?
- A statement expressing the agreed vision – refer to (a) above
- A list of the guiding principles – refer to (b) above.
- The parameters which delegate authority to the panel and to any advisory technical panels etc. - specify how and to whom the panels are accountable.
- Clarification of the role/responsibilities and functions of the Office of Local Government (OLG) - e.g. administrative and technical support, other?
- Specifications about the role and responsibilities of any technical panels.
- Specific governance aspects including timeframes, accountabilities, progress reporting requirements, etc.
- All relevant timeframes (e.g. commencement date, consultation period, progress and final reporting dates, etc.).
- Provision for councils to present their *Fit for the Future* proposals to the Expert panel.
- A requirement that the panels document the reasons for their decisions and recommendations, and make these publicly available.

The approach to framing the terms of reference should be ideally:

- Developed with input from, and endorsed by, the members of the Ministerial Advisory Group;
- Specified in writing and made publicly available on the *Fit for the Future* web site

### **d) Composition and Selection of Panel Members**

The composition of the Expert Panel is a critical consideration if councils are to be consistently and equitably assessed.

Consistent with the principles discussed in (b) above, the following elements are fundamental to determining the composition and membership of the panel:

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- The panel membership requires independent and impartial representation. Members should not have conflicts of interest with any other roles/positions. For example, it would be inappropriate to have OLG on the panel. It would also be inappropriate for TCorp to be on the panel if it has been acting as a consultant to councils in the preparation of their proposals. It would be inappropriate for IPART to be on the panel given its existing role with councils.
- The panel requires a balanced representation. The overall panel composition must demonstrate a capacity to provide a balanced assessment, not only of financial criteria, but of other equally important factors that embody social and community values. At least one panel member should be a community governance expert, with high level Local Government experience and expertise.
- As the one peak body for all of Local Government, LGNSW concurrence be required on the selection of Expert and Technical panel members, consistent with similar principles that govern the nomination of the chairpersons of Regional Planning Panels<sup>3</sup>.

### e) Assessment Procedures, Criteria and Guidelines

The message conveyed to councils at the consultation sessions during late 2014 was that the *Fit for the Future* assessment financial criteria are “not a pass or fail” mark. Councils have been encouraged to “tell their story” in their *Fit for the Future* proposals; not to be deterred that their financial criteria alone may paint a misleading picture. If this view still prevails, it should be reflected in the procedures, criteria and guidelines that govern the panels, as these are what will ultimately determine how the Expert panel will treat each individual council’s proposal.

The assessment procedures, criteria and guidelines should be:

- Consistent with the agreed vision for the future of the Local Government sector.
- Based on a balanced approach, taking into account community and social factors, rather than being based solely on the *Fit for the Future* financial criteria.
- Appropriately weighted to give legitimate and genuine regard to important social and community outcomes.
- Clearly articulated and made publicly available up front before the closing date for council submissions.

### ***Recommendation***

That:

- i. The Government reconfirms its commitment to the agreed vision for Local Government articulated in the Destination 2036 Communiqué from August 2011;
- ii. The Ministerial Advisory Group develop terms of reference for the Expert Panel, and that the Local Government sector be consulted on the development of these terms of reference.

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<sup>3</sup> Refer to *Environmental Planning and Assessment Act 1979*, Schedule 4 Joint Regional Planning Panels

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- iii. The Ministerial Advisory Group adopt guiding principles for the Expert Panel as proposed in this paper, and that these be reflected in the panel's terms of reference;
- iv. As the one peak body for all of Local Government, LGNSW concurrence be required on the selection of Expert and Technical panel members, as proposed in this paper;
- v. The Ministerial Advisory Group be consulted on how the panel operates, including the criteria used to assess all criteria.
- vi. Councils be given the opportunity to present and discuss their *Fit for the Future* proposals with the Expert panel before decisions are made.

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## **Independent Expert Panel**

**February 2015**

### **Attachment 1**

#### Vision 2036 (from Destination 2036)

##### *Strong Communities through Partnerships*

- *By 2036, all NSW communities will be healthy and prosperous – led and served by strong, effective and democratically elected local government*
- *Through leadership, local knowledge and partnerships with community, government and other sectors, we will plan our futures and deliver quality services and infrastructure*
- *We will be recognised, respected and responsible for:*
  - *Upholding the highest ethical standards*
  - *Sound financial management*
  - *Sensitive environmental stewardship*
  - *Meaningful community engagement, advocacy and leadership*
  - *Our adaptability, innovation and learning*
  - *Developing the full potential of our people*
  - *Responding to our diverse cultures and environments*
  - *Creating places that people value*