

LGNSW Submission on IPART Methodology for Assessment of Council *Fit for the Future* Proposals

May 2015

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Executive Summary

Local Government NSW (LGNSW), the peak body representing all 152 general-purpose councils, the special special-purpose county councils and the NSW Aboriginal Land Council. NSW, appreciates the opportunity to provide comments on the consultation paper for the Independent Pricing and Regulatory Tribunal's (IPART's) Methodology for Assessment of Council *Fit for the Future* (FFTF) Proposals.

This submission emphasises and builds on LGNSW's contribution to the FFTF process to date through membership of the Ministerial Advisory Group, submissions, participation in working groups and attendance at Office of Local Government (OLG) and IPART forums. LGNSW acknowledges that the proposed Methodology for Assessment reflects many of the recommendations previously made by LGNSW.

LGNSW maintains its policy of no forced amalgamations, with voluntary structural reform occurring alongside real improvements to the funding framework for Local Government. Within this context, LGNSW has addressed to the five questions for stakeholder feedback posed by IPART in addition to discussing a number of other key issues for Local Government.

Key comments in response to IPART's discussion questions are summarised below:

1. The scale and capacity criterion has been an issue of consistent concern and confusion for councils across NSW. The IPART needs to clarify how a variety of factors will impact on the assessment including the strategic capacity elements, social and community context, state-wide objectives, local water utilities and joint organisations. Population minima and target numbers of councils should not be introduced into the assessment process. LGNSW maintains that scale and capacity are two separate criteria.
2. The Rural Council option is primarily an improvement option, not a structural change option, and should be referred to as such in the Methodology for Assessment. Potential Rural Councils should have the option of meeting a simple majority of the characteristics and those in the ILGRP's Group C should not need to also assess the merger option.
3. LGNSW has previously analysed the FFTF benchmarks and argued that many have weaknesses or are not reliable. The IPART needs to consider the implications of applying each of the benchmarks by referring to the work developed by the FFTF Assessment Criteria and Benchmarks Working Group. Details are provided in the first attachment to this submission. LGNSW acknowledges that the IPART has improved the definition of two criteria to at least partially address deficiencies and welcomes the IPART's intention of not weighting the individual criteria.
4. IPART should take a holistic approach when assessing the FFTF community consultation conducted by councils. This includes considering the nature and extent of changes councils are proposing, previous consultation activities conducted by councils throughout the reform process and as part of daily activities and original guidance from OLG on the level of community consultation required. It is integral that the outcome of the consultation and the response of the community be taken into account.
5. Councils already conduct monitoring through the Independent Planning and Reporting Framework and the OLG is also in the process of developing a performance management framework which should be more than sufficient to monitor council performance against FFTF proposals. LGNSW advises against introducing additional layers of performance reporting.

LGNSW has also outlined six other key issues that are integral for IPART to consider in its assessment of council FFTF submissions:

- LGNSW is of the view that the Independent Local Government Review Panel's (ILGRP's) preferred options are given too much priority in the assessment of council submissions and that alternative council options also have merit.
- LGNSW reflects the position of councils in metropolitan Sydney that proposing Joint Organisations (JOs), JO type structures, ROCs or other collaborative arrangements are a legitimate option for achieving scale and capacity. Also, these councils' FFTF proposals should be considered in the context of the newly proposed Greater Sydney Commission.
- As previously argued by LGNSW, the timeframes for the revision of the methodology, the submission by councils and the assessment period by the IPART are inadequate.
- LGNSW seeks assurance that the work of the newly recruited analysts will be closely monitored and reviewed by more senior IPART staff with in-depth Local Government experience and expertise.
- For those councils which have local water utilities (LWUs), these affect significantly the performance of the general fund and also the scale and capacity of a council. Therefore LWUs should be taken into account in the IPART's assessment.
- Many councils which were recommended to merge by the ILGRP and who consider an amalgamation to be their best option, have not been able to find a merger partner(s). The IPART should treat these 'orphan' councils with flexibility when assessing them against the criteria and benchmarks in Template 2.

LGNSW understands that the IPART is responding to Terms of Reference set by the Government and that these broad parameters may place some restrictions on the way it assesses council submissions. Nevertheless it is emphasised the primary aim of LGNSW is to achieve a strong and secure Local Government sector for the benefit of NSW communities and we urge the IPART to adopt the recommendations in this submission to help achieve this aim.

1. Introduction

Local Government NSW (LGNSW) is the peak body for NSW Local Government, representing all the 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council. In essence LGNSW is the 'sword and shield' of the NSW Local Government sector. The mission of Local Government NSW is to be a credible, professional organisation representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

LGNSW is pleased to have an opportunity to make a formal submission on the Independent Pricing and Regulatory Tribunal's (IPART's) Methodology for Assessment of Council *Fit for the Future* (FFTF) Proposals. LGNSW has been a member of the Ministerial Advisory Group (MAG) since February 2015 and through this forum has raised a number of issues and concerns with the FFTF program, the assessment process and methodology.

LGNSW has also attended the IPART's four public forums, to reiterate its concerns with elements of the methodology and to confirm our understanding of the key issues raised by councils. We appreciate that the IPART has listened to feedback at these forums and has acknowledged that some elements of the methodology do require amendment or clarification.

LGNSW understands that the IPART is seeking feedback on a series of questions¹ covering the following areas:

- Scale and capacity.
- Rural councils.
- FFTF criteria and benchmarks.
- Community consultation.
- Performance monitoring.

In addition we note that the IPART has invited comment on any other aspect of their proposed methodology. This submission contains comments on the above matters and also discusses a number of other key issues which LGNSW has identified from analysis of the Consultation Paper, feedback from councils and attendance at the IPART Public Forums.

Broadly, this submission is structured to respond to the IPART's five questions for stakeholder feedback (refer to section 3) as well as discussing a number of other key issues for Local Government (refer to section 4). Section 2 of this submission contains some general remarks about Local Government reform, and sections 5 and 6 provide conclusions and recommendations.

¹ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p 11

2. General Comments

LGNSW has long recognised the need for change in the Local Government sector. Our organisation has been actively involved in the review process since 2011, and since September 2014 has responded to the NSW Government's FFTF package by participating in Office of Local Government (OLG) and the IPART forums, running targeted workshops to assist councils preparing their FFTF proposals and contributing to the process through the MAG and other forums. Our main priority is to ensure the needs of NSW communities are met through a strong and financially secure Local Government sector, now and in the future.

LGNSW continues to maintain a policy of voluntary structural reform and no forced amalgamations. However, regardless of how Local Government is configured, real and lasting improvement will not be achieved unless the financial framework for Local Government is reformed. That means an end to rate pegging, fewer rate exemptions, and a fair go in direct funding from the NSW and Commonwealth Governments.

Throughout the FFTF process LGNSW has advocated a consistent, impartial and balanced methodology and assessment process that includes appropriate Local Government expertise on the assessment panel. LGNSW representation on the MAG and participation in the FFTF process (e.g. participation in working groups, consultations, submissions and reviewing materials etc.) has sought to drive positive changes to the FFTF program and assessment methodology. We acknowledge the following as improvements to date:

- Provision for the IPART to seek further information from councils up until the end of August 2015, which may include the opportunity for councils to meet with IPART².
- Requirement in the Terms of Reference for the Expert Panel to operate with consistency, fairness and impartiality³.
- Ensuring Local Government knowledge and expertise in the assessment process including with John Comrie supporting IPART on the Assessment Panel⁴.
- Consideration of the social and community context of councils⁵.
- Consideration of community consultation⁶.
- A modified view on the treatment of Local Water Utilities (LWU's)⁷.
- Allowing Financial Assistance Grants (FAGs) to be included in the assessment of Own Source Revenue (OSR) for Rural Councils⁸.
- Proposing to modify the efficiency criterion to Include the wording "net of IPR supported improvements" in the definition.

² IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, pp.9&10

³ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, pp. 2&3

⁴ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p. 3

⁵ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p. 35

⁶ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p. 36

⁷ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p. 37

⁸ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p. 29

3. Response to IPART's Questions for Stakeholder Feedback

3.1 Question 1 – Scale and Capacity

How should the key elements of strategic capacity influence our assessment of scale and capacity? Are there any improvements we can make to how we propose to assess the scale and capacity criterion, consistent with OLG guidance material?

The assessment of scale and capacity has been a cause of confusion for councils throughout the FFTF process and the IPART Methodology for Assessment fails to deliver the required clarity.

LGNSW understands that assessment will be made according to the 'Key elements of Strategic Capacity' in Box 3.1⁹. However, these elements are not quantifiable and have not been ranked or weighted. It does not appear that they can or will be consistently applied, particularly as some of the elements are relative. The assessment will inevitably come down to subjective judgement. It is also unclear whether councils are required to satisfy *all* the key elements of strategic capacity to some extent to be deemed fit, or whether they need to satisfy a majority, or whether it is satisfactory for councils to show competency in a few elements.

LGNSW therefore calls on the IPART to provide clear concise guidance on how the elements listed in Box 3.1 will be applied to measure the assessment of scale and capacity objectively.

Many councils through the reform process, and at the IPART's recent FFTF public forums have questioned why scale and capacity are being assessed together when they are not mutually inclusive. **LGNSW maintains the view that scale and capacity are two different criteria and should be assessed independently.**

A further area that is causing particular concern among councils is reference to councils satisfying "an appropriate minimum population size" and "a target number of councils"¹⁰. Councils had previously been advised at OLG workshops that there were no target council numbers or minimum population sizes and it would be unfair to introduce them to the assessment process at this late stage. IPART has offered inconsistent and potentially conflicting responses on how these figures will be determined. For example:

- Based on numbers that would result from implementing IPART's preferred option for each council.
- Seeking council/public views on appropriate minimums and targets.
- Seeking public views on whether minimums and targets should be a consideration in determining scale and capacity at all.
- Only applying target and minimums to the metropolitan area (e.g. the 15-18 metropolitan councils referred to by the ILGRP).

Basing minimum population and target number of councils on the ILGRP preferred options raises numerous issues including consistency in application across the state and the relevance of the options in the first place. LGNSW is of the view that there is little or no empirical

⁹ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.21

¹⁰ *ibid.*

evidence to support the determination of an optimal population size or number of councils. **LGNSW maintains that population minimums and target number of councils should not be introduced into the assessment process.**

LGNSW is pleased to see that the IPART will be taking into account the social and community context when considering the scale and capacity criterion¹¹ for council FFTF proposals. However there is no reference to how these social and community factors will be assessed alongside the “Key elements of Strategic Capacity” nor to what weighting or influence they will have on whether a council satisfies the scale and capacity criterion. **LGNSW requests clarification of how much importance will be placed on the social and community context and how will it be recognised when assessing scale and capacity.**

In addition to the elements in Box 3.1 and council’s social and community context, the IPART has also stated that it will be considering “the proposal’s consistency with the broader regional and state-wide objectives of the ILGRP’s preferred option”.¹² **The IPART needs to provide further clarification on how adherence to these state-wide objectives will be quantified and the degree of influence that this criteria will have on the overall scale and capacity assessment.**

LGNSW has argued and continues to argue that local water utilities contribute to the strategic capacity of councils. **LGNSW urges the IPART to clarify how Local Water Utilities (LWUs) will be considered in the scale and capacity assessment.** Refer to section 4.5 of this submission for more detail on the issue of local water utilities.

3.2 Question 2 - Rural Council Characteristics

Which of the ‘Rural Council Characteristics’ are the most relevant, considering a council must satisfy a majority of the characteristics to be considered a rural council?

Firstly, the IPART Methodology for Assessment refers to the model of Rural Council presented by the ILGRP and refers to the Rural Council option as a structural change option¹³. The Methodology for Assessment needs to reflect that the Rural Council option is no longer a structural model and is primarily an improvement option. **LGNSW calls on IPART to update the assessment methodology so that it refers to the current Rural Council template.** LGNSW appreciates that IPART has acknowledged this issue during its May public forums and that it will make these corrections in the final Methodology for Assessment.

Secondly, in terms of the nine Rural Council characteristics, it was originally advised by the OLG that councils must meet the majority of the characteristics, with no weightings assigned, in order to complete a Template 3 submission¹⁴. Councils have chosen their templates on this advice. However, the IPART Methodology of Assessment states that particular emphasis will be placed on three characteristics¹⁵:

- a small static or declining population spread over a wide area.
- long distance to a major (or sub) regional centre.

¹¹ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.35

¹² IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.23

¹³ E.g. IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.4

¹⁴ OLG, *Fit for the Future Guidance Material – Template 3: Rural Council Proposal*, January 2015, p.10

¹⁵ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.21

- there are limited options for mergers.

To label some characteristics as more relevant than others goes against the original OLG advice and suggests that meeting a simple majority of characteristics is not sufficient. **LGNSW requests that the IPART not apply ratings or weightings to the Rural Councils characteristics.**

Lastly, Rural Council guidance material states that all Group C councils are suitable candidates for the new 'Rural Council' option¹⁶ as councils in Group C were given no preferred option by the ILGRP. Many group C councils have therefore not considered a merger option. (Many other councils were also not given a preferred option as discussed in section 4.1 of this submission.) However, the IPART Methodology for Assessment states that for Group C councils:

"the possibility of a merger should be properly assessed by the relevant councils before being ruled out."¹⁷

LGNSW calls on IPART to revise the assessment methodology so that it does not introduce requirements for Group C councils to assess merger options, as these requirements were not previously presented to councils.

3.3 Question 3 – Sustainability Criteria and Benchmarks

Are there any improvements we can make to how we propose to assess the sustainability, infrastructure management and efficiency criteria, consistent with OLG guidance? Are there issues that we need to consider when assessing councils' proposals using the measures and benchmarks for these criteria?

The FFTF criteria and benchmarks have been extensively commented on by LGNSW in submissions to the Ministerial Advisory Group and through our membership of the FFTF Assessment Criteria and Benchmarks Working Group. LGNSW has argued that there are weaknesses and deficiencies with the criteria and benchmarks. Much of this arises from data inconsistencies and quality issues that make the criteria unreliable. **LGNSW urges the IPART to consider the advice developed by the Working Group and submitted to the MAG with the specific aim of informing the Independent Expert Assessment Panel.**

LGNSW understands that there is no scope to change the actual criteria at this late stage, putting the focus on the application and interpretation of the criteria and benchmarks. The Working Group's analysis of the implications of each of the benchmarks is provided in the table at Attachment 1.

As noted previously, LGNSW welcomes the improved definition of the efficiency criterion and including FAGs in consideration of OSR for Rural Councils. **LGNSW also calls on the IPART to extend consideration of FAGs to other council proposals where appropriate.**

LGNSW also appreciates the IPART's advice that councils are welcome to include additional financial criteria in their proposal where relevant.

¹⁶ OLG, *Fit for the Future Guidance Material – Template 3: Rural Council Proposal*, January 2015, p.4

¹⁷ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.24

IPART should exercise caution in deeming as ‘unfit’ those councils which were recommended to complete Template 1 but due to difficulty in reaching a merger agreement with their neighbour(s) had no other option but to complete Template 2. (For further commentary on ‘orphaned’ councils refer to section 4.6 of this submission). **LGNSW requests IPART to acknowledge cases where councils had no other option but to complete Template 2, and to assess councils’ benchmarks accordingly.**

With regard to the robustness of the forecasts and figures provided by councils, **LGNSW urges IPART to keep in mind that in some cases this has been a difficult exercise for councils, given their capacity and resources to undertake such forecasts and the tight timeframe to apprise themselves of the Methodology for Assessment.**

3.4 Question 4 – Community Engagement on FFTF

How should councils engage with their communities when preparing FFTF proposals? Are there other factors we should consider to inform our assessment of council consultation? Please explain what these other factors are, and why they are important.

LGNSW supports reform which is the result of community engagement and agreement¹⁸ while recognising that each council is in the best position to decide how to engage with their communities through the FFTF process.

In section 4.2 of the Methodology, the IPART proposes to include an assessment of the consultation process undertaken by councils, including the appropriateness of methods councils have used and how balanced the information council provided to the community was.

The FFTF materials produced by the OLG contain a range of requirements for community engagement, with greater emphasis placed on community engagement in Template 1 and less in Template 2 and 3. In response to a ‘Frequently Asked Question’ on its website concerning how councils are expected to know if their community supports a merger, the OLG has also stated that:

“It is up to each council to decide whether a merger is right for the community, based on the recommendations of the Panel, the council’s understanding of the community’s needs and its ability to meet those needs, as identified through Integrated Planning and Reporting”.

FFTF community engagement was not originally emphasised in the OLG material, nor did it lend much focus to the *assessment* of community engagement in Templates 2 and 3. LGNSW agrees that “the nature and extent of the consultation should be commensurate with the significance of the changes involved in the proposal”¹⁹ but also **the IPART should consider how the original OLG guidance materials and Template questions may have influenced the decisions councils made about their FFTF community engagement activities.**

When the IPART is assessing the methods that councils have used to consult their communities, **LGNSW maintains that the importance of other consultation activities throughout the Local Government reform process should not be overlooked** including any relevant

¹⁸ LGNSW, *LGNSW Annual Conference 2014*, Resolution 251

¹⁹ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.36

consultation conducted during Destination 2036 and in response to the ILGRP's papers. Furthermore, councils already do comprehensive consultation as part of their Integrated Planning and Reporting (IP&R) process and as part of the Special Rate Variation process that may be relevant to FFTF proposals and these aforementioned consultation activities may have limited the willingness of the community to participate in further consultation.

It is not sufficient for the IPART to consider only the methods and balance of information provided by councils to the community, but also the *outcomes* of this consultation need to be taken into account. The methodology is silent on how the views of the community will be considered in the assessment process. Template 1, S.3.3 asks councils to "identify the benefits and concerns highlighted in the community response"²⁰. The IPART should also consider what the community response has been for councils that submit Templates 2 or 3. LGNSW recommends that balanced decision making will need to occur in cases where community views are different from the preferred option of the ILGRP.

LGNSW maintains that the level of community support for a council proposal should be an important consideration in the assessment process.

3.5 Question 5 – Performance Monitoring

Should council performance against FFTF proposals be monitored? If so, are there any improvements we can make on the approach outlined for councils to monitor and report progress on their performance relative to their proposals?

LGNSW supports councils in striving to achieve targets and keep track of their progress, however overburdening councils with additional monitoring requirements will be an unnecessary imposition.

The OLG is already in the process of developing an extensive performance management framework that would allow monitoring of councils' performance against their FFTF proposals. This will include the financial, asset management and efficiency ratios applied in the FFTF process. This work commenced before the FFTF program although it has not been implemented yet. Further, the proposals would become part of the Community Strategic Plan and the Integrated Planning and Reporting framework that already provides a monitoring mechanism.

There should be no need for additional performance monitoring mechanisms.

The IPART proposal that "the Auditor General would reassess performance periodically as part of the Audit Office of NSW's new auditing role in the sector" pre-empted the outcomes of "further consultation" by OLG on the role of the Auditor General²¹.

LGNSW maintains that the Integrated Planning and Reporting Framework already provides a monitoring mechanism and that the IPART should await the consultation and development of the enhanced performance management framework being produced by the OLG in consultation with the sector. The IPART should not seek to add to regulatory red tape.

²⁰ OLG, *Fit for the Future Guidance Material – Template 1: Council Merger Proposal*, October 2014, p.13

²¹ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.38

4. Key Issues

4.1 Status of ILGRP Preferred Options

IPART has indicated that the ILGRP preferred option for a group of councils will be the reference point benchmark for assessing scale and capacity²². LGNSW maintains that there is no real justification for making the ILGRP's preferred option the optimal benchmark position. The boundaries drawn by the ILGRP are also subjective, so do not necessarily represent the ideal or only outcome. Any number of expert panels could have been tasked with recommending amalgamations and no doubt each would have come back with different maps based on their own analytical framework. **LGNSW recommends that the ILGRP preferred options should only be used only as a reference point not as a blueprint.**

The Methodology for Assessment also creates confusion regarding the status of alternate options presented by councils. It states that to achieve scale and capacity, alternative proposals from councils must be "superior"²³ to the ILGRP preferred option but also says IPART will consider if alternative proposals are "consistent with the ILGRP objectives and the features of scale and capacity"²⁴. **The IPART needs to acknowledge that it is acceptable for councils to submit alternative options of equal merit to the ILGRP options.** LGNSW recognises that during the May information sessions, the IPART has agreed to change the requirement to submit a "superior" proposal so that councils can now submit proposals which are 'as good as' the ILGRP option.

Many councils in Group D, E, F and G were not given a preferred option in the ILGRP report. In this case, the IPART Methodology for Assessment still states that "we consider that where a merger option is also identified, it must also be explored"²⁵. Councils were not fore-warned of this requirement and many which were not given a preferred option have not explored mergers. **LGNSW recommends that IPART amends the assessment methodology so that it does not introduce requirements for councils to assess the merger option if these councils were not given a preferred option to merge.**

4.2 Absence of JOs in the Sydney Metropolitan Area

Many metropolitan councils maintain they have been disadvantaged by their formal exclusion from the JO option, even though it was the alternative option presented by the ILGRP, albeit not the preferred option. However, during the proceedings of the public forums the IPART has indicated that JO type proposals by metropolitan councils will be considered. This position is welcomed by a number of metropolitan councils whose proposals will draw on regional collaboration through regional organisations of councils (ROCs), proposed JO type structures or other joint arrangements for establishing scale and capacity. Nevertheless, the IPART methodology is silent on how these alternatives will be assessed.

Since JOs are seen as contributing to scale and capacity in rural and regional areas, the same principle should be afforded to councils in the Sydney Metropolitan Area.

²² IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p. 22

²³ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, Table 3.1

²⁴ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.22

²⁵ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.24

LGNSW maintains that the IPART should accept JO type proposals and other collaborative arrangements as valid alternatives for achieving scale and capacity within metropolitan Sydney, and that this should be clarified and recognised in the methodology.

In addition, the assessment of the FFTF proposals of metropolitan councils should be determined within the context of the proposed Greater Sydney Commission (GSC). The Government's announcement of a proposed new regional planning model for metropolitan Sydney in the form of the GSC was made long after the delivery of the IPGRP's final report. The Government has placed a great deal of emphasis on the ILGRP preferred options, however the ILGRP's conclusions and options did not consider the prospect that councils in the metropolitan area will be operating under a yet-to-be established GSC model. While the exact roles and responsibilities of the GSC are still not fully understood, it represents a "step-change"²⁶ in the sub-regional approach for the delivery of the metropolitan plan for Sydney, and therefore cannot be ignored in any consideration of the structural reform of Local Government.

LGNSW contends that the IPART must take into account the proposed GSC in its assessment of scale and capacity in metropolitan councils' FFTF proposals.

4.3 Time Frame

LGNSW has previously indicated concerns about the ambitious FFTF schedule. The apparent haste of the process has raised several important questions about the integrity of the process and the quality of outcomes for communities in NSW. There is widespread view that the timeframes are too tight to allow adequate time for:

- The IPART to revise the methodology before releasing it;
- Councils to amend proposals in light of the revised methodology; and
- The IPART to assess proposals.

It is important for IPART to allow adequate time between the closure of the exhibition period and releasing its final methodology to enable it to genuinely consider public feedback and demonstrate authenticity of the consultation exercise. LGNSW has been concerned to ensure that councils are given a reasonable amount of time, once the final Methodology for Assessment is released, to consider their options and finalise their proposals. Already, the timeframe has been extremely tight for councils, and if the IPART extends the time it takes to adequately consider submissions on the consultation paper, councils will have very little time between release of the final Methodology for Assessment and the 30 June FFTF deadline to finalise their submissions. In particular, a number of councils are reporting significant challenges in reaching the point of finalising their decisions and having time to adequately consult with their communities before submissions are due. **In line with the advice submitted by the MAG, LGNSW recommends an extension to the timeframe for the assessment period for councils provisionally identified as 'not fit' to submit and amended proposal or provide further supporting evidence.**

LGNSW also has concerns about the timeframe for IPART's deliberations in its role of the FFTF Independent Expert Assessment Panel. Every council has a right to expect that their

²⁶ NSW Department of Planning and Environment, *A Plan for Growing Sydney*, Dec 2014, p. 18

proposal will be subject to an in-depth, comprehensive and expert review, given the considerable amount of time, effort and resources they have committed to the process. **LGNSW would like to see the deadline for reporting back to the Government be extended to give a more realistic period to enable a full and comprehensive assessment of each FFTF proposal.**

The IPART has acknowledged the tight timeframes during its public forums in May, and **LGNSW therefore recommends an extension of the submission and assessment deadlines.**

4.4 IPART Staffing/Resources

The IPART is currently recruiting Analysts and Senior Analysts on a temporary basis to assist with the FFTF assessment process.

LGNSW appreciates that due to the complexity and volume of council submissions and the short timeframe which the IPART has to assess these submissions, increased staff resources are required. However councils have concerns that in the recruitment of these analysts, the essential eligibility requirements do not include Local Government knowledge and experience. Through submissions to the Ministerial Advisory Group, LGNSW has consistently called for those involved in the Independent Expert Assessment Panel to have Local Government experience.

LGNSW seeks assurance that the work of the newly recruited analysts will be closely monitored and reviewed by more senior IPART staff with in depth Local Government experience and expertise.

4.5 Local Water Utilities (LWUs)

In section 4.3 of the consultation paper on the impact of LWU performance, the IPART states that its methodology would assess scale and capacity against the ILGRP's objectives and performance against the benchmarks based on general fund data only, but would consider how the performance of the general fund is affected by the water utility business as part of this assessment.

General fund performance

How the water fund affects, and in the future could affect, the performance of the general fund is an important and relevant consideration which should be included in assessment of the benchmarks. The IPART notes that the activities of the LWU may affect the general fund, through dividend payments and through internal borrowings between the general and water funds²⁷. Dividends and internal borrowings can have a relevant impact on councils' financial sustainability indicators.

Scale and capacity assessment

Even though the IPART acknowledges LGNSW's previous submissions which explained how the water supply and sewerage function can contribute to the strategic capacity of a council

²⁷ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.37

through economies of scale and scope, it is unclear from IPART's statement whether the water supply and sewerage function would also be included in the scale and capacity assessment. The IPART states that "... its methodology will assess scale and capacity...based on general fund data only..."²⁸

LGNSW requests the IPART to clarify its methodology and to specifically include consideration of the water supply and sewerage function into the scale and capacity assessment and the impact of the LWU on the other criteria. This goes beyond merely considering "...how the performance of the general fund is affected by the water utility business."²⁹

Councils' water supply and sewerage function is pertinent to many of the ILGRP's objectives with respect to scale and capacity.

Water supply and sewerage services are a major part of most regional councils' operations often making up a quarter or more of councils' annual budget and employing a significant number of their workforce. Water supply and sewerage services enhance the robustness of councils' revenue base, their ability to undertake major projects, to employ a wider range of skilled staff, and to undertake strategic planning and foster knowledge, creativity and innovation, as well as the ability to achieve effective regional collaboration and be a capable partner for agencies of the NSW Government and the Australian Government.

Attachment 2 provides more detailed information as to how the water supply and sewerage function is relevant to the scale and capacity objectives. **LGNSW maintains that these considerations should be included in IPART's methodology.**

4.6 Dealing with 'Orphaned' Councils

Several councils that were given the ILGRP's preferred option to merge have a willingness to do so but have not been able to find a neighbouring council which would agree to amalgamate, thus leaving them 'orphaned' in this process. Unless they fulfil the Rural Council characteristics, the council has no other option but to submit a Template 2 proposal.

It is unclear how IPART proposes to treat the assessment of these councils, except to say that IPART "would identify the other merits of the proposal and what efforts were made by the council to pursue the ILGRP's preferred option."³⁰ LGNSW questions how IPART proposes to judge the "other merits" of the proposal and the "efforts" made by council to pursue a merger proposal. Councils which have sought to engage in merger discussions with their neighbours, but have had to default to submitting a Template 2 proposal, should not be disadvantaged by being given an "unfit" rating. The IPART should show leniency to these councils, assessing them using the longer timeframes for achieving the benchmarks given to Rural Councils.

LGNSW maintains that councils that wished to submit a Template 1 proposal but could not find an agreeable amalgamation partner should be treated with flexibility in regards to the scale and capacity criteria and the timeframes for the benchmarks.

²⁸ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.37

²⁹ *Ibid.*

³⁰ IPART, *Methodology for Assessment of Council Fit for the Future Proposals*, April 2015, p.24

5. Conclusion and Recommendations

LGNSW welcomes the inclusion of several points in the Methodology for Assessment that are in-line with previous arguments from the Local Government sector. Nonetheless, by responding to IPART's questions for stakeholder feedback and identifying other key issues, this submission reiterates areas for further improvement to the Methodology for Assessment. LGNSW has made a number of recommendations for IPART's consideration which are as follows:

Issue	Recommendation/ Key Point
Scale and Capacity	<ul style="list-style-type: none"> • LGNSW calls on the IPART to provide clear concise guidance on how the elements listed in Box 3.1 will be applied to measure the assessment of scale and capacity objectively. • LGNSW maintains the view that scale and capacity are two different criteria and should be assessed independently. • LGNSW maintains that population minimums and target number of councils should be not be introduced into the assessment process. • LGNSW requests clarification of how much importance will be placed on the social and community context and how will it be recognised when assessing scale and capacity. • The IPART needs to provide further clarification on how adherence to these state-wide objectives will be quantified and the degree of influence that this criteria will have on the overall scale and capacity assessment. • LGNSW urges the IPART to clarify how LWUs will be considered in the scale and capacity assessment.
Rural Council Characteristics	<ul style="list-style-type: none"> • LGNSW calls on the IPART to update the assessment methodology so that it refers to the current Rural Council template. • LGNSW requests that the IPART not apply ratings or weightings to the Rural Councils characteristics. • LGNSW calls on the IPART to update the assessment methodology so that it does not introduce requirements for Group C councils to assess merger options, as these requirements were not previously presented to councils.
Sustainability Criteria and Benchmarks	<ul style="list-style-type: none"> • LGNSW urges the IPART to consider the advice developed by the Working Group and submitted to the MAG with the specific aim of informing the Independent Expert Assessment Panel. • LGNSW also calls on the IPART to extend consideration of FAGs to other council proposals where appropriate. • LGNSW requests the IPART to acknowledge cases where councils had no other option but to complete Template 2, and to assess councils' benchmarks accordingly. • LGNSW urges the IPART to keep in mind that in some cases this has been a difficult exercise for councils, given their capacity and resources to undertake such forecasts and the tight timeframe to apprise themselves of the Methodology for Assessment.
Community Engagement on FFTF	<ul style="list-style-type: none"> • LGNSW maintains that the importance of other consultation activities throughout the Local Government reform process should not be overlooked. • IPART should consider how the original OLG guidance materials

	<p>and Template questions may have influenced the decisions councils made about their FFTF community engagement activities.</p> <ul style="list-style-type: none"> • LGNSW maintains that the level of community support for a council proposal should be an important consideration in the assessment process.
Performance Monitoring	<ul style="list-style-type: none"> • LGNSW maintains that the Integrated Planning and Reporting Framework already provides a monitoring mechanism and that IPART should await the consultation and development of the performance management framework being produced by the OLG in consultation with the sector. The IPART should not seek to add to regulatory red tape.
Status of ILGRP Preferred Options	<ul style="list-style-type: none"> • LGNSW recommends that the ILGRP preferred options should only be used as a reference point, not as a blueprint. • IPART needs to acknowledge that it is acceptable for councils to submit alternative options of equal merit to the ILGRP options. • LGNSW recommends that IPART amends the assessment methodology so that it does not introduce requirements for councils to assess the merger option if these councils were not given a preferred option to merge.
Absence of JOs in the Sydney Metropolitan Area	<ul style="list-style-type: none"> • LGNSW maintains that the IPART should accept JO type proposals and other collaborative arrangements as valid alternatives for achieving scale and capacity within metropolitan Sydney, and that this should be clarified and recognised in the methodology. • LGNSW contends that IPART must take into account the proposed GSC model in its assessment of scale and capacity in metropolitan councils' FFTF proposals.
Time Frame	<ul style="list-style-type: none"> • LGNSW recommends an extension of the submission and assessment deadlines.
IPART Staffing/Resources	<ul style="list-style-type: none"> • LGNSW seeks assurance that the work of the newly recruited analysts will be closely monitored and reviewed by more senior IPART staff with in depth Local Government expertise.
Local Water Utilities	<ul style="list-style-type: none"> • How the water fund affects, and in the future could affect, the performance of the general fund is an important and relevant consideration which should be included in assessment of the benchmarks. • LGNSW requests the IPART to clarify its methodology and to specifically include consideration of the water supply and sewerage function into the scale and capacity assessment and the impact of the LWU on the other criteria. LGNSW maintains that the considerations in Attachment 2 should be included in IPART's methodology.
Assessing 'Orphaned' Councils	<ul style="list-style-type: none"> • LGNSW maintains that councils that wished to submit a Template 1 proposal but could not find an agreeable amalgamation partner should be treated with flexibility in regards to the scale and capacity criteria and the timeframes for the benchmarks.

LGNSW would welcome the opportunity to provide further assistance to the IPART with this onerous task. We stand available to provide further information and analysis as well as to review draft documentation where appropriate. Please contact Shaun McBride on: Ph 9242 4072 email: shaun.mcbride@lgnsw.org.au.

Attachment 1

FFTF Assessment Criteria & Benchmarks – Guidance & Advice to Expert Panel

Measure, Definition and Benchmark	Strengths	Weaknesses	Implications/Considerations
<p>Operating Performance Ratio (greater or equal to break-even average over 3 years) <u>Total continuing operating revenue (exc. capital grants and contributions) less operating expenses</u> <u>Total continuing operating revenue (exc. capital grants and contributions)</u></p>	<ul style="list-style-type: none"> High significance - Comrie suggests a greater weighting. Generally accepted as an important ratio. 	<ul style="list-style-type: none"> Depreciation in the numerator has an impact ongoing. Data could be considered unreliable i.e. easily manipulated to affect desired result. Important to note that this benchmark will not be achievable in the short to medium term by many councils. Objective should be to look for improvement over time. 	<ul style="list-style-type: none"> Although this is an important measure - care needs to be given to not over emphasise. Need a balanced view – this measure is impacted by the results of other measures and need to be conscious that good performance is not being managed through under performance in other areas for example under funding asset maintenance.
<p>Own Source Revenue Ratio (greater than 60% average over 3 years) <u>Total continuing operating revenue less all grants and contributions</u> <u>Total continuing operating revenue inclusive of all grants and contributions</u></p>	<ul style="list-style-type: none"> Risk Assessment Tool – measures financial autonomy & flexibility. 	<ul style="list-style-type: none"> Differences between rural and metro. councils : <ul style="list-style-type: none"> source of aggravation for rural councils as many cannot realistically be expected to ever achieve the 60% benchmark. Need to understand context that it represents a factor in the risk assessment of a council and reflects on a council's financial flexibility. 	<ul style="list-style-type: none"> The context of the council must be considered e.g. rural council – small rate base and lower ability to generate other own source revenue vs. Metro Council large rate base and ability to generate other own source through e.g. fees and charges. Assumptions that metro councils are expected to exceed this benchmark whilst some rural councils may never reach the benchmark of 60% but instead continue to show improvement over time. FAGs an important, ongoing, consistent revenue stream for councils, particularly rural councils and needs to be part of context considerations.
<p>Building and Infrastructure Asset Renewal Ratio (greater than 100% average over 3 years) <u>Asset renewals (building and infrastructure)</u> <u>Depreciation, amortisation and impairment (building and infrastructure)</u></p>	<ul style="list-style-type: none"> Provides an indicator of asset management and sustainability. 	<ul style="list-style-type: none"> Depreciation in the numerator has an impact ongoing. Data is considered unreliable i.e. easily manipulated to affect desired result. Building and Infrastructure Asset data is unreliable. Different interpretations, methodology and data quality means the indicator lacks comparability. 	<ul style="list-style-type: none"> How robust is the asset data for the council being assessed? Potential for expert panel to access expert technical support to assess infrastructure measures. Expert technical support a must for this and other asset indicators.

<p>Infrastructure Backlog Ratio (less than 2%) <i>Estimated cost to bring assets to a satisfactory condition</i> <i>Total (WDV) of infrastructure, buildings, other structures and depreciable land improvement assets</i></p>	<p>As above.</p>		<ul style="list-style-type: none"> • How robust is the asset data for the council being assessed? • Difficult to use for comparing councils but for an individual council provides information regarding the size of the task facing a council in terms of being able to bring its infrastructure to an acceptable standard. • Expert panel to access expert technical support to assess infrastructure measures essential.
<p>Asset Maintenance Ratio (greater than 100% average over 3 years) <i>Actual asset maintenance</i> <i>Required asset maintenance</i></p>	<p>As above.</p>	<ul style="list-style-type: none"> • Asset data reliability issues. • Lack of comparability due to difference in definition/interpretation of asset maintenance vs. renewals. 	<ul style="list-style-type: none"> • How robust is the asset data for the council being assessed? • Difficult to compare councils, but if a council is underspending in this area on a regular basis, this ratio is a potential warning sign that could lead to declining asset standards in future years. • Expert panel to access expert technical support to assess infrastructure measures essential.
<p>Debt Service Ratio (greater than 0 and less than or equal to 20% average over 3 years) <i>Cost of debt service (interest expense & principal repayments)</i> <i>Total continuing operating revenue (exc. capital grants and contributions)</i></p>	<ul style="list-style-type: none"> • Provides an indicator of intergenerational equity. 	<ul style="list-style-type: none"> • Important to note that this is primarily a measure of inter-generational equity. • Need and capacity to utilise debt varies widely between councils. 	<ul style="list-style-type: none"> • Debt interaction with infrastructure measures e.g. is debt being effectively used to reduce backlog? • Need to consider infrastructure needs of the individual council and community and ensure balance between current and future funding. • Expert technical support a must for this and other asset indicators. • The group thought this was important to consider but is less significant than the other major indicators.
<p>A decrease in Real Operating Expenditure per capita over time</p>	<ul style="list-style-type: none"> • Provides a proxy measure of efficiency. 	<ul style="list-style-type: none"> • Proxy measure. • Methodology issue. • Decline in expenditure is not necessarily a sign of efficiency. • Decline in population is not a sign of inefficiency. • Lacks comparability. • General tendency for this to increase over time due to increasing roles and responsibilities and rising community demands. 	<ul style="list-style-type: none"> • Need to understand the operating context of the council, especially as it relates to the community needs expressed through the IP&R process. Context is crucial. • Need to ensure performance is not driven by demographics • Efficiency is considered an important factor, but this is not considered to be a meaningful measure.

Attachment 2

Reasons for the inclusion of water supply and sewerage function of regional councils in the FFTF assessment

What is the issue?

Currently, the treatment of councils' water supply and sewerage function in the Fit for the Future merger, improvement, and rural council templates is unsatisfactory. It is somewhat unclear whether the function is to be "separated out" and generally not be considered or whether a separation is to only occur in relation to financial modelling (due to the separate accounting). The function is specifically excluded from the self-assessment tool and the merger template does not consider the function.

The Fit for the Future initiative needs to recognise that the water supply and sewerage function is an important element in assessing scale and capacity. Councils need to be made aware of this. The way templates and guidance materials are phrased at the moment (i.e. "separating" the function) ensures that councils will not consider this function when assessing their scale and capacity. Similar considerations apply to the criterion of effective service delivery.

In terms of financial sustainability, while financial sections in the improvement and rural council templates include sub-sections on the water supply and sewerage function, it is unclear how the function contributes to the overall assessment of financial sustainability. This needs to be clarified.

It might be appropriate to exclude the water supply and sewerage function for the purpose of comparing regional and metropolitan councils as the latter do not provide these services. However, in order to make an assessment of council's scale, capacity and financial sustainability with the purpose of deciding over its future, it is imperative to include this significant function where council performs the role. The ring-fencing of the water supply and sewerage function including a separate water supply and sewerage fund is in place mainly due to requirements of the *National Water Initiative* to make full cost recovery transparent. However, water supply and sewerage services are still a core council service with Councillors deciding over service levels and respective pricing.

Why does the water supply and sewerage function need to be included in scale and capacity assessment?

The Independent Local Government Review Panel made recommendations to ensure each council was able to meet the key elements of scale and capacity (strategic capacity) including:

- More robust revenue base and increased discretionary spending;
- Scope to undertake new functions and major projects;
- Ability to employ a wider range of skilled staff;
- Knowledge, creativity and innovation;
- Advanced skills in strategic planning and policy development;
- Effective regional collaboration;
- Credibility for more effective advocacy;
- Capable partner for State and Federal agencies;
- Resources to cope with complex and unexpected change; and
- High quality political and managerial leadership.

Councils' water supply and sewerage function is relevant to many of these key elements as set out below (under bold, italic headings).

Water supply and sewerage services are essential and core services provided by councils in regional NSW. There are over 100 council owned and operated local water utilities providing these services to over 1.8 million people. Water supply and sewerage services are an important element of communities'

understanding of and involvement in Local Government as a “one stop shop” to access essential services and deal with local issues. Local water utilities also have flow on effects on local and regional economies and employment.

Councils are responsible for the operation and management of water supply and sewerage services and own, manage and fund the necessary water supply and sewerage infrastructure. Councils deliver an integrated and locally appropriate approach to water supply and sewerage management including ensuring supply security through infrastructure provision, demand management, integrated water resource planning and water cycle management.

Under the NSW Office of Water’s *Best Practice Management of Water Supply and Sewerage Guidelines 2007*, councils’ local water utilities are required to achieve best practice including prudent determination of levels of service and efficient pricing levels based on long term strategic business planning and full cost recovery principles.

Water supply and sewerage services are relevant for the robustness of councils’ revenue base and its ability to undertake major projects.

Water supply and sewerage services are important for councils’ ability to employ a wider range of skilled staff.

Water supply and sewerage services are relevant for councils’ skills in strategic planning and their ability to foster knowledge, creativity and innovation.

Water supply and sewerage services are a major part of most regional councils’ operations often making up a quarter or more of councils’ annual budget and employing a significant number of their workforce. They contribute to a critical mass of functions that make councils financially viable and attractive for skilled professionals. In many councils, especially in smaller rural council, water supply and sewerage services are a significant part of engineers’ and senior officers’ workload. Employees are often multi-skilled and shared between general purpose functions and water supply and sewerage functions providing for efficient workforce flexibility. The broad range of services provided by general purpose councils, affords the range of responsibilities required to attract highly professional staff and benefit from their skills and knowledge which would otherwise not be available.

Water supply and sewerage services also deliver economies of scope and opportunities for innovation arising from integration of technical, managerial and administrative resources. Technical and managerial synergies arise from the integration of engineering, asset management and corporate planning system for water supply and sewerage, roads and transport, communication, waste management, or recreational services. In administrative terms, economies of scope arise from the integration of information technology services, or the ability to provide one billing and customer service system for all community services.

Economies of scope also arise from the ability to effectively and efficiently coordinate strategic land use planning and land use development control with infrastructure intensive services such as water supply and sewerage services as well as private commercial and residential related investment into water solutions.

Water supply and sewerage services support councils’ ability to achieve effective regional collaboration.

To ensure effective, efficient and sustainable provision of water supply and sewerage services in regional NSW, councils’ local water utilities have been successfully working on strengthening arrangements for regional co-operation and resource sharing to address challenges including:

- Implementing regional water resource planning and integrated water cycle management;
- Responding to uncertain (reduced) water availability;
- Responding to demand variations; and

- Building professional capacity to implement ever-increasing technical, environmental and water quality standards.

Regional co-operation is successfully implemented in many regional areas, for example by the Lower Macquarie Water Utilities Alliance, the Central NSW Councils Regional Organisation of Councils (CENTROC) Water Utilities Alliance, or the Coffs Harbour City Council and Clarence Valley Council Regional Water Strategy. These initiatives share skills and resources, coordinate their members' strategic business planning, and undertake regional water resource planning and drinking water quality management. Importantly, they are now also looking at the joint delivery of regional infrastructure where prudent and efficient.

Councils in regional NSW also have established the Water Directorate, an incorporated representative body for councils with local water utilities, to provide technical guidelines and advice on water issues to councils and undertake advocacy for them. Councils with a local water utility are eligible for membership and almost all such councils are actual members.

Water supply and sewerage services enable councils to be a capable partner for agencies of the NSW Government and the Australian Government.

Regional councils and their local water utilities have been able to partner with other spheres of government and co-fund major projects including:

- Country Towns Water Supply and Sewerage Program - Regional councils have been a capable partner of the NSW Government in improving water supply security, drinking water quality and sewerage systems quality through the Country Towns Water Supply and Sewerage Program. This NSW Government program, which has been in operation since 1994, has provided over \$1 billion in 50% funding for important water supply and sewerage infrastructure run by councils.
- Water Loss Management Program – This program was a joint initiative of LGNSW and the Water Directorate NSW in partnership with the Australian Government. The program supported councils' local water utilities in their efforts to reduce leakage from their drinking water distribution systems by providing specialist knowledge, equipment and financial assistance to help councils identify, develop and implement water saving projects. The five year program, which commenced in the financial year 2006/07, was funded by the Australian Government's Water Smart Australia program to the amount of \$7.38 million providing funding to councils of up to 33% of the costs of projects directly related to water loss reduction.
- Aboriginal Communities Water and Sewerage Program - To enable Local Government to assist Aboriginal people in obtaining appropriate water supply and sewerage services, councils' local water utilities are working in partnership with the NSW Government and the NSW Aboriginal Land Council on a program to deliver improved water supply and sewerage services to discrete Aboriginal Communities in NSW. The program commenced in 2008 and provides long term funding (over \$200 million over 25 years jointly funded by the NSW Government and the NSW Aboriginal Land Council) for councils and their local water utilities to provide operational, maintenance, and monitoring services of systems in Aboriginal communities.
- Orange City Council's Macquarie River to Orange Pipeline – This project, a 39 km long pipeline linking the Macquarie River with Orange's water storage, addresses issues around supply security in the Orange region. The \$47 million project represents a combined investment from the Australian Government (\$20 million), the NSW Government (\$18.2 million) and Orange City Council (\$8.8 million).

Why are water supply and sewerage services relevant to the assessment of financial sustainability?

In addition to savings from economies of scope, the water supply and sewerage function enhances councils' financial capacity and flexibility. Under the NSW Office of Water's *Best Practice Management of Water Supply and Sewerage Guidelines 2007*, councils' local water utilities have the capacity to pay dividends from the water supply and sewerage fund to the general fund. There is also scope for internal borrowings between funds.

Conclusion

Water supply and sewerage services provided by councils in regional NSW need to be an integral part of a council's *Fit for the Future* assessment.

Water supply and sewerage services are an essential part of councils' functions. They are delivered in an effective and efficient manner under the NSW Office of Water's *Best Practice Management of Water Supply and Sewerage Guidelines 2007*.

Water supply and sewerage services enhance councils' scale and capacity, particularly the robustness of councils' revenue base, their ability to undertake major projects, to employ a wider range of skilled staff, and to undertake strategic planning and foster knowledge, creativity and innovation, as well as their ability to achieve effective regional collaboration and be a capable partner for agencies of the NSW Government and the Australian Government.

Councils' water supply and sewerage function contributes to the overall financial sustainability of councils.