

# **Submission on the Independent Local Government Review Panel's *Revitalising Local Government***

April 2014

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## Opening:

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all the 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council.

LGNSW is a credible, professional organisation representing NSW councils 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 welcomes the opportunity to make a submission to the Minister for Local Government on the Independent Local Government Review Panel's final report entitled *Revitalising Local Government*.

## Purpose:

The purpose of this submission is to detail LGNSW's considered position on the majority of recommendations in the Independent Local Government Review Panel's *Revitalising Local Government*, adding commentary where that is seen as necessary. Where a specific position has not been taken a brief comment has been made as to why.

LGNSW has framed these positions based on:

- decisions on these questions taken at the inaugural Conference of LGNSW;
- feedback from councils in the extensive Leaders Forums held in March and April 2014;
- feedback from councils that have supplied LGNSW with copies of their submissions;
- interim *Policy Statements* adopted by the LGNSW Board derived from those of LGNSW's predecessors; and
- feedback from councils directly to the LGNSW Board.

There were 14 Leaders Forums held in March and April 2014, involving 123 councils, 5 County councils, 5 ROCs and 3 other council groups. The participants included 76 Mayors, 165 councillors, 104 General Managers and 104 other staff. Councils provided copies of their submissions to the LGNSW.

LGNSW urges the NSW Government to commence action immediately on those recommendations that have strong or reasonable support across the Local Government sector.

For example, amongst these strongly supported recommendations that deserve early implementation are: recommendation 6 on the further review of the rating system, recommendation 9 on a State borrowing facility for Local Government, recommendation 19 on a whole-of-government review of the regulatory, compliance and reporting burden on councils, the new principles on amalgamations under recommendation 32, recommendation 33 on encouraging voluntary mergers of councils through measures to lower barriers and provide professional and financial support, and recommendation 58 on amending the NSW State Constitution to strengthen recognition of elected Local Government.

Further, it would be reasonable to put in place the legislative and administrative measures necessary to enable the careful piloting of Joint Organisations at the earliest opportunity.

It is critical that momentum is not lost. It is important that the NSW Government capitalise on the goodwill in the Local Government sector for the well supported recommendations. Local Government across NSW would be disappointed to see these parts of *Revitalising Local Government* shelved until after the 2105 NSW Parliamentary Elections.

## **PART B: Finance and Governance**

### **5. Fiscal Responsibility**

The Panel concluded there is a need for a new framework for ‘fiscal responsibility’ in Local Government, including better medium-long term planning, improved asset and financial management, and bringing council financial audits under the oversight of the Auditor General.

**Recommendation 1** Establish an integrated Fiscal Responsibility Program, coordinated by DLG (now OLG) and also involving TCorp, IPART and LGNSW to address the key findings and recommendations of TCorp’s financial sustainability review and DLG’s infrastructure audit.

#### **LGNSW Position on Recommendation 1:**

LGNSW supports recommendation 1 on establishing a *Fiscal Responsibility Program* coordinated by OLG providing it is driven by Local Government practitioners and TCorp and IPART do not dominate.

#### **Comment:**

In the context of the program being driven by Local Government practitioners many Fora suggested specifically adding IPWEA and LGMA to the parties to be involved in the program. On the role of TCorp, several Fora and many councils stressed there needs to be closer analysis of TCorp’s work.

**Recommendation 2** As part of the program:

- Adopt an agreed set of sustainability benchmarks;
- Introduce more rigorous guidelines for Delivery Programs;
- Commission TCorp to undertake regular follow-up sustainability assessments;
- Provide additional training programs for councillors and staff;
- Require all councils to employ an appropriately qualified Chief Financial Officer.

**LGNSW Position on Recommendation 2:**

LGNSW supports recommendation 2 which details some of the elements of the *Fiscal Responsibility Program* covered in recommendation 1, provided the TCorp methodology is reviewed and refined, a flexible definition of “appropriately qualified” Chief Financial Officer is determined and councils incur no additional costs.

**Comment:**

The recommended initiatives are generally sound as they focus on the ongoing issue of financial/fiscal sustainability of services and functions. They add to existing initiatives, particularly integrated planning and reporting, and aim to further improve processes and capacity of councils. This includes:

- Improved measurement and benchmarking and regular independent assessment (TCorp, Auditor General) of fiscal responsibility processes and indicators, especially long term asset management and financial planning and performance against a consistent set of core fiscal sustainability indicators.
- Importantly, strengthening the focus of the delivery program on available (financial) resources identified by long term financial planning and asset management.

The TCorp sustainability assessments attracted comment at most Fora, with a variety of supportive and negative views made. It is clear that the TCorp methodology needs to be independently reviewed and refined to ensure it seen as robust by the Local Government sector.

The requirement for a Chief Financial Officer attracted reasonable discussion at all Fora. It was noted the requirement is unclear both in terms of what qualifications are required and whether such skills would be available for all councils. A flexible definition of “appropriately qualified” Chief Financial Officer needs to be determined (including whether CFO should be full time, part time or shared). There was some support for Local Government experience to be required of the CFO. There was concern about cost with several councils stressing they should incur no additional costs whereas others suggests that the benefits need to be shown to outweigh the undoubted costs. Some councils asked whether JOs if pursued would obviate the need for smaller councils to have a CFO. Finally there were observations that it was strange that a qualified Chief Financial Officer is mandated when a Chief Engineer, a social planner and an environmental regulator isn't.

**Recommendation 3** Place Local Government audits under the aegis of the Auditor General.

**LGNSW Position on Recommendation 3:**

LGNSW supports recommendation 3 which places Local Government audits under the aegis of the Auditor General, provided the Auditor General's roles are to set the sector wide standards in consultation with the Local Government sector for the audits and to audit the auditors. The Auditor General should not undertake the actual audits.

**Comment:**

The involvement of the Auditor General in auditing financial statements and financial performance indicators could improve consistency and stringency of performance measurement and also provide a valuable resource for councils.

Despite majority support for 'placing Local Government audits under the aegis of the Auditor General' there are a wide variety of views about how such a recommendation should be operationalised.

There are councils that believe i) the Auditor General should set the sector wide accounting standards in consultation with the Local Government sector and report to the Parliament on the sector if required, but ii) the existing arrangements for the tender and appointment of auditors by individual councils should be retained.

Finally it is fair to say there are councils that do not support the idea at all.

There are some concerns about involving the Auditor General in financial audits as this could be more costly to councils.

**Recommendation 4** Ensure that the provisions of the State-Local Government Agreement are used effectively to address cost shifting.

**LGNSW Position on Recommendation 4:**

LGNSW supports recommendation 4 on using the *Intergovernmental Agreement to Guide NSW State-Local Government Relations on Strategic Partnerships* (the IGA) to effectively address cost shifting, provided i) the IGA is completely rewritten in order to strengthened it and then is implemented in good faith by the NSW State Government and ii) new funding or other mechanisms are developed to address historical problems that predate this IGA.

**Comment:**

It is positive that the Panel acknowledged the practice of cost shifting, particularly restrictions on commercial and regulatory charges and fees, that constrain full cost recovery, and suggested addressing this issue by way of the IGA.

However, the present IGA is patchy in its reach and outcomes. Despite the existence of the signed IGA, there has been significant difficulty in meeting with the Premier and some senior Ministers.

Despite the existence of the signed IGA, there have been significant difficulties in its short life on matters such as:

- Lack of timely consultation on changes to legislation, regulation, etc., that have implications for Local Government; examples include: lack of consultation on the Bill on Service NSW, lack of consultation on the deferral of the introduction of a broad based property levy to replace the existing funding mechanisms for emergency services, lack of consultation on *Police Legislation Amendment (Special Constables) Bill 2013* which led to removal of appointment of Local Government Employees as Special Constables, short notice re Changes to Decision Making Process for Mining Applications, and lack of initial consultation re Strategic review of Weeds Management
- Timely Minister/President briefings in advance of major announcements; examples include: POEO (Illegal Waste Disposal) Bill, and Crown Lands Amendment Bill.
- Inconsistent application of confidentiality protocols; in situations where Local Government are co-regulators with the NSW Government, LGNSW struggles with the lack of engagement in drafting legislation, guidelines etc., because of confidentiality.

On the other hand, i) relations with other Ministers and ii) the Chief Executive's IGA Dialogue Meeting in September 2013, especially with involvement of Director General (Premiers and Cabinet) and the promised initiative to give 6 monthly warning of major initiatives across all major agencies, suggests that this IGA can be made to work in good faith for the benefit of both spheres of government.

What is needed is 100% commitment from all leaders in the NSW Government to an IGA.

It is also problematic that the Panel failed to recognise that the relevant provision of the IGA is merely forward-looking and does not deal with the many existing cost shifting examples. Apart from the proposed review of pensioner rebates and the generic recommendation to remove restrictions on fees for statutory approvals and inspections, the Panel does not appear to make suggestions as to how to address existing cost shifting. The suggested change in library funding from per capita formula to a more needs/capacity formula without increasing funding does not address the issue of inadequate funding on the whole.

## 6. Strengthening the Revenue Base

The Panel proposes changes to the rating system, including replacement or streamlining of rate-pegging, to generate additional revenue where necessary and to ensure that the burden of rates is shared more equitably – especially by owners of apartments.

The recommendations generally focus on strengthening councils' own source revenue (rates, charges, fees) and on redistributing grants to "needier" councils. Generally, the recommendations relating to strengthening councils own source revenue and borrowing capacity are sound and positive. The Panels recognises that adequate growth in own source revenue is the best solution to current funding challenges (council controlled revenue source). The Panel's view that rate revenue needs to grow not only to cover annual (input) cost increases (current IPART cost index) but underlying cost of service delivery (cost of increases in service levels) including elimination of any operating deficits and infrastructure backlogs/ needs supports LGNSW' s continued call for adequate revenue growth.

**Recommendation 5** Require councils to prepare and publish more rigorous Revenue Policies.

### **LGNSW Position on Recommendation 5:**

LGNSW supports recommendation 5 which covers Revenue Policies provided that the word "more" is deleted and that councils are given greater flexibility and discretion in pricing commercial activities; this particularly includes pricing relating matters of a commercial in-confidence nature.

### **Comment:**

This recommendation is sound as council rates are a form of taxation and council should apply established taxation principles. It is also an important recognition by the Panel that council rates are a form of taxation (i.e. government imposition for general (flexible) revenue unrelated to a specific service for the individual) which is occasionally overlooked (e.g. applying the notion of utility charging and commercial cost recovery to rates).

However, it does need to be noted that the NSW State Government does not generally go to great lengths to publicly justify its taxation measures in terms of tax principles. This measure can be seen as another example of seeking to put Local Government under much more scrutiny than the other spheres of government.

**Recommendation 6** Commission IPART to undertake a further review of the rating system focused on:

- Options to reduce or remove excessive exemptions and concessions that are contrary to sound fiscal policy and jeopardise councils' long term sustainability;
- More equitable rating of apartments and other multi-unit dwellings, including giving councils the option of rating residential properties on Capital Improved Values, with a view to raising additional revenues where affordable.

**LGNSW Position on Recommendation 6:**

LGNSW strongly supports recommendation 6 which covers the further review of the rating system, with the qualification that IPART be required to partner with the Local Government sector throughout the review.

**Comment:**

These initiatives are sound and positive and address long-standing positions of Local Government. Metropolitan councils have been calling for more options for rating apartments including a move to rate on the basis of capital improved value (i.e. capturing the value of buildings on the land). The Panel's call for reviews of pensioner concession and rate exemptions is positive even though the Panel falls short of making firm recommendations, (e.g. that State Government should fully reimburse pensioner rebates or which exemptions should be amended in what way).

There was widespread support at Fora for not-for-profit bodies or charities that run commercial undertakings or residential services to pay rates.

At two Fora it was suggested that rate exemptions should sit on top of the rate cap. At another it was suggested when reviewing rate exemptions, that manufacturing estates not be exempt.

**Recommendation 7** Either replace rate-pegging with a new system of 'rate benchmarking' or streamline current arrangements to remove unwarranted complexity, costs, and constraints to sound financial management.

**LGNSW Position on Recommendation 7:**

LGNSW remains absolutely opposed to rate-pegging and believes rate-pegging must be abolished.

In the interim LGNSW will work with the NSW Government on measures that mitigate the adverse impact of rate-pegging.

**Comment:**

Importantly and positively, the Panel recognises that rate pegging has unnecessarily adversely affected councils' finances. In particular the Panel recognises that:

- Rate increases of \$1-2 per week would be accepted by community and sufficient to address many of the problems identified by TCorp.
- Rate revenue has grown much slower than in other states (as well as total revenue) and that there are no real problems in other states with rate increases (political sensitivities in NSW are overstated).
- Rate pegging creates unrealistic expectation in community and pressure on elected members that rates growth should be contained indefinitely.
- Rate pegging is a costly regulatory mechanism.

LGNSW notes the proposals in Recommendation 7 involving either replacing rate-pegging with a new system of 'rate benchmarking' or streamlining the current arrangements, have some mitigating value. The second best options are streamlined rate-pegging (increase by up to 5% without special variation), or earned exemptions (suspension of rate pegging on an individual council basis). These second best options are sound if rate-pegging is not abolished completely and would represent an improvement to the current regime.

**Recommendation 8** Subject to any legal constraints, seek to redistribute federal Financial Assistance Grants and some State grants in order to channel additional support to councils and communities with the greatest needs.

**LGNSW Position on Recommendation 8:**

LGNSW cannot support recommendation 8 without considerably more work being done to explain how it might work in tandem in a holistic way with other revenue and grant reforms. Amongst the membership there are a wide variety of views on whether there is any real scope to redirect FAGs and State Grants (or growth in those grants) from existing recipients without creating problems for the existing recipients, and on how councils in greatest need can be or would be defined.

**Comment:**

The issue of changing the distribution of grants, particularly federal Financial Assistance Grants (FAGs), to the benefit of “needier” councils is controversial.

It needs to be noted that the Panel does not recommend any increase in the available grants pool (apart from perhaps the mentioning of additional funding needs of \$300 million for local water utilities). Accordingly, the Panel focuses on redistributing the existing grant pool both federal and state grants including ideas such as:

- Abolitions of FAGs minimum grants and redistribution of these funds (\$40 million) to more needy, grant dependent councils (seen largely as rural and remote councils);
- Redistribution of the FAGs growth (\$25 million) to more needy, grant dependent councils;
- State grant redistribution; e.g. change library funding from per capita formula to a more needs/capacity formula (redistribution away from wealthier metro councils).

While the redistribution of grants to needier councils is likely to result in overall improvements in the financial sustainability of the sector, some of the negatively affected metropolitan councils are likely to oppose such proposals. LGNSW’s position in the past has been to call for an increase in the overall pool rather than to support any form of redistributions which always has winners and losers. However, LGNSW could attempt to facilitate sector wide agreement to any such change.

Most Fora discussed the concept of “greatest needs”, questioning whether an agreement could be reached on a definition and questioning who decides how this is defined. Several councils on the per capita minimum indicated they may be prepared to forego that per capita minimum if they had a freer hand with other revenue raising measures to off-set the loss. At Fora, some councils supported removing the per capita measure believing it skews the whole system. Further, a number of middle and outer ring metropolitan councils expressed support for using *Socio-Economic Indexes for Areas (SEIFA)* as the basis for distributing FAGs. (SEIFA is an index developed by the ABS that ranks areas in Australia according to relative socio-economic advantage and disadvantage; the indexes are based on information from the five-yearly Census).

There was also considerable discussion on the point that should this recommendation proceed in some form, there was the need to make sure this is not a way to prop up unsustainable councils.

There were also concerns over the Panel’s indication later in the report at recommendation 35 that Joint Organisations (JOs) instead of individual councils could receive FAGs in their own

right. It is unclear which JO services would be funded by these FAGs and how the gap in individual councils would be filled and/or how the FAGs JOs receive are distributed among member councils. REROC position is JOs should not have access to FAGs as pool already too small but REROC also says new money could be spent under direction of the JO.

Concern expressed that with fewer councils there will be fewer 'squeaky wheels' to call on FAGs therefore total pool will be reduced, benefitting no-one.

**Recommendation 9** Establish a State borrowing facility to encourage Local Government to make increased use of debt where appropriate by:

- a. Reducing the level of interest rates paid by councils;
- b. Providing low-cost financial and treasury management advisory services.

**LGNSW Position on Recommendation 9:**

LGNSW strongly supports recommendation 9 which covers a State borrowing facility for Local Government provided it is managed by the Local Government sector through LGNSW.

**Comment:**

The recommended State borrowing facility and increased use of debt (for long lived infrastructure and intergenerational equity) are positive proposals. Although originally modelled on the LGNSW's advocacy of the South Australian model it is not clear that this is now what is proposed. LGNSW's preference remains one based on the South Australian model.

While the greater majority of Fora strongly supported the LGNSW model of a State borrowing facility, one Forum questioned whether there was scope for a national Local Government borrowing facility. A small number of councils did not see the case for it to be managed by the Local Government sector through LGNSW.

**Recommendation 10** Encourage councils to make increased use of fees and charges and remove restrictions on fees for statutory approvals and inspections, subject to monitoring and benchmarking by IPART.

**LGNSW Position on Recommendation 10:**

LGNSW supports recommendation 10 which covers the increased use of fees and charges and the removal of restrictions on fees for statutory approvals and inspections, provided it includes flexibility for individual councils (to allow for subsidised pricing for certain services if a council so chooses).

**Comment:**

Councils in NSW already make extensive use of charges and fees.

Nonetheless, this is a positive suggestion as it could address a number of cost shifting examples LGNSW measures in its survey where councils are unable to fully recover the costs of a regulatory activity (e.g. development applications, companion animals regulation, administration of environmental regulation).

## 7. Meeting Infrastructure Needs

The Panel proposes additional measures to tackle the infrastructure backlog and improve service delivery, including service reviews, a state-wide borrowing facility for Local Government to cut the cost of loans, and re-distribution of available grant funding to areas of greatest need.

The recommended initiatives are generally sound with the exception of making some FAGs tied through a strategic projects fund. Again, though it needs to be noted that the Panel does not propose any new funding to address the infrastructure backlog.

**Recommendation 11** Factor the need to address infrastructure backlogs in any future rate-pegging or Local Government cost index.

### **LGNSW Position on Recommendation 11:**

LGNSW supports recommendation 11 which covers addressing infrastructure backlogs in any future rate-pegging or Local Government cost index until rate-pegging ends, if it is technically possible.

### **Comment:**

The recognition of the existence of and the need to address the infrastructure backlog is positive. However, the recommendation lacks detail. Councils can already apply for a special rate variation to address backlogs and it is unclear whether the Panel suggest a more streamlined regime for this particular purpose (this is merely mentioned as one way to make use of the 5% flexibility margin under the streamlined rate pegging option, see above). It is doubtful whether backlogs can be included in a cost index similar to the current IPART index as they are not input costs (e.g. material, staff, electricity) and also would vary considerably among councils.

**Recommendation 12** Maintain the Local Infrastructure Renewal Scheme (LIRS) for at least 5 years, with a focus on councils facing the most severe infrastructure problems.

**LGNSW Position on Recommendation 12:**

LGNSW supports recommendation 12 which covers maintaining the Local Infrastructure Renewal Scheme (LIRS), provided the Scheme be extended for a more significant period such as 20 years and provided individual loans can be extended longer to incorporate the life of the asset being financed.

**Comment:**

The LIRS is a sound financing strategy that has been shown to work well for a number of councils. LGNSW has welcomed the current funding level of \$100 million over 5 years, however, noted that the scheme is not sufficient to make significant inroads into councils' infrastructure needs including a huge and growing infrastructure renewal backlog. A continuation including increasing the available funds would be welcome.

It is also positive that the Panel recommends that the scheme focus on council infrastructure backlogs. There is an incentive to use the scheme for purposes other than councils' own funding issues. Notably, the latest round made eligible for funding assistance projects providing enabling infrastructure for new housing development which is more appropriately funded through development contributions. The eligibility of such projects could potentially divert funds away from infrastructure backlog projects which councils need to fund from own source revenue.

Further, the Panel fails to suggest the creation of a new fund for direct infrastructure funding, particularly for rural councils that are likely to find it difficult to fund borrowings for infrastructure investment from their own source revenue, even with significant interest rate subsidies. These councils require direct capital funding assistance to address their infrastructure renewal backlogs.

**Recommendation 13** Pool a proportion of funds from the roads component of federal Financial Assistance Grants and, if possible, the Roads to Recovery program in order to establish a Strategic Projects Fund for roads and bridges that would:

- Provide supplementary support for councils facing severe infrastructure backlogs that cannot reasonably be funded from other available sources;
- Fund regional projects of particular economic, social or environmental value.

**LGNSW Position on Recommendation 13:**

LGNSW cannot support recommendation 13 which covers pooling a proportion of funds from the roads component of federal Financial Assistance Grants and Roads to Recovery for strategic projects.

**Comment:**

This is a questionable proposal for a number of reasons.

Firstly, there are concerns in principle over any hypothecation of untied FAGs (i.e. making them tied to a specific purpose). The key argument for generally maintaining the untied nature of FAGs is that only an individual council can determine the best allocation of resources to effectively meet the needs of their particular community. Tied funding has the potential to distort local priorities because the policies and priorities of other spheres of government drive the determination of grant purposes. Tying parts of FAGs to a strategic project fund could set a precedent for further moves to make FAGs tied.

Also, it is unclear how decisions over the funds in the strategic project fund would be made. Funds could potentially be shifted from local to regional priorities that are state responsibility and should be covered by state government resources.

Thirdly, it does not provide new funding. While there is value in a pool of funds to address strategic roads and bridges on local or regional roads, for example on identified freight corridors, this should be on the basis of new funding. Councils have no capacity to support this need from existing funding sources.

The majority of councils at all Fora have rejected this recommendation.

**Recommendation 14** Require councils applying for supplementary support from the Strategic Projects Fund to undergo independent assessments of their asset and financial management performance.

**LGNSW Position on Recommendation 14:**

LGNSW cannot support recommendation 14 which covers requiring councils applying to the Strategic Projects Fund to undergo independent asset and financial management performance asset and financial management performance assessments.

**Comment:**

As the model of a Strategic Projects Fund finds so little support amongst member councils LGNSW cannot support the machinery that would otherwise support such a fund. In purely technical terms if a strategic project fund were established, this would be a sound requirement to ensure council capacity to implement projects.

**Recommendation 15** Carefully examine any changes to development (infrastructure) contributions to ensure there are no unwarranted impacts on council finances and ratepayers.

**LGNSW Position on Recommendation 15:**

LGNSW strongly supports recommendation 15 which covers careful examination of changes to development contributions to ensure no unwarranted impacts.

**Comment:**

It is important that the Panel noted and recommended that infrastructure contributions by developers need to be adequate (i.e. pay for infrastructure that is required to service development).

Adequate development contributions are critical for funding the infrastructure needs generated by new development. They are an essential component of equitable funding. LGNSW has consistently fought hard to defend development contributions.

LGNSW is currently participating in the current review process through the Infrastructure Contributions Task Force. LGNSW and councils will seek to ensure that there is no erosion of development contributions through the current review of infrastructure contributions.

LGNSW's position of strongly supporting recommendation 15 enjoyed universal endorsement at the Fora.

**Recommendation 16** Adopt a similar model to Queensland's Regional Roads and Transport Groups in order to improve strategic network planning and foster ongoing improvement of asset management expertise in councils.

**LGNSW Position on Recommendation 16:**

LGNSW cannot support recommendation 16 which covers adopting a similar model to Queensland's Regional Roads and Transport Groups.

**Comment:**

While the underlying concept of optimising service/infrastructure delivery by way of regional cooperation, resource sharing and capacity building is sound, the model has found little support amongst member councils at Fora.

Regional roads and transport groups are suggested to undertake joint decision making, planning and investment and joint procurement reflecting regional priorities of the roads network and so improve performance and efficiency gains. However, there are concerns in the sense that regional roads network priorities by their nature could actually be a State Government responsibility. Taking on these priorities could therefore represent a shift of funding from local roads needs to regional needs that should be funded by the state.

Also, LGNSW understands that the Queensland alliance was formed from a base position of relatively low state funding for local and regional roads, while in NSW there already exists a significant source of State Government support for councils through regional road block grants and repair programs, which are delivered largely through formula based grants. Any new alliance model should not disadvantage councils or existing funding arrangements. In addition, the Queensland model includes significant resource funding to support the day-to-day operation of the alliance.

In relation to roads and transport groups (and regional water alliances) further information would be required regarding the design of these, particularly their relationship with the proposed Joint Organisations (see also discussion at recommendation 35 below).

**Recommendation 17** Establish Regional Water Alliances as part of new regional Joint Organisations.

**LGNSW Position on Recommendation 17:**

LGNSW cannot support recommendation 17 which covers making Regional Water Alliances as part of new regional Joint Organisations.

**Comment:**

Again, while the underlying concept of optimising service/infrastructure delivery through regional cooperation, resource sharing and capacity building is sound, this model has found little support amongst member councils (see full discussion at recommendation 35 below).

## 8. Improvement, Productivity and Accountability

The Panel proposes additional measures such as performance indicators, red-tape burden on councils, best practice programs, internal auditing, the possibility of Annual General Meetings and a workforce strategy.

**Recommendation 18** Adopt a uniform core set of performance indicators for councils, linked to IPR requirements, and ensure ongoing performance monitoring is adequately resourced.

### **LGNSW Position on Recommendation 18:**

LGNSW supports recommendation 18 which covers uniform performance indicators for councils and performance monitoring, provided the indicators replace rather than add to existing reporting requirements and not add red tape and/or costs.

### **Comment:**

The recommended initiatives are generally sound with respect to IPR performance monitoring and review. This would strengthen the IPR system and ensure effectiveness and efficiency of service (and infrastructure) delivery can be monitored adequately.

The ongoing review of the adequacy of service delivery should be an essential part of the IPR process and this should include assessment against planned outcomes and actions including adequate performance indicators. The implicit nature of this is noted in the report. Further guidance on this could help Local Government implement more robust strategic service planning and delivery.

It needs to be recognised that this process may be different in each council as desired outcomes and service levels and performance expectations in each community might differ. The current initiatives by OLG to establish a uniform performance measurement framework that includes service delivery indicators needs to recognise this important point.

There are concerns that OLG's performance indicator development process runs the risk of developing an onerous over-prescriptive and complicated reporting regime with an excessive number of indicators. It seems to be driven by micro reporting and micromanagement.

While there was general support at Fora, common feedback included:

- New indicators should replace not add to existing reporting requirements;
- There should be no additional cost or red tape burden; and
- There should be a menu of indicators from which councils choose those that are relevant to their Community Strategic Plan (CSP) etc., (not a blanket set to be applied across all councils as this would defeat the purpose of CSP).

**Recommendation 19** Commission IPART to undertake a whole-of-government review of the regulatory, compliance and reporting burden on councils.

**LGNSW Position on Recommendation 19:**

LGNSW strongly supports recommendation 19 which covers a whole-of-government review of the regulatory, compliance and reporting burden on councils, provided it is developed in full partnership with the Local Government sector and eventually has positive outcomes.

**Comment:**

There should be benefits in such a review, particularly in terms of Local Government engagement with, regulation by and reporting to various state agencies. LGNSW has already done some work on this issue as part of the Destination 2036 process.

However, it needs to be noted that IPART could also find that regulatory and compliance regimes are insufficient and should be increased. The Auditor General has recently made such finding which prompted DLG to commence the development of a performance measurement framework.

Throughout the Fora there was widespread almost universal support for a very thorough-going review of the whole-of-government regulatory, compliance and reporting burden on councils.

**Recommendation 20** Establish a new sector-wide program to promote, capture and disseminate innovation and best practice.

**LGNSW Position on Recommendation 20:**

LGNSW supports recommendation 20 which covers a new sector-wide program to promote, capture and disseminate innovation and best practice.

**Comment:**

This is a sound proposal but more refinement of the proposed program is required. Some work is already being done by LGNSW and LGMA. It would support sharing of knowledge and practices among councils. However, the funding for such program is unclear.

At one Forum it was suggested there was the need to add additional qualification to position: costs for the program are not to be borne by councils.

**Recommendation 21** Amend IPR Guidelines to require councils to incorporate regular service reviews in their Delivery Programs.

**LGNSW Position on Recommendation 21:**

LGNSW supports recommendation 21 which covers incorporating regular service reviews the IPR guidelines for Delivery Programs, provided the guidelines do not become unnecessarily prescriptive.

**Comment:**

The recommended initiative is generally sound with respect to incorporating regular service reviews the IPR guidelines. Again, this could strengthen the IPR system and ensure effectiveness and efficiency of service (and infrastructure) delivery can be monitored adequately.

The principles developed to underpin recommendation 21 appear mainly appropriate. They include a more systematic assessment of the potential (and perhaps cost and benefits) of shared service delivery among councils but also with other public bodies and the private sector.

More detail would be required to understand what that really means (this could be quite a big exercise). For example, it appears questionable whether every council should or can aim for providing the best services on offer in its region or whether increasing local employment should be a stated principle.

Feedback from the majority of councils attending the Fora suggests that the concept of service level reviews is supported, but that most councils believe that they are already doing this to a sufficient extent and that it is already an inherent part of IPR.

Moreover, the following themes were raised at a number of Fora:

- That a more prescriptive requirement could add to the regulatory and reporting burden and that this would be undesirable (more red tape).
- That sector wide or uniform measurement service level reviews are contrary to the intent of CSP and IPR. It is quite appropriate for service levels to differ widely between councils as service level expectations and standards are determined by the community in the CSP process. They will differ between councils and will be influenced by the revenue/resources available to them.

Another view expressed on a number of occasions was that elections are the ultimate test of service level satisfaction and there is no need for additional bureaucratic processes.

**Recommendation 22** Strengthen requirements for internal and performance auditing as proposed in Box 17 (mandatory internal auditing extended from risk, fraud, corruption issues to adding value and continuous improvement and performance auditing; issues based performance audits by Auditor-General).

**LGNSW Position on Recommendation 22:**

LGNSW supports recommendation 22 which covers strengthening requirements for internal and performance auditing, provided that requirements are carefully analysed in terms of costs and benefits, increased costs to councils are minimised and there be no requirement that the Auditor-General conduct issues based performance audits.

**Comment:**

The proposal of strengthened internal auditing is generally sound and should help councils ensure internal processes are adequate even though it would add cost.

However, the scope of the internal audit activity lacks detail. Clarification is required as to whether the audit goes as far as strategic service delivery audit (i.e. prudence and efficiency of strategic service plans, fit-for-purpose audit of IPR process).

Also, a view would need to be formed on whether issues based performance audits by Auditor-General are supported. According to the Panel, the role of these audits would be to assess whether councils are achieving their objectives and operating efficiently and effectively. They would not question the merits of councils' policy objectives. There are pros and cons to this. The Auditor General could provide valuable feedback to councils. Being subject to rigorous audits could also improve the reputation of the sector generally. However, audits could be costly and publicly uncover lack of performance.

Most Fora were wary of a requirement that the Auditor-General conduct issues based performance audits.

**Recommendation 23** Introduce legislative provisions for councils to hold Annual General Meetings.

**LGNSW Position on Recommendation 23:**

LGNSW cannot support recommendation 23 which covers Annual General Meetings, if that provision is deemed mandatory.

**Comment:**

At a number of Fora councils stressed they have a variety of mechanism that already perform this function. These mechanisms support transparency and accountability.

But it should remain optional as part of council's engagement activities under the integrated planning and reporting framework. Whether an annual general meeting would add value for individual councils should be up to them. All Fora reject a mandatory Annual General Meeting.

**Recommendation 24** Develop a NSW Local Government Workforce Strategy.

**LGNSW Position on Recommendation 24:**

LGNSW supports recommendation 24 which covers developing a NSW Local Government Workforce Strategy.

It needs to be recognised that refinement is required as LGNSW and OLG have already commenced reviewing what workforce strategy related activities are underway in NSW.

**Comment:**

The proposal to develop a NSW based response to the *National Workforce Strategy 2013-2020* is appropriate as there is need to identify and prioritise those strategies that are most relevant and timely for councils in NSW. A NSW Plan would also provide a framework for dialogue between federal, state, and local government agencies on the strategies, funding and other resources required to attract and retain skilled employees in the sector. The NSW Plan could encourage collecting, monitoring analysing data for predicting workforce trends and to inform councils' workforce plans. This activity would be helpful to the sector.

**Recommendation 25** Explore opportunities for the Local Government Award to continue to evolve to address future challenges facing the sector and changing operational needs.

**LGNSW Position on Recommendation 25:**

LGNSW cautiously supports recommendation 25 which covers the Local Government Award continuing to evolve to address future challenges and changing operational needs.

Again it needs to be recognised that more refinement is required as the parties' negotiations must have regard to councils' needs and capacity to pay as well as satisfying wage fixation principles and related legislation.

**Comment:**

Award making in the NSW jurisdiction is regulated, but there are still opportunities for the award parties to review and vary award provisions to ensure they are contemporary and reflect the needs of councils and the communities they serve. With negotiation for a new award underway, these recommendations for increased flexibility and management of employee related costs are issues that the parties have turned their attention to. However, much of this has to be achieved in the context of agreement at the industry level. LGNSW agrees with the observation that the award is not the barrier to flexibility as is has been claimed and that the debate turns around council practices and capacity to negotiate at the local level.

## 9. Political Leadership and Good Governance

The Panel proposes re-definition of the roles of mayors and councillors and how they relate to senior management, and introduction of mandatory professional development for mayors, councillors and General Managers

**Recommendation 26** Amend the *Local Government Act* to strengthen political leadership:

- Require councils to undertake regular 'representation reviews' covering matters such as the number of councillors, method of election and use of wards
- Before their nomination is accepted, require all potential candidates for election to local government to attend an information session covering the roles and responsibilities of councillors and mayors
- Amend the legislated role of councillors and mayors as proposed in Boxes 19 and 21, and introduce mandatory professional development programs
- Provide for full-time mayors, and in some cases deputy mayors, in larger councils and major regional centres
- Amend the provisions for election of mayors as proposed in Box 22

### **LGNSW Position on Recommendation 26:**

As recommendation 26 covers a suite of proposals we examine each component separately.

LGNSW cautiously supports recommendation 26 dot point 1 which covers regular 'representation reviews'. It is fair to say at the Fora views were quite mixed on this proposal. Some councils felt that councils already did this in continuous fashion so making this a requirement represented no problems. Other councils had concerns as to what 'regular' representation reviews means suggesting it was acceptable if it was not done too often. Other councils felt representation reviews should be up to councils. But some countered with the concern that elected representatives may not consult their community properly.

LGNSW does not support recommendation 26 dot point 2 which covers requiring all potential candidates for election to Local Government to attend an information session.

Across many Forums it was noted councils support training of members once elected (not prior) because of issues of cost (e.g. Albury had 65 candidates at last election) & timing (what if candidate decides at last minute to nominate?). It was also often noted that the sessions run prior to the last election weren't helpful.

LGNSW cautiously supports recommendation 26 dot point 3 which covers amending legislated role of councillors and mayors but does not support the part covering introducing mandatory professional development programs

The amended legislated *role of councillor* is as follows:

The councillors and mayor collectively constitute the governing body of the council.

The roles and responsibilities of the governing body are to:

- to provide effective civic leadership and guidance to the community
- to consult regularly with community organisations and other key stakeholders and keep them informed of council's activities and decisions
- to direct and control the affairs of the council in consultation with the general manager and in accordance with this Act

- to ensure as far as possible the financial sustainability of the council
- to determine and adopt the Community Strategic Plan, Delivery Program and other strategic plans and policies
- to determine and adopt a rating and revenue policy and operational plans that ensure the optimum allocation of the council's resources to implement the community strategic plan and for the benefit of the area
- to make decisions in accordance with those plans and policies
- to make decisions necessary for the proper exercise of the council's regulatory functions
- to keep under review the performance of the council and its delivery of services
- to determine the process for appointment of the General Manager and monitor his/her performance
- to ensure that the council acts honestly, efficiently and appropriately in carrying out its statutory responsibilities.

The role and responsibilities of an individual councillor, including the mayor, are:

- to be an active and contributing member of the governing body
- to make considered and well informed decisions
- to represent the collective interests of residents, ratepayers and the wider community of the local government area
- to facilitate communication between the community and the governing body
- to be accountable to the community for the local government's performance
- to uphold and represent accurately the policies and decisions of the governing body.

LGNSW supports the amended legislated *role of councillor* under recommendation 26 dot point 3 set out above.

LGNSW acknowledges the suggested characteristics of the roles of Mayors and councillors reflect Local Government sector feedback. LGNSW supports the need to distinguish between councillors acting as the collective governing body and as individuals.

Several councils at one Forum noted that 'roles and responsibilities of the governing body' dot point 2 needs extending to cover the fact that councillors need to deal with the 'community' as well as 'community organisations'.

One Forum noted in respect of dot point 4 under the roles and responsibilities of the governing body the use of the phrase "as far as possible" seemed a strange choice of words.

The amended legislated role of Mayor is as follows:

The Mayor has the responsibilities of a councillor plus the following additional responsibilities:

- to be the leader of the council and the community of the Local Government area, and advance community cohesion
- to promote civic awareness and, in conjunction with the General Manager, ensure adequate opportunities and mechanisms for engagement between the council and the local community
- to be the principal member and spokesperson of the governing body and to preside at its meetings
- to nominate a deputy mayor, subject to ratification by the governing body
- to ensure that the business of meetings of the governing body is conducted efficiently, effectively and properly in accordance with provisions of this Act
- to propose a committee structure and to nominate chairs of committees, subject to ratification by the governing body
- to lead the councillors in the exercise of their responsibilities and in ensuring good governance
- to ensure the timely development of the governing body's strategic plans and policies, and to promote their effective and consistent implementation, including by promoting partnerships between the council and key stakeholders
- to present and propose adoption of the annual operational plan and budget
- to deliver an annual public statement outlining progress made during the previous twelve months in implementing the Community Strategic Plan and Delivery Program, and identifying key issues for the future
- to exercise, in cases of necessity, the policy-making functions of the governing body between meetings of the council
- to represent the governing body on regional organisations and in inter-government forums at regional, State and federal levels
- to advise, manage and provide strategic direction to the general manager in accordance with the council's strategic plans and policies
- to lead performance appraisals of the General Manager
- to carry out the civic and ceremonial functions of the mayoral office
- to exercise such other functions as the governing body determines.

LGNSW supports the amended legislated role of Mayor provided amendments are made to the points on nominating deputies and committee chairs, proposing committee structures, proposing annual plan and doing GM appraisals.

The greater majority of councils at the Fora supported the following points:

- In respect of dot points 4 & 6: The mayor shouldn't nominate deputy Mayor or committee chairs or propose committee structure as this should be role of council
- In respect of dot point 9: The Mayor shouldn't present and propose adoption of annual operational plan
- In respect of dot point 11: The Mayor shouldn't exercise the policy-making functions of the governing body between meetings; this is a significant step beyond the existing powers to make decisions between meetings; if a policy needs changing it would be preferable to call an urgent meeting.
- In respect of dot point 13: The Mayor shouldn't 'manage' the GM; the point should reflect that council will set strategic direction and then the Mayor will relay that to GM.

- In respect of dot point 14: Council as a whole should do the appraisal of the GM.

An almost universal theme at Fora, was the question of where the role of deputy mayor is properly addressed. There was widespread support for adding a provision in *Local Government Act* to acknowledge the position of deputy mayor, to clarify the roles of the position and provide for proper remuneration of incumbents. There were regional and rural councils that took the view it should be left to council to decide on the role of the deputy mayor and whether they should be paid; the practice of spreading 'deputy' roles amongst a number of councillors was seen to work better.

LGNSW does not support recommendation 26 dot point 4 which covers providing for full-time mayors. While the majority of councils at most Fora, did not support full-time mayors, councils at the two metropolitan Fora certainly took the view that it was warranted in large councils.

LGNSW does not support recommendation 26 dot point 5 in total which covers amending the provisions for election of mayors. It is necessary to deal with each dot point separately

The provisions for *election of mayors* are set out as follows:

- Mandatory direct election of mayors in all metropolitan councils, in other councils with populations of 40,000 or more, and in designated regional centres
- Elsewhere, election of the mayor to be either directly by the voters or by the councillors, with the default position remaining election by the councillors
- Minimum two-year terms for mayors elected by the councillors
- Ensure that all councils have an odd number of councillors (including the mayor), and require all councillors to vote in a mayoral election (thus avoiding 'draws from the hat')
- Councils to hold community consultations on whether to change the way the mayor is elected as part of each representation review
- Councils to hold a referendum if the representation review finds substantial community support for a change, or a set number of eligible voters petition the council
- Referenda to be conducted by postal voting to minimise costs
- Mayors to undertake mandatory ongoing professional development in accordance with the council's adopted Councillor Development Plan, including an initial specialised course to be successfully completed within three months of election as mayor.

On dot point 1 in the provisions for *election of mayors*, LGNSW supports the proposition that councils reflecting upon the preferences of their communities should decide whether Mayors are directly elected rather than by recourse to pre-set numbers as suggested by the panel. However, an interesting comment was made at several Fora that it may be worth simultaneously holding a referendum in every council where this is not a directly elected Mayor, so that all electors are given the opportunity to express their opinion. The observation was made that participants couldn't think of a referendum on a directly elected Mayor that had failed.

On dot point 2 in the provisions for *election of mayors*, LGNSW again supports the proposition that councils and communities should decide whether Mayors are directly elected.

On dot point 3 in the provisions for *election of mayors*, LGNSW supports the proposition that councils should determine the minimum term for Mayors and have the option of a two year minimum term. Some councils suggested it should be up to the community to decide whether it

is 1 or 2 year term. However, LGNSW recognises that there is a substantial and seemingly growing minority of councils that favour changing the minimum to two years.

On dot point 4 in the provisions for *election of mayors*, LGNSW supports councils having an odd number of councillors, including the mayor, and requiring all councillors to vote in a mayoral election. However it needs to be recognised this was not seen as a major reform by the majority of councils consulted.

On dot point 5 in the provisions for *election of mayors*, LGNSW supports holding community consultations on whether to change the way the mayor is elected as part of each representation review. Again, it needs to be recognised this was not seen as a major reform by the majority of councils consulted. Moreover, the point made in point 1 above about simultaneously holding a referendum in every council where this is not a directly elected Mayor removes the need for this.

On dot point 6 in the provisions for *election of mayors*, LGNSW supports holding a referendum if the representation review finds substantial community support for a change, or a set number of eligible voters petition the council. However the point was made that if community consultation was done well enough under point 5 above, the need for a referendum may be redundant.

On dot point 7 in the provisions for *election of mayors*, LGNSW supports referenda being conducted by postal voting to minimise costs. Further based on feedback at Fora, LGNSW believes this recommendation should be strengthened to cover the eventual use of electronic voting, provided that electronic voting has appropriate safeguards.

On dot point 8 in the provisions for *election of mayors*, LGNSW does not support mandatory ongoing professional development, including an initial specialised course to be successfully completed within three months of election as mayor. Based on feedback through Fora, it is clear most councils do not favour training being made mandatory and do not favour the requirement that the Mayor must successfully complete the course. Councils take the position it is important that ongoing professional development be offered to councillors and mayors, but compulsion to attend and pass are counterproductive.

**Recommendation 27** Increase remuneration for councillors and mayors who successfully complete recognised professional development programs.

**LGNSW Position on Recommendation 27:**

LGNSW does not support recommendation 27 which covers increased remuneration for councillors and mayors who complete professional development.

**Comment:**

To undertake their role as has evolved to date and may evolve further with the suggested definitions, councillors increasingly need support by way of skill development and appropriate remuneration.

However, the idea linking increased remuneration for councillors/mayors to completion of professional development is unacceptable to a large number of councils and councillors at the Fora. This approach presupposes that all councillors have access to and are able to take on additional commitments in the form of training. Plainly this is not the case. To differentiate between councillors by way of remuneration, when they may face real barriers to engaging in training is inequitable. Further, the proposal ignores that councillors will bring different skills, knowledge and capacity to their elected roles in their first and subsequent terms and that therefore their training requirements, where they exist, will not be uniform.

**Recommendation 28** Amend the legislated role and standard contract provisions of General Managers as proposed in Boxes 23 and 24.

The *Role and Responsibilities of General Managers* are set out as follows:

- To conduct the day-to-day management of the council in accordance with the governing body's strategic plans and policies
- To advise the mayor and the governing body on the development and implementation of policies and programs, including the appropriate form and scope of community consultation
- To prepare, in consultation with the mayor and governing body, the Community Strategic Plan and the council's Resourcing Strategy, Delivery Program and Operational Plan, Annual Report and State of the Environment Report
- To certify, together with the Mayor, that IPR requirements have been met in full, and that council's annual financial statements have been prepared correctly
- To ensure that the mayor and councillors receive timely information, advice and administrative and professional support necessary for the effective discharge of their responsibilities
- To implement lawful decisions of the governing body in a timely manner
- To exercise such of the functions of the governing body as are delegated by the governing body to the General Manager
- To appoint staff in accordance with an organisation structure and resources approved by the governing body
- To direct and dismiss staff
- To implement the council's equal employment opportunity management plan.
- To undertake such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

The *Appointment and Tenure of General Managers* is set out as follows:

- The mayor should lead the appointment and performance reviews of the General Manager, and take responsibility for ensuring due process
- There should be a 'cooling off' period of 6 months after the election of a new council or mayor during which the summary dismissal provisions of the standard General Manager contract should not apply (this would provide an opportunity to build a positive working relationship whilst not preventing dismissals based on documented poor performance)
- Use of the summary dismissal provisions at any time should require a two-thirds majority of councillors
- Contracts of General Managers should not be renewed within 6 months prior to an election except by means of a full merit selection process; otherwise they should not be extended for more than 12 months and only on existing terms and conditions
- As a condition of appointment, General Managers should be required to complete a tailored induction program before or within 3 months of their first appointment to such a position, and approved professional development programs thereafter.

**LGNSW Position on Recommendation 28:**

LGNSW supports recommendation 28 which covers amending legislated role and standard contract provisions of General Managers.

**Comment:**

The standard contract for General Managers of NSW Councils would benefit from updating and review. The standard contract does reflect the introduction of IP&R and it should include a capacity for the TRP to include components for at risk performance and retention. Attention

should be also be paid to the contract's dispute resolution and termination provisions to ensure that their application is fair and accords with contemporary contract and employment law. However it is unclear why there should be a requirement for experienced senior staff to be required to undertake induction programmes. Such arrangements are best left to be arranged by the council to suit their individual circumstances.

**Recommendation 29** Amend the provisions for organisation reviews as proposed in section 9.6.

The following outlines those proposals in section 9.6:

- as at present the council must review the organisation structure after each election;
- the governing body must act on the advice of the Mayor and General Manager;
- the adopted structure must accord with the priorities set out in the council's Community Strategic Plan and Delivery Program
- the adopted structure may only specify the roles and relationships of the General Manager, designated senior staff and other staff reporting directly to the General Manager.

**LGNSW Position on Recommendation 29:**

As a general principle, council is the governing body, not the Mayor.

With the caveat that it must be absolutely clear council should be responsible, not the Mayor acting alone, LGNSW cautiously supports recommendation 29 which covers amending the provisions for organisation reviews.

**Comment:**

The recommendation extending the authority to vary a council's organisation structure below senior level to the General Manager, needs further explanation.

LGNSW recognises that that the General Manager must play an integral role in the determination of a council's organisation structure. However, if the General Manager is to be responsible for determining the organisation structure, LGNSW advocates that the structure should still be determined in consultation with council. As the elected officials have a statutory obligation to provide the community with effective, efficient infrastructure and services, LGNSW advocates that councillors should be provided with opportunity to understand the legal, economic and other resourcing consequences of the services. For example: child care services are covered by regulations specifying staffing numbers, the consequences of which must be considered by a council in determining the nature and form of services to be provided and therefore the organisation structure, resources and delivery plans required to support it. Councils should retain the option to adopt a structure that allows for minor changes to personnel without the structure becoming inundated by such changes. To achieve this the structure could reflect functions to be undertaken below the senior level, rather than which specific individuals will be employed in which positions. The functions could then identify resource allocations in accordance with the council's approved resourcing strategy.

**Recommendation 30** Develop a Good Governance Guide as a basis for 'performance improvement orders' and to provide additional guidance on building effective working relationships between the governing body, councillors, mayors and General Managers (9.7).

**LGNSW Position on Recommendation 30:**

LGNSW supports recommendation 30 which covers developing governance guidance as it relates to 'performance improvement orders' and working relationships.

**Comment:**

While this is not a major priority, any further guidance and support (rather than rules) would generally be a welcome development.

## **PART C: Structures and Boundaries**

### **10. Advancing Structural Reform**

As mentioned earlier the Panel has concluded that *among many other changes* some amalgamations must be considered if everyone really wants stronger and more effective Local Government. They take the view that amalgamations are not a panacea for Local Government's problems and stress the Panel has never suggested they are. They have respected the government's policy of 'no forced amalgamations' and suggested various ways to promote voluntary mergers.

Nonetheless the Panel says the evidence before the Panel was absolutely clear: this State simply does not have the financial and human resources to support 152 well-functioning councils. The evidence also shows that properly planned mergers in the right places can bring benefits. Regrettably, the policy of 'no forced amalgamations' is being misused by opponents as a slogan and an excuse to prevent any discussion of sensible options. The Panel takes the view this is especially true in metropolitan Sydney where most council boundaries were 'snap frozen' more than half a century ago.

To break what they consider a deadlock the Panel recommends a new process to examine amalgamation options, including a better resourced and more independent Boundaries Commission. They conclude that possible mergers must be considered through impartial and careful consideration of the facts, not with megaphones and misleading propaganda.

**Recommendation 31** Introduce additional options for Local Government structures, including regional Joint Organisations, 'Rural Councils' and Community Boards, to facilitate a better response to the needs and circumstances of different regions (10.1).

Under recommendation 31 the structures become:

- Regional 'Joint Organisations' – statutory groupings of local councils established under the *Local Government Act* that undertake a range of 'high-level' functions on behalf of their members (the functions can vary from region to region)
- Local councils operating along very similar lines to the current provisions of the Act, except for the referral of some regional functions to the new Joint Organisations
- 'Rural Councils' – a different type of local council, working as part of a Joint Organisation, and with reduced legislative and compliance responsibilities and a lower cost base more appropriate to rural-remote areas with small populations
- 'Community Boards' – elected or appointed sub-council organisations that can carry out a range of representational, planning and service delivery functions delegated by the council.

**LGNSW Position on Recommendation 31:**

LGNSW cannot totally or unreservedly support recommendation 31 which involves proposing three additional structural options alongside general purpose councils for Local Government in NSW. But one of the structural options, the JO, warrants careful discussion and proper development. There is support for piloting JOs.

**Comment:**

Discussion on each of the options is taken up at the appropriate recommendation below.

In terms of the evidence and expert opinion presented and what LGNSW has argued in the past, the concept of a JO is generally sound subject to detailed operational design. Many Fora reiterated these points.

**Recommendation 32** Legislate a revised process for considering potential amalgamations and boundary changes through a re-constituted and more independent Boundaries Commission (10.3).

As recommendation 32 covers a number of components, each will be dealt with in turn.

Firstly, there is the idea of a new set of principles on amalgamations. In support of recommendation 32 it is proposed that 'no forced amalgamations' be replaced with a new policy based on the following principles:

- That the State government's currently unfettered right to impose amalgamations and major boundary changes more or less at will should be limited
- That any amalgamation or major boundary change should be preceded by careful analysis of the issues to be addressed and all the options available
- That there should be full community consultation
- That the process should be handled by an expert, independent body
- That the Government should not be able to over-rule the findings and recommendation of that body without good cause.

LGNSW Position on new principles on amalgamations under Recommendation 32:

LGNSW strongly supports the replacement of the State's unfettered right to impose amalgamations with the new set of principles outlined.

Comment:

LGNSW has and its predecessors have had a nuanced view of the place of amalgamations in the ongoing development of NSW Local Government over the long run: while strenuously opposing amalgamations there has always been support for voluntary amalgamations where councils and communities have seen them as needed. That position has never been designed to close down the debate where councils and communities wish to pursue change.

Without abandoning this long held stance LGNSW offers some support for the Panel's proposals as they do offer superior principles and processes for dealing with amalgamations when they are sought. A new policy based on the principles proposed and especially involving a limit to the State government's currently unfettered right to impose amalgamations and major boundary changes, would be a significant improvement.

In respect of dot point 1 in recommendation 32, it was noted at a number of Fora that the term 'should be limited' was relatively weak and should be changed to 'prohibited'.

In respect of dot point 2 in recommendation 32, it was noted at a number of Fora that the term 'major boundary change' was difficult to define and the word 'major' should be deleted.

In respect of dot point 3 in recommendation 32, at one Forum there was discussion on what 'full' means, and it was suggested 'full & meaningful' would be a better term. It was also noted there needs to be commitment by new Boundaries Commission to take on board what it gathers during community consultation.

In respect of dot point 4 in recommendation 32, it was noted at most Fora that the Boundaries Commission must have Local Government representation on it (see next page) or at the very least seek input from local council representatives.

Secondly there is a new amalgamation process. In support of recommendation 32 it is proposed that the *Revised Process for Boundary Changes* be as follows:

- Reconstitute the Boundaries Commission to comprise three members, none of whom may be a serving public official nor a current or former councillor or State politician: an independent chair nominated by the Minister and two other members nominated jointly by the Minister and President of LGNSW
- Appoint Commission members for a minimum 5 years
- Give the Commission a small dedicated secretariat, plus funding for research
- Require the Commission to undertake regular reviews of local government boundaries across NSW, in accordance with a schedule to be determined by the Minister, and to initiate proposals for changes when there is evidence they are warranted
- Allow the Minister, any council or public authority, or a group of electors (250 or 10%, whichever is the lesser, across the affected area/s) to submit a specific proposal to the Commission
- Require the Commission to determine whether or not the proposal has sufficient merit to proceed, and to publish the reasons for its decision
- If the proposal proceeds, require the Commission to prepare a public information report setting out arguments for and against
- Retain the current provisions for inquiries, surveys and polls, but remove the Minister's power to decide whether an inquiry is warranted
- In every case of an amalgamation, require the Commission to conduct a survey or poll of all residents and ratepayers in the area/s affected, unless two or more councils have proposed a voluntary merger and the Commission is satisfied that those councils have already undertaken adequate community consultation
- Require the Commission at the end of its investigations to report to the Minister on whether or not the proposal should proceed and, if so, precisely what form it should take and what steps and resources are required for its effective implementation
- Enable the Minister to request the Commission to reconsider its recommendations, but require any proposed amendments and the reasons for them to be published
- Require the Minister to implement the Commission's final recommendations in full unless s/he reasonably forms the opinion that the process has been flawed and/or that to proceed would be contrary to the wider public interest.

LGNSW Position on a revised process for boundary changes under Recommendation 32:

LGNSW supports a revised process for boundary changes provided the new Commission has representatives of sector nominated by LGNSW and the Commission is not an activist Commission that initiates its own reviews.

Comment:

The proposed *Revised Process for Boundary Changes* provides a reasonable template for the start of negotiations, with the exception of the make-up.

On the constitution of the Boundaries Commission (dot point 1) LGNSW can identify no compelling reason to exclude members with Local Government experience from a reconstituted Commission as proposed by the Panel. In principle, the knowledge and skills of experienced and respected elected representatives (or at least as a fall-back position ex-representatives) would appear to be a very important ingredient for the make-up of a successful commission.

On the size of a group of electors eligible to submit a specific proposal to the Commission (dot point (dot point 5)), LGNSW struggles with why there is the need to opt for a one-size-fits-all figures. It would be better to use a formula that scales to the overall population of the areas in question. LGNSW also notes a number of councils suggested that the present s215 of the *Local Government Act* was preferable.

Thirdly the Panel proposed new criteria for boundary changes. In support of recommendation 32 it is proposed that the *Criteria for Determining Future Local Government Boundaries* be as follows:

- *Sustainability and Strategic Capacity*  
Councils need a strong base to ensure their long-term sustainability; to achieve economies of scale and scope; to deliver quality services; to provide a pool of talented councillor candidates; to attract skilled staff; and to develop strategic capacity in governance, advocacy, planning, and management.
- *Efficiency and Effectiveness*  
Councils should be able to operate efficiently and effectively within the limits imposed by their location, geography and the characteristics of the communities they serve. They should be able to provide 'value for money' to their ratepayers and external funding agencies.
- *Integrated Planning*  
LGA boundaries should not unnecessarily divide areas with strong economic and social inter-relationships; they should facilitate integrated planning, coordinated service delivery, and regional development.
- *Local Identity and Sense of Place*  
Consistent with the need for integrated planning, boundaries should reflect a sense of identity and place, including important historical and traditional values. (However, other mechanisms available to maintain local identity should be taken into account.)
- *Population Growth*  
The boundaries of a local government area (LGA) should be able to accommodate projected population growth generated by the LGA over at least the next 25 years.
- *Accessibility*  
As a general rule, it should be possible to drive to the boundaries of a LGA from a main administration centre within 60-90 minutes in country areas, and within 30 to 45 minutes in metropolitan areas.
- *Strong Centre*  
Each LGA should have a substantial population centre that can provide higher order commercial, administrative, education, health and other services.
- *Key Infrastructure*  
As far as possible, key transport infrastructure such as airports and ports, and those nearby urban and regional centres that are principal destination points, should be within the same LGA.
- *Combining Existing Municipalities*  
Wherever practicable, amalgamations should combine the whole of two or more existing LGAs without the additional cost and disruption of associated boundary adjustments.

LGNSW Position proposed new criteria for boundary changes under Recommendation 32:  
LGNSW supports the proposed new criteria for boundary changes under Recommendation 32, provided these criteria are more fully developed in full partnership with the Local Government sector.

The proposed criteria provide a reasonable template for the start of negotiations on a revised set.

Through the Fora the following suggestions have been made:

- that 'population growth' be changed to 'population trends',

- that under the dot point about Integrated planning the idea about ‘not unnecessarily dividing areas’ could be better conceived as and better worded as ‘Local Government boundaries should unite areas...’
- that ‘local employment’, ‘environmental considerations such as catchments’ ‘natural or environmental features to reflect that boundaries should take rivers or vegetation formations into account’ and ‘regional considerations’ be added as factors, and
- that the importance of community feedback not be overlooked.

In respect of the proposed new criteria for boundary changes under Recommendation 32 in general, it was raised repeatedly at Fora that it would be very important for local knowledge to be drawn on for assessing boundaries (e.g. Murray relates much more to Echuca than NSW areas to its north).

**Recommendation 33** Encourage voluntary mergers of councils through measures to lower barriers and provide professional and financial support.

In support of recommendation 33 it is proposed that the following *Incentives for Council Mergers* be further considered:

- Make it clear that ‘no change’ is not an option, and that Government is committed to the early establishment of statutory Joint Organisations
- Introduce the new process for considering boundary changes set out in section 10.3
- Task the Boundaries Commission with providing unbiased information for local communities about the pros and cons of mergers
- Provide professional change management support for assessing business cases and then negotiating, planning and implementing mergers
- Provide expert consultants to assist councils with the integration of rating and IT systems
- Allow up to two terms of merged councils for complete implementation of all the changes involved, especially rationalising rating systems
- Similarly, allow an increased number of councillors in the first two terms to ensure adequate local representation during the transition phase
- Introduce provisions for Community Boards as a new option to ensure democratic, community-level governance in large council areas (see section 12.2)
- Ensure that the accumulated reserves of a former council are retained or expended primarily for the benefit of its area
- Provide transitional funding through a mix of grants and low- or no-interest loans (e.g. for IT systems, office improvements, signage etc.), consistent with an agreed implementation plan
- Focus financial support on councils with limited revenue potential and/or those merging with adjoining areas that have serious infrastructure backlogs or other liabilities.

**LGNSW Position on Recommendation 33:**

LGNSW strongly supports recommendation 33 which covers encouraging voluntary mergers of councils through measures to lower barriers and provide professional and financial support

**Comment:**

As mentioned above, LGNSW and its predecessors have long had a nuanced view of the place of amalgamations in the ongoing development of NSW Local Government: while vigorously opposing amalgamations there has always been support for voluntary amalgamations where councils and communities have seen them as needed. While the *Incentives for Council Mergers* proposed for further consideration are a reasonable set in process terms, the lack of significant financial incentives for communities still seems an unnecessary limitation.

It is worth noting here, that the inaugural Local Government NSW Conference decided that in working through the Panel’s proposals relating to the future of Local Government, LGNSW should advocate that the NSW Government: ...

- Clarify what Government financial assistance and legislative reform (for example rate pegging) will be available to councils in the short, medium and long term to facilitate structural change and improve sustainability.
  - Ensure no reduction in representation in the first term of an amalgamated council.
- (*Record of Decisions Local Government NSW (LGNSW) Annual Conference 2013 Sydney Town Hall, Sydney NSW 1 - 3 October 2013, page 1-2*)

Throughout the Fora, there was considerable support for providing incentives for voluntary mergers. There has also been a sharing of information on tentative steps that some councils have embarked on.

Many councils raised the need to add the following to the Panel's *Incentives for Council Mergers* list:

- Remove potential barriers to mergers posed by legislation such as the *Local Government Act* employment protection provisions where they act to restrict the ability to introduce changes to employment arrangements in a timely manner.

LGNSW acknowledges that amongst a small number of members there is strong opposition to concept of promoting voluntary mergers by providing incentives. At the Nyngan Forum councils made the following points:

- Providing incentives for voluntary mergers creates a false perception that amalgamations need to take place;
- In turn this creates heightened community expectations; and
- Support for incentives for voluntary mergers undermines the wider case against amalgamations.

**Recommendation 34** Provide and promote a range of options to maintain local identity and representation in Local Government areas with large populations and/or diverse localities (10.5).

In support of recommendation 34 it is proposed that the range of methods to keep local in larger Local Government areas include:

- Establishing elected Community Boards
- 'Place management' approaches, with community committees, preparation and implementation with communities of suburb or townships plans and development projects, and local service centres
- Dividing Local Government areas into wards, with ward councillors convening local committees or forums
- Using new communications technologies and social media to establish closer contact between councils and their communities, to inform and engage local people, and to conduct 'citizens panels' or online forums to explore community views and ideas
- Modern customer service systems that ensure swift replies to requests for information and rapid responses to problems or concerns.

**LGNSW Position on Recommendation 34:**

With exception of elected Community Boards, LGNSW supports recommendation 34 which covers options to maintain local identity/representation.

**Comment:**

The options to maintain local identity/representation in Local Government areas with large populations and/or diverse localities are sensible and with the exception of formal legislated Community Boards are already in existence in a variety of councils across NSW.

At most For a councils expressed concern that introducing Community Boards was introducing another layer of government for no apparent purpose.

## 11. Regional Joint Organisations

The Panel concludes an important reform involves establishing legally binding 'Joint Organisations' of councils across most of NSW to maximise regional cooperation and resource-sharing, and to partner with State agencies in strategic planning and service delivery.

**Recommendation 35** Establish new Joint Organisations for each of the regions shown on Maps 2 & 3 by means of individual proclamations negotiated under new provisions of the Local Government Act that replace those for County Councils:

- Defer establishment of JOs in the Sydney metropolitan region, except for sub-regional strategic planning, pending further consideration of options for council mergers
- Enter into discussions with 2-3 regions to establish 'pilot' JOs
- Re-constitute existing County Councils as subsidiaries of new regional Joint Organisations, as indicated in Table 5
- Establish Regional Water Alliances in each JO along the lines proposed in the 2009 Armstrong-Gellatly report
- Set the core functions of Joint Organisations by means of Ministerial Guidelines
- Seek federal government agreement to make JOs eligible for general-purpose FAGs.

### **LGNSW Position on Recommendation 35:**

LGNSW partially supports recommendation 35 which covers establishing Joint Organisations, to enable voluntary pilots in variety of Local Government settings.

### **Comment:**

Generally the proposed regional Joint Organisations represent a sound policy response to many of the issues that the Panel, the sector and LGNSW have identified. The proposed model is in line with (although not identical to) those that LGNSW recommended in the last submission.

The majority of councils at the majority of Fora have expressed cautious support for exploring the idea of regional Joint Organisations of councils through proper carefully run and properly evaluated pilots.

However, there is a noticeable minority of councils that do not support JOs at all. LGNSW acknowledges that OROC is opposed to piloting JOs unless substantial supporting evidence is provided.

The detail will be critical as has been highlighted by councils, county councils and regional organisations of councils across all Fora. For example, at the Kiama Forum councils expressed concern about recommendation 35 dot point 5 that covers the power of the Minister to determine the core functions of JOs through Ministerial Guidelines. Councils maintain that the roles and functions of JOs should be determined by the councils who comprise the JO (as seems better explained under the *Framework for Establishing New Joint Organisations* covered later.)

It is necessary to unpack the full detail behind recommendation 35 point by point.

Firstly, there is the question of the suitability of each of the regions shown on Maps 2 & 3.

In support of recommendation 35 the factors for defining the regions have been mapped as:

- Manageable geographic area and suitable scale for strategic planning
- Regional or sub-regional communities of interest reflected in current arrangements, including existing ROCs and County Councils
- Alignment as far as possible with key State and federal agencies for strategic planning purposes
- In the Sydney region, alignment with sub-regional boundaries proposed for the metropolitan strategy
- Strong socio-economic links identified through the Panel's 'cluster-factor' analysis
- Viability of a regional alliance of water utilities (at least 10,000 connections)
- A regional centre with existing or potential strategic capacity to anchor the Joint Organisation and to assist smaller member councils where required.

LGNSW Position on Maps 2 & 3 in Recommendation 35:

LGNSW believes it premature to take a firm position on Maps 2 & 3 in Recommendation 35 at this point. There is simply no need to be so restrictive or definitive if the Government and the Local Government sector are supporting the piloting of JOs in variety of Local Government settings.

Many councils at the Fora have suggested alternative groupings. For example, the following proposals have been brought to LGNSW's attention:

- RAMROC and their constituent members have proposed that the existing 18 Member Councils RAMROC structure is the most appropriate joint collaboration structure for their region and that the Minister be requested to support the development of a Pilot and provide financial assistance toward the costs of engaging expert professional services to facilitate the development of that Pilot
- REROC and their constituent members support JOs and support a flexible approach to their establishment taking the view that councils should be able to choose the activities a JO undertakes and this should be based on what is the best outcome for the member councils; they believe that councils should be able to choose which JO they join, and that it should be mandatory to belong to a JO; REROC has sought State Government assistance to help REROC do this
- SEROC and their constituent members support the formation of a JO to include the proposed Tablelands and South East JOs while formally recognising the ACT as an integral component. Furthermore, and to reflect the importance of the ACT in our current region, SEROC proposes to change its name to the Capital Region of Organisation of Councils/Joint Organisation
- SHOROC and their constituent members support Joint Organisations being established by means of individual proclamations negotiated under new provisions of the *Local Government Act* and support the proposed northern Sydney region as it accords with the proposed Northern Metropolitan Council of Mayors under negotiation between SHOROC and NSROC and their constituent councils and support core functions being set by Ministerial guidelines but be limited to intergovernmental relations regional strategic planning.

LGNSW notes that the Councils in the Northern Rivers have taken a different approach and are proposing that the Minister for Planning and Infrastructure be requested to allow the Councils in the Northern Rivers to take the lead in the current review of the Far North Coast Regional Strategy (FNCRS) as a pilot project.

Secondly, there is the question of the suitability of the *Framework for Establishing New Joint Organisations*. In support of recommendation 35 the *Framework for Establishing New Joint Organisations* has been spelt out in the following terms:

- JOs would be regional bodies established under new provisions of the *Local Government Act* replacing those for County Councils
- Membership and ongoing active participation by councils would be mandatory
- Each JO would be established by a separate proclamation which would be negotiated amongst the member councils and with the Minister, with the assistance of expert facilitators provided by the State government
- The proclamation would set out the name, area, membership, functions, staffing and governance and financial arrangements (including payment of any 'dividends' to member councils)
- In finalising a proclamation the Minister would act on the advice of a Ministerial Advisory Group
- The governing body would comprise the mayor of each member council, but the proclamation could provide for additional council representatives and for 'participating observers' or advisers from outside Local Government
- Each JO would prepare a 10 year Strategic Business Plan and 4-year Delivery Program to guide (but not restrict) operations, both to be endorsed by member councils and updated as required
- JOs would be able to establish subsidiaries to undertake specific functions, and would incorporate existing County Councils (for which transitional provisions would apply)
- Subsidiaries would have their own boards, which would be skills-based, and could include senior council staff and people with relevant expertise drawn from outside Local Government
- Subsidiaries would be required to agree an annual Statement of Intent with the governing body to ensure that their activities and priorities align with those of the JO and its member councils
- JOs would hold annual general meetings open to all councillors of member councils and to the public, at which they would report on and account for their activities, and at which priorities and strategies for the coming year could be discussed
- Other provisions of the Act would apply to JOs as they do to councils, but variations could be made by Regulations or the terms of proclamations (e.g. to eliminate unwarranted compliance processes).

LGNSW Position on the *Framework for Establishing New Joint Organisations* in Recommendation 35:

LGNSW believes it premature to take a firm position on the entire framework ahead of the pilots.

The following elements have attracted reasonable support amongst councils and should be tested in the pilots: i) that membership and ongoing active participation by councils would be mandatory, ii) that each JO be established by a separate proclamation negotiated amongst the member councils and with the Minister and iii) that that proclamation would set out the name, area, membership, functions, staffing and governance and financial arrangements.

However, the other elements have been questioned or rejected outright.

It needs to be acknowledged that a framework for JOs that incorporates existing County Councils as a fundamental feature, is in breach of the policy of no forced amalgamations. The

policy of no forced amalgamations must apply as much to county councils as to general-purpose councils.

At a number of Fora it has been highlighted that the JO framework needs to take account of existing arrangements and some of the existing flexibility needs to be maintained. If changes are needed it may be a good idea to enable changes to be made in line with electoral cycle. Councils have stressed that at least one of the pilots needs to look at how to address cross-border issues.

Thirdly, there is the question of the suitability of the *Proposed Core Functions of Joint Organisations*. In support of recommendation 35 the *Proposed Core Functions of Joint Organisations* has been spelt out in the following terms:

- Strategic regional and sub-regional planning
- Inter-government relations and regional advocacy
- Information and technical exchanges between member councils
- Activities of existing County Councils
- Regional alliances of local government water utilities
- Road network planning and major projects (through Regional Roads Groups as discussed in section 7.4)
- Collaboration with State and federal agencies in infrastructure and service provision
- Strategic procurement (which could also include accessing state-wide contracts and arrangements)
- Other joint activities specified in the proclamation, such as major infrastructure projects, regional waste and environmental management (including weeds and floodplain management), regional economic development, regional library services and 'high level' corporate services or 'back office' functions
- Administrative and technical support for any 'Rural Councils' established within the JO's area (see section 12.1).

LGNSW Position on the *Proposed Core Functions* in Recommendation 35:

LGNSW believes it premature to take a firm position on the entire list of functions ahead of the pilots.

Based on Fora feedback, the following functions enjoy reasonable support amongst councils: i) Dot point 1 - Strategic regional and sub-regional planning, ii) Dot point 2 - Inter-government relations and regional advocacy, iii) Dot point 3 Information and technical exchanges between member councils and iv) Dot point 9 - Other joint activities specified in the proclamation (simply because they will have been negotiated and agreed upon).

However, those on the balance of the list have lesser levels of support at this formative stage. There is strong opposition to including County Councils and Water Utilities as service functions under a JO. Some County Councils have expressed the need to be included as member councils under an appropriate JO.

**Comment:**

It should be noted that the Panel recognises that local water utilities perform very well (services are delivered effectively and efficiently), and that Local Government should retain this responsibility, because this provides critical financial mass and skills capacity. However, the Panels also notes that local water utilities were not fully commercial, and their cost recovery constrained by high cost of meeting all standards. It notes that \$1 billion was needed to bring all systems up to acceptable minimum standard (this is consistent with Infrastructure NSW finding) involving \$300 million of state assistance (new funding).

The concept of regional water alliances is generally supported by the Local Government sector in regional NSW on the basis that they have a strategic coordination and resource sharing role and individual councils retain operations and infrastructure and make services level and pricing decisions. However, despite the ongoing reform process in this area that commenced with the Armstrong/Gellatly Inquiry in 2007 only a few alliances have formed.

But making regional water alliances subsidiaries of the new Joint Organisations appears rather complex and would restrict the scope of such water alliances to the boundaries of the new multi-purpose joint organisations. It would also add another layer of decision making to the regional alliance board/committee.

County Councils object to being subsumed in the JO model as proposed. As the New England Weeds Authority has said 'to have County Councils... become subsidiaries of Joint Organisations ... would result in considerable detrimental effects on weed management and control across our region and NSW as a whole, as well as Biosecurity ramifications for the following reasons:

- Possible loss of funding due to competing priorities within JOs
- Affect the ability to deliver strategic weed management in a cost effective and efficient manner
- Loss of a single purpose/core focus responsibility
- Loss of efficiencies through economies of scale
- Loss of equitable delivery of programs
- Inability to develop and implement innovative and effective weed management systems
- Loss of opportunity to attract additional inter-regional State and Federal Government investment
- Inability to deliver a regional service delivery program to landholders, land managers and the wider community
- Possible loss of professional staff and direct connection with landholders.'

**Recommendation 36** Identify one or more regional centres within each Joint Organisation and:

- Create a network of those centres to drive development across regional NSW
- Consider potential mergers of councils to consolidate regional centres, as indicated in Table 6.

In support of recommendation 36 the *Key Attributes of a Regional Centre* have been spelt out in the following terms:

- Population and economy – a large (normally >20,000), stable or growing population, with a robust economy and projected ongoing growth
- Hierarchy – hosts regionally significant public and private services, infrastructure and facilities that support residents and businesses in nearby Local Government areas.  
Accessibility – located on major transport routes facilitating easy road access from surrounding areas
- Scale and stature – ‘first among equals’ in its region; a credible partner of State and federal agencies; potential to attract national and international interest and investment
- Strategic capacity – a strong revenue base; staff with high level strategic, professional and technical skills; the ability to lead regional strategic planning; and capacity to undertake high level economic and infrastructure projects
- Leadership and facilitation – willing and able to see its role as a leader of its region; to commit resources to regional projects on the basis that a strong region is in its long-term interest; to promote the region and its opportunities for growth, including regional advocacy and negotiation with other governments; to negotiate partnerships with neighbouring regions and councils; and to gain acceptance as a regional leader that can be trusted
- Good governance – councillors who understand their regional role and can make decisions in the regional interest; structures and models that support regional decision-making, regional service delivery and the sharing of resources; building social capital in the region through an engaged community.

**LGNSW Position on Recommendation 36:**

LGNSW does not support recommendation 36 which covers the identification and role of regional centres within each Joint Organisation. LGNSW believes this is premature and decisions should be informed by the outcomes of the pilots.

**Comment:**

While most Fora rejected the need for a regional centre within each Joint Organisation, because such a centre promotes centralism and works against a partnership of equals, a variety of views were expressed.

At one Forum some participants thought the ‘centre’ should be shared around the JO, while others thought you could have ‘centres of excellence’ throughout a JO on specific issues e.g. road building.

**Recommendation 37:** Develop close working partnerships between Joint Organisations and State agencies for strategic planning, infrastructure development and regional service delivery, and:

- Add representatives of Joint Organisations to State agency Regional Leadership Groups
- Give particular attention to cross-border issues and relationships in the operations of Joint Organisations and in future regional strategies.

**LGNSW Position on Recommendation 37:**

LGNSW does not believe it is necessary to take a firm position on recommendation 37 which covers working partnerships between Joint Organisations and State agencies. While it is a reasonable suggestion it is premature and it can be tested in the pilots.

What is critical in the early stages is for the NSW Government to develop a strong working relationship with LGNSW and the pilot council groupings on the overall design of JOs.

**Comment:**

If Joint Organisations are to succeed the development of trusting and active partnerships between Joint Organisations and State agencies for strategic planning, regional infrastructure development and regional service delivery are critical. Detail will be critical.

However, LGNSW is keenly aware that many councils have limited awareness of and interaction with State agency Regional Leadership Groups (RLG) at this early stage of RLG development.

## 12. Rural Councils and Community Boards

The Panel believes there is value in providing options for new types of Local Government, including 'Rural Councils' in some sparsely populated areas and 'Community Boards' in large urban centres.

**Recommendation 38** Establish a working party as part of the Ministerial Advisory Group proposed in section 18 to further develop the concept of 'Rural Councils' for inclusion in the re-written Local Government Act (12.1).

The Panel makes the case for 'Rural Councils' noting there are a number of predominantly rural Local Government areas that have small and declining populations (typically in the range 2-4,000) and appear unlikely to remain sustainable in their current form, but where neither amalgamation nor regional collaboration on their own offer a the best way forward. Some combination of the following factors is involved: i) the Local Government area has a low rate base and is highly dependent on grant funding to maintain operations; ii) there are long distances between the administrative centres of adjoining councils, and to the nearest major regional centre, iii) adjoining councils also have small populations and limited resources, so that an amalgamation is unlikely to offer a sustainable solution in the medium-long term or iv) the council concerned is presently sound and may be able to continue as a separate Local Government unit for some years, but it has and/or will have limited capacity to undertake the full range of Local Government functions.

In support of recommendation 38 the *Proposed Features of a 'Rural Council'* have been spelt out in the following terms:

- A strong focus on maintaining local service delivery and quality of life, enabling and supporting community efforts
- A maximum of five councillors, including the mayor
- A reduced number of full council meetings – no more than six each year – and a very limited committee structure
- Either a fully shared administration with an adjoining council, or extensive resource-sharing as part of a Joint Organisation in order to minimise requirements for senior staff and greatly reduce administrative overheads
- Simplified regulatory, compliance and reporting requirements under both the *Local Government Act* and other relevant legislation (e.g. the new Planning Act)
- Regulatory responsibilities handled largely by arrangement with a regional centre or other partner council having the necessary expertise
- Modified Integrated Planning and Reporting and internal audit requirements consistent with a small population and budget.

### **LGNSW Position on Recommendation 38:**

LGNSW cannot support recommendation 38 which covers the concept of 'Rural Councils'.

### **Comment:**

The proposed 'Rural Council' model has found no support at any Fora and especially amongst the councils that might be considered to be potential candidates.

It must be acknowledged LGNSW and its predecessors have argued for elements of this model in the past – i.e. i) simplified regulatory, compliance and reporting requirements under

both the *Local Government Act* and other relevant legislation, ii) lightening its role in regard to regulatory activities aimed at the community and iii) modified Integrated Planning and Reporting and internal audit requirements. If the Panel delivered those changes the model may have found some support. It is clear the other elements of the *Proposed Features of a 'Rural Council'* found no favour.

**Recommendation 39** Include provisions for *optional* Community Boards in the re-written Act, based on the New Zealand model, but also enabling the setting of a supplementary 'community rate' with the approval of the 'parent' council.

**LGNSW Position on Recommendation 39:**

LGNSW does not support recommendation 39 which covers the concept of *optional* Community Boards.

**Comment:**

This proposal has met with strong and widespread opposition amongst councils at all the Fora. As mentioned at recommendation 34, councils have expressed concern that introducing Community Boards was introducing another layer of government for no apparent purpose.

### 13. Metropolitan Sydney

The Panel concludes measures are needed to reshape the governance of the greater metropolitan area of Sydney to manage growth and change more effectively in accordance with the Metropolitan Strategy. These changes include *options* to reduce the total number of councils to around 15-18, to increase the capacity of Local Government to tackle major sub-regional projects, and for closer State-Local Government collaboration

On the question of reducing the number of councils, it is worth noting that the Inaugural Local Government NSW Conference decided to

Advocate that the NSW Government (and Opposition /other parties in the NSW Parliament):

- Honour and reaffirm their core pledge prior to the March 2011 NSW State election of no forced council amalgamations.
- Include in their policies, that no form of amalgamation, boundary change or formation of a regional grouping of councils, shall occur without:
  - Plebiscites first being held in affected councils, or
  - Small communities living on the boundaries of two council areas having been polled.

(Strategic Theme 1: Local Government Review, Actions, Opposing the Panel's proposals relating to restructuring councils - *Record of Decisions Local Government NSW (LGNSW) Annual Conference 2013 Sydney Town Hall, Sydney NSW 1 - 3 October 2013*, page 1)

**Recommendation 40** Strengthen arrangements within State government for coordinated metropolitan planning and governance, and to ensure more effective collaboration with Local Government.

In support of this point the Panel notes that achieving more effective metropolitan governance requires a partnership approach involving State, local and, if possible, federal governments. Again, this has been spelled out in numerous reports over the years. At a minimum there needs to be much stronger coordination focused on metropolitan planning and major projects, with a clear locus of responsibility (perhaps through the Premier's department's regional coordination processes); full alignment of the State Plan and Metropolitan Strategy (including through sub-regional plans); and robust arrangements for a much closer working relationship with councils. The State government needs to do more to discharge its own responsibilities in these areas.

#### **LGNSW Position on Recommendation 40:**

LGNSW supports recommendation 40 which covers strengthening arrangements within State government for coordinated metropolitan planning and governance and effective collaboration with Local Government.

#### **Comment:**

In the relevant Fora, this idea received almost universal support. But it was recognised the challenge is how to get traction on this very critical matter.

**Recommendation 41** Seek evidence-based responses from metropolitan councils to the Panel's proposals for mergers and major boundary changes, and refer both the proposals and responses to the proposed Ministerial Advisory Group for review, with the possibility of subsequent referrals to the Boundaries Commission.

**LGNSW Position on Recommendation 41:**

LGNSW does not support recommendation 41 which covers seeking evidence-based responses from metropolitan councils to the Panel's proposals for mergers.

**Comment:**

LGNSW believes this a process question for the metropolitan councils involved. It is not appropriate for LGNSW to try to address all of the proposals for mergers and major boundary changes without widespread council requests.

Nonetheless, it does need to be acknowledged that there is no evidence given by the Panel that there is a relationship between council population size and financial sustainability ratios in Greater Sydney Local Government and that the proposals for mergers and major boundary changes will improve financial sustainability in Greater Sydney Local Government.

**Recommendation 42** Prioritise assessments of potential changes to the boundaries of the Cities of Sydney and Parramatta, and:

- Retain a separate City of Sydney Act to recognise its Capital City role
- Establish State-local City Partnership Committees for Sydney and Parramatta along the lines of Adelaide's Capital City Committee.

**LGNSW Position on Recommendation 42:**

LGNSW does not support recommendation 42 to the extent that it covers possible boundary changes of Cities of Sydney and Parramatta.

LGNSW will be guided by members on the retention of a separate City of Sydney Act and State-local City Partnership Committees for Sydney and Parramatta.

**Comment:**

Again, as with recommendation 41 the boundary change questions are process questions for the metropolitan councils involved.

LGNSW acknowledges that City of Sydney has expressed support for a separate City of Sydney Act to recognise its Capital City role.

LGNSW acknowledges that Parramatta City Council has expressed support for State-local City Partnership Committees.

**Recommendation 43** Pending any future action on mergers, establish Joint organisations of councils for the purposes of strategic sub-regional planning.

**LGNSW Position on Recommendation 43:**

LGNSW supports recommendation 43 which covers establishing Joint Organisations of councils for the purposes of strategic sub-regional planning to enable those councils that wish to pilot JOs but only in the context of and for the purpose of piloting JOs.

**Comment:**

Supporting the establishment of metropolitan JOs for the purposes of strategic sub-regional planning is consistent with the overall position on voluntary piloting JOs explained at recommendation 35 above.

**Recommendation 44** Maximise utilisation of the available Local Government revenue base in order to free-up State resources for support to councils in less advantaged areas (13.6).

**LGNSW Position on Recommendation 44:**

LGNSW does not support recommendation 44 which covers maximising utilisation of the available Local Government revenue base in order to free-up State resources for support to councils in less advantaged areas.

**Comment:**

LGNSW does not accept that the rating system should be used as tool for intrastate wealth redistribution and rejects the recommendation on that basis. However, this does not preclude negotiated transfers of assets and functions to willing councils on a case by case basis.

This is quite a radical proposal that involves councils with strong revenue bases taking greater responsibility for land, infrastructure, functions and activities that are currently the preserve of the NSW Government. The NSW Government funding that would be released could be redistributed to needier councils with poor revenue bases.

The Report suggests that all metropolitan councils east of Parramatta are currently underutilising their rate bases.

It is proposed that these councils could for example:

- Become full equity partners in sub-regional transport undertakings, such as the proposed light rail system in eastern Sydney;
- Contribute more to other major sub-regional infrastructure projects, such as major road improvements and drainage systems; and
- Assume responsibility for some State-managed facilities, such as the Sydney Harbour National Park, Centennial Park and the Botanic Gardens.

(The scope of the potential application of this proposal may be expanded by the current Crown Lands Review.)

This proposal is radical in that it:

- Represents a major cost shift on to certain councils.
- It departs from the long established principle of local rates as a taxation measure for funding fund local infrastructure and services and local determination of rates.
- It effectively turns rates into a state tax to be utilised for the redistribution of wealth from wealthier areas of the state to needier areas.
- It requires a great leap of faith to accept that a state government would maintain a commitment to ensure that all the funding that is freed up will continue to be redistributed to less advantaged councils in perpetuity.
- If the funds released were ultimately used for other state government purposes, it would mean that NSW government was simply hiding yet another state tax in council rates.

**Recommendation 45** Continue to monitor the sustainability and appropriateness in their current form of the Hawkesbury, Blue Mountains and Wollondilly Local Government areas.

**LGNSW Position on Recommendation 45:**

LGNSW supports recommendation 45 which covers monitoring the sustainability and appropriateness in their current form of the Hawkesbury, Blue Mountains and Wollondilly Local Government areas, to the extent that it maintains the status.

**Comment:**

Again, as with recommendations 41 and 42 these are process questions for the councils involved.

**Recommendation 46** Promote the establishment of a Metropolitan Council of Mayors.

**LGNSW Position on Recommendation 46:**

LGNSW supports recommendation 46 which covers establishing a Metropolitan Council of Mayors, as long as it is interpreted to mean support for the Sydney Metropolitan Mayors established in 2013.

**Comment:**

LGNSW supports the Sydney Metropolitan Mayors established in 2013 and enjoys a co-operative working relationship with them.

LGNSW does not believe that a Metropolitan Council of Mayors needs to be mandated in legislation.

It is acknowledged that several councils raised issues at the metropolitan Fora about the need for the Metropolitan Council of Mayors to develop open accountability mechanisms as it continues to evolve.

## 14. Hunter, Central Coast and Illawarra

**Recommendation 47** Seek evidence-based responses from Hunter and Central Coast councils to the Panel's proposals for mergers and boundary changes, and refer both the proposals and responses to the proposed Ministerial Advisory Group (section 18.1) for review, with the possibility of subsequent referrals to the Boundaries Commission.

On the question of reducing the number of councils, it is worth noting that the Inaugural Local Government NSW Conference decided to:

Advocate that the NSW Government (and Opposition /other parties in the NSW Parliament):

- Honour and reaffirm their core pledge prior to the March 2011 NSW State election of no forced council amalgamations.
- Include in their policies, that no form of amalgamation, boundary change or formation of a regional grouping of councils, shall occur without:
  - Plebiscites first being held in affected councils, or
  - Small communities living on the boundaries of two council areas having been polled.

(Strategic Theme 1: Local Government Review, Actions, Opposing the Panel's proposals relating to restructuring councils - *Record of Decisions Local Government NSW (LGNSW) Annual Conference 2013 Sydney Town Hall, Sydney NSW 1 - 3 October 2013*, page 1)

### **LGNSW Position on Recommendation 47:**

LGNSW does not support recommendation 47 which covers seeking evidence-based responses from Hunter and Central Coast councils to the Panel's proposals for mergers and boundary changes.

### **Comment:**

LGNSW believes this a process question for the Hunter and Central Coast councils involved. It is not appropriate for LGNSW to try to address all of the proposals for mergers and major boundary changes without widespread council requests.

Nonetheless, again it does need to be acknowledged that there is no evidence given by the Panel that there is a relationship between council population size and financial sustainability ratios in Local Government and that the proposals for mergers and major boundary changes will improve financial sustainability in Local Government.

**Recommendation 48** Defer negotiations for the establishment of a Central Coast Joint Organisation pending investigation of a possible merger of Gosford and Wyong councils.

**LGNSW Position on Recommendation 48:**

LGNSW does not support recommendation 48 which covers deferring establishing of a Central Coast Joint Organisation pending investigation of a possible merger of Gosford and Wyong councils.

**Comment:**

LGNSW believes this a process question for the two councils involved. It is not appropriate for LGNSW to try to address the proposal for merger without support of the two councils.

**Recommendation 49** Pursue the establishment of Joint Organisations for the Hunter and Illawarra in accordance with Recommendation 35.

**LGNSW Position on Recommendation 49:**

LGNSW supports recommendation 49 which covers Joint Organisations for the Hunter and Illawarra to the extent that these councils wish to pursue a pilot.

**Comment:**

Supporting the establishment of Hunter and Illawarra JOs is consistent with LGNSW's overall position on piloting JOs explained at recommendation 35 above.

## 15. Non-Metropolitan Regions

On the question of reducing the number of councils, it is worth noting that the Inaugural Local Government NSW Conference decided to:

Advocate that the NSW Government (and Opposition /other parties in the NSW Parliament):

- Honour and reaffirm their core pledge prior to the March 2011 NSW State election of no forced council amalgamations.
- Include in their policies, that no form of amalgamation, boundary change or formation of a regional grouping of councils, shall occur without:
  - Plebiscites first being held in affected councils, or
  - Small communities living on the boundaries of two council areas having been polled.

(Strategic Theme 1: Local Government Review, Actions, Opposing the Panel's proposals relating to restructuring councils - *Record of Decisions Local Government NSW (LGNSW) Annual Conference 2013 Sydney Town Hall, Sydney NSW 1 - 3 October 2013*, page 1)

**Recommendation 50** Explore options for non-metropolitan councils in Group A as part of establishing the Western Region Authority proposed in section 16.

### **LGNSW Position on Recommendation 50:**

LGNSW cautiously supports recommendation 50 which covers exploring options for councils in Group A as part of establishing the Western Region Authority, in order to keep momentum alive on critical intergovernmental service provision issues in western NSW.

### **Comment:**

To avoid repetition this matter will be dealt with in the section on Chapter 16 below.

**Recommendation 51** Refer councils in Groups B-F to the Boundaries Commission in accordance with Table 11 and the proposed timeline.

**LGNSW Position on Recommendation 51:**

LGNSW does not support recommendation 51 which covers referring councils in Groups B-F to the Boundaries Commission.

**Comment:**

This is placing the fate of this considerable group of regional and rural councils with the revised Boundaries Commission, likely acting in the activist way that LGNSW does not support (see response on the revised process for boundary changes under recommendation 32 above).

Further, as mentioned previously, it is not appropriate for LGNSW to try to address the proposals for mergers and major boundary changes without widespread council requests.

**Recommendation 52** Complete updated sustainability assessments and revised long term asset and financial plans for the 38 councils identified in Table 11 by no later than mid-2015.

**LGNSW Position on Recommendation 52:**

LGNSW does not support recommendation 52 which covers updated sustainability assessments and revised long term asset and financial plans for the 38 councils identified in Table 11 by no later than mid-2015.

**Comment:**

This a process question for the councils involved.

LGNSW acknowledges that in some Fora councils have expressed an interest in having updated sustainability assessments and revised long term asset and financial plans, provided they are done as a management tool and not as a precursor of mergers or major boundary changes.

## 16. The Far West

The Panel has concluded the answer for Far West NSW lies in creating a broadly representative Far West Regional Authority to work alongside Local Government in addressing the special challenges facing that region.

On the question of reducing the number of councils, it is worth noting that the Inaugural Local Government NSW Conference decided to:

Advocate that the NSW Government (and Opposition/other parties in the NSW Parliament):

- Honour and reaffirm their core pledge prior to the March 2011 NSW State election of no forced council amalgamations.
- Include in their policies, that no form of amalgamation, boundary change or formation of a regional grouping of councils, shall occur without:
  - Plebiscites first being held in affected councils, or
  - Small communities living on the boundaries of two council areas having been polled.

(Strategic Theme 1: Local Government Review, Actions, Opposing the Panel's proposals relating to restructuring councils - *Record of Decisions Local Government NSW (LGNSW) Annual Conference 2013 Sydney Town Hall, Sydney NSW 1 - 3 October 2013*, page 1)

**Recommendation 53** Agree in principle to the establishment of a Far West Regional Authority with the functions proposed in Box 39 and membership as proposed in Figure 9 (16.3).

In Box 3 the Panel outlined to proposed functions as follows:

1. Guide vision and strategy – ensure that governments, communities and organisations have a common understanding of needs and desired outcomes
2. Plan for the region as a whole – prepare and facilitate implementation of an inter-governmental Regional Strategic Plan, incorporating regional elements of the plans of councils, Aboriginal communities, and government and non-government agencies
3. Promote aligned activities – ensure governments, communities and organisations share information and coordinate their activities towards common goals
4. Foster continuous improvement – ensure that all parties regularly review and refine their programs against common key performance indicators, and promote creative problem solving initiatives
5. Build community motivation and commitment – work with local government and Aboriginal communities to increase understanding of the issues facing the region and each other, and to empower communities to take action
6. Advance public policy – ensure all levels of governments are more aware and supportive of the policy agendas and priorities needed to tailor programs to local needs
7. Mobilise funding and resources – secure public and private funding (including philanthropic) to drive and support local initiatives
8. Administer Western Lands Leases – incorporate the role of the Western Lands Commissioner
9. Incorporate Local Land Services – incorporate the Western Region board of Local Land Services to maximise linkages with related activities
10. Manage other specific projects and programs – assume responsibility for proposed Community Boards, for delivery of selected works and services, especially in

Unincorporated Areas, and for region-wide shared services (e.g. 'back office' activities of councils and government agencies).

**LGNSW Position on Recommendation 53:**

LGNSW cautiously supports recommendation 53 which covers agreeing in principle to the establishment of a Far West Regional Authority, in order to keep momentum alive on critical intergovernmental service provision issues in western NSW.

**Comment:**

LGNSW assisted these Western councils consider this proposal previously and that formed the backbone of the LGNSW response to the Panel's previous paper.

LGNSW acknowledges that this continues as vexed question for the councils involved and there are a variety of views on the acceptability of the recommendation. Some councils opposed it in the existing form (e.g. Wentworth does not have a natural or socio-economic relationship with the rest of the grouping), some councils seek further information and some councils are willing to continue at the table to see if it will lead to a solution.

It is arguable that the major problem in responding to recommendations 50, 53, 54 and 55 is that the proposed Far West Regional Authority has ended up less about Local Government reform and far more about NSW and Australian Government service provision issues in western NSW. While councils have a deep interest and central stake in Government service provision to the communities in western NSW, this can sometimes muddy discussions about Local Government reform. It has ended up looking like a governance structure looking for a function to perform.

At one Forum, councils agreed it was worth pursuing recommendation 53 etc., to the following extent:

- Signal the willingness of councils to continue to engage in the process of further examining the proposed Far West Regional Authority as a solution to Government service provision issues in western NSW; and
- Seek a State Government funded, independently facilitated workshop with senior representatives from State and Local Government and service providers on the Government service provision problems that the proposed Authority could tackle.

**Recommendation 54** Adopt the preferred new arrangements for Local Government set out in Box 40 as a basis for further consultation.

The Panel outlined the preferred arrangements as:

- Retain Walgett, Cobar and Broken Hill councils in their current form, but within the framework of the Regional Authority and subject to further review of their prospects for medium-long term sustainability, plus preparation of revised asset and financial plans as required
- Establish full shared administrations for Bourke-Brewarrina and Wentworth-Balranald, but with elected councils, office facilities and operational staff retained in each location
- Continue the development of the Barwon Darling Coordination Group
- Unincorporate Central Darling Shire and establish Community Boards for Wilcannia, White Cliffs, Menindee, Sunset Strip and Ivanhoe – all under the administration of the Regional Authority
- Replace the Village Committees for Silverton and Tibooburra with Community Boards under the administration of the Regional Authority.

**LGNSW Position on Recommendation 54:**

LGNSW does not support recommendation 54 which covers preferred new arrangements for Far West NSW for further consultation.

**Comment:**

This a process question for the councils involved. With the exception of those 3 councils that remain unchanged, the balance of councils have rejected the proposals.

**Recommendation 55** Establish a project team and reference group of key stakeholders within the DPC Regional Coordination Program to finalise proposals

**LGNSW Position on Recommendation 55:**

LGNSW does not support recommendation 55 which covers establishing a project team and reference group of key stakeholders within the DPC Regional Coordination Program to finalise proposals

**Comment:**

LGNSW takes the view that this process is premature until such times as the preferred position on recommendation 53 is worked through thoroughly.

## PART D: Implementation

### 17. State-Local Government Relations

The Panel has concluded measures are needed for improving State-Local Government relations generally, especially in strategic planning and regional coordination, plus protection of democratic Local Government under the State Constitution.

The Panel concludes Local Government itself should take the lead in promoting these reforms because they are in its own best interests. The Panel is strongly of the view that the reforms implemented as a *package* will strengthen the role of councils in the system of government, greatly improve planning and service delivery, and reduce the growing divide between 'haves' and 'have-nots'. They take the view Local Government NSW has a golden opportunity to develop fresh policies and programs that offer realistic solutions to the difficult issues facing its members.

Working through the Panel's proposals relating to the future of Local Government Advocate that the NSW Government:

- Prior to the Government considering the final proposals from the Independent Local Government Review Panel, the Government embark on a robust and rigorous public engagement process (rather than an information process) which takes on board the extensive issues and concerns of affected stakeholders and not rely on councils (who are affected stakeholders) to undertake this public engagement process
- Ensure that the views and values of local communities are reflected in any subsequent structural reform of Local Government
- Clarify what Government financial assistance and legislative reform (for example rate pegging) will be available to councils in the short, medium and long term to facilitate structural change and improve sustainability
- Give urgent consideration to the final proposals of the Panel and communicate its policy position in specific reference to the Panel's proposals at the earliest opportunity
- Ensure no reduction in representation in the first term of an amalgamated council
- Rejects the compulsory transfer of local water utilities to regional or other bodies.

*(Record of Decisions Local Government NSW (LGNSW) Annual Conference 2013 Sydney Town Hall, Sydney NSW 1 - 3 October 2013, page 1-2)*

**Recommendation 56** Use the State-Local Agreement as the basis and framework for a range of actions to build a lasting partnership, and negotiate supplementary agreements as appropriate.

**LGNSW position on Recommendation 56:**

LGNSW supports recommendation 56 which covers using the *Intergovernmental Agreement to Guide NSW State-Local Government Relations on Strategic Partnerships* (the IGA) as the basis for actions to build a lasting partnership, provided the NSW Government makes more substantial effort under the IGA.

**Comment:**

This point is fine in principle and would normally be supported.

However, it needs to be acknowledged that given the present difficulties that LGNSW is having with meeting with the Premier and some Ministers under the IGA considerable changes are needed for this to work (see the points made previously at recommendation 4 above).

**Recommendation 57** Introduce new arrangements for collaborative, whole-of-government strategic planning at a regional level.

**LGNSW position on Recommendation 57:**

LGNSW supports recommendation 57 which covers new arrangements for collaborative, whole-of-government strategic planning at a regional level.

**Comment:**

The vast majority of councils at all Fora supported the need for and the principles that would need to underpin new arrangements for collaborative, whole-of-government strategic planning at a regional level.

However, it is fair to say that councils were not convinced that ideas outlined necessarily fully met the needs or explored the principles. Councils felt more work was needed.

**Recommendation 58** Amend the State Constitution to strengthen recognition of elected Local Government.

The Panel proposed that further consideration be given to amended provisions along the following lines:

1. There shall continue to be a system of Local Government for the State under which democratically elected Local Government bodies are constituted with responsibilities that the Parliament considers are necessary to ensure the good governance of the areas allocated to those bodies
2. Parliament may make laws for or with respect to:
  - a. the areas to be allocated to Local Government bodies; and
  - b. suspension or dismissal of an elected Local Government body; and
  - c. the administration of a Local Government body during a period in which it is suspended or after it has been dismissed; and
  - d. the re-instatement or re-election of a Local Government body.
3. A Bill for an Act ending the system of Local Government may be presented for assent only if a proposal that the system of Local Government should end has been approved by referendum
4. Notwithstanding any other provision to the contrary, the Lord Howe Island Board, and an administrator with all or any of the functions of a Local Government body, shall be deemed to be Local Government bodies.

Such provisions would emphasise the importance of democratic Local Government without reducing Parliament's current powers to make laws, except that, as in Queensland, a referendum would have to be passed before the whole system of Local Government could be wound up.

**LGNSW position on Recommendation 58:**

LGNSW strongly supports recommendation 58 which covers amending the NSW State Constitution to strengthen recognition of elected Local Government.

**Comment:**

There has been widespread support amongst councils for this initiative.

Amending the NSW State Constitution to strengthen recognition of elected Local Government is important both symbolically and legally and would underscore a maturing relationship of the views of the State about Local Government.

It is in line with the wishes of LGNSW and its predecessors. The legal framework in NSW does not necessarily guarantee that councils need to be elected. The NSW Constitution simply enables the continuation of a system of Local Government which could have duly elected or duly appointed Local Government bodies. Over the years commentators have remarked this constitutional coverage is not a practical problem because the succeeding Local Government Acts have put in place a system that largely features duly elected councils. That may be partially true but it is poor symbolism. It is a poor foundation statement. There is a need for change to this foundation statement to i) something that actively values democracy over patronage or ii) at least doesn't appear to give equal weight to appointed officials (alongside elected representatives).

**Recommendation 59** Seek advice from LGNSW on the measures it proposes to take to meet its obligations under the State-Local Agreement.

**LGNSW position on Recommendation 59:**

LGNSW strongly supports the thrust of and questions implicit to recommendation 59 which covers LGNSW advice on the measures LGNSW proposes to take to meet its obligations under the State-Local Agreement.

**Comment:**

LGNSW is still in the process of preparing its Strategic Plan scheduled to commence in the 2014/15 financial year and only when this is settled can exhaustive advice be given. This timing may be fortuitous as it may coincide with some indication of where the Government is going take the Panel recommendations.

**Recommendation 60** Strengthen the focus of DLG (now OLG) on sector development and seek to reduce its workload in regulation and compliance.

**LGNSW Position on Recommendation 60:**

LGNSW supports recommendation 60 which covers strengthening the focus of OLG on sector development and reducing its in regulation and compliance workload, provided this is a proportionate rebalancing and not an abdication of its regulation and compliance workload.

**Comment:**

Most councils at the Fora supported the Panel's proposed strengthening OLG's role in sector development. As one council observed 'OLG needs to be more advisory and supportive of LG and less of a policeman.'

Nonetheless a number of councils at a number of Fora expressed the concern that this doesn't mean that the regulation and compliance workload should be actively shifted to LGNSW; the LGNSW Board does not wish to take up the regulation and compliance workload.

At several Fora, councils stressed that OLG should be placed with a significantly more senior Minister or within a significantly more senior portfolio.

## 18. Driving and Monitoring Reform

The Panel concludes what is needed now are negotiations between the State and Local Government NSW to settle a 5-10 year blueprint for reform – a program based on the trade-offs and tough decisions required to secure the system of Local Government until 2050. They strongly believe time has passed for half measures and easy compromises.

**Recommendation 61** Establish a Ministerial Advisory Group and Project Management Office.

The Panel makes the following point about the recommendation 61: whatever decisions are made regarding amalgamations, there is scope in the immediate future to commence implementation of a range of initiatives.

To oversee the early stages of implementation, as well as monitor progress, the Panel proposes establishment of a *temporary* Ministerial Advisory Group (MAG) to work alongside the Division of Local Government (DLG), other key agencies and Local Government NSW (LGNSW) during the next 3 years.

The MAG would comprise a chair appointed by the Minister, the Chief Executives of DLG and LGNSW, and two other members appointed by the Minister in consultation with the President of LGNSW. All administration would be handled through DLG. The Panel believes that establishing such a group, including independent members, would demonstrate a collaborative, even-handed approach. Preferably, none of the members would be serving or former councillors or politicians.

The MAG's focus should be on:

- Initiating effective implementation of the package of reforms adopted by Government, and providing supplementary policy advice as required
- Promoting the establishment of the regional Joint Organisations and advising DLG and the Minister on proposals for proclamations
- Further developing proposals for 'Rural Councils' and Community Boards
- Reviewing the responses of Sydney region, Hunter and Central Coast councils to the Panel's proposals for boundary changes
- Convening periodic forums or roundtables with a broader group of key stakeholders, including professional institutes, local government unions, business and community organisations
- Monitoring progress and reporting to Government on necessary adjustments to the reform package and what further steps might be required.

### **LGNSW Position on Recommendation 61:**

LGNSW supports recommendation 61 which covers establishing a Ministerial Advisory Group (MAG) and Project Management Office provided that the MAG composition also specifically includes representatives from LGNSW and LGMA and both have appropriately set sunset clauses.

### **Comment:**

A Ministerial Advisory Group and Project Management Office are appropriate should a wide ranging package of reforms result from the Panel's report. The critical issue on representation on the MAG is that the appointments must be with the agreement of LGNSW rather than just after consultation with LGNSW.

**Recommendation 62** Refer outstanding elements of the Destination 2036 Action Plan to the Ministerial Advisory Group.

**LGNSW Position on Recommendation 62:**

LGNSW supports recommendation 62 which covers referring outstanding elements of the Destination 2036 Action Plan to a Ministerial Advisory Group.

**Comment:**

While this is a minor point it does ensure that any unfinished initiatives still important to the Local Government sector are not lost.

The critical point is that the issues referred to a Ministerial Advisory Group must be issues of substance and the determination of whether any particular element remains of substance should be made on the advice of LGNSW.

**Recommendation 63** Adopt in principle the proposed priority initial implementation package set out in Box 42, as a basis for discussions with LGNSW under the State-Local Government Agreement.

The Panel observed its consultations revealed wide-ranging support for a number of the options advanced in *Future Directions*. The Panel concluded that several of the recommendations put forward in this report could be assembled as a priority implementation package that would be broadly acceptable.

The Panel's *Priority Implementation Package* features the following:

1. Establish the new regional Joint Organisations (including Regional Roads Groups, Water Alliances and sub-regional planning groups in metro Sydney): negotiations in 2-3 'pilot' regions could be launched immediately
2. Build a 3-way strategic planning process that brings together a new regional component of IPR, DP&I Regional Growth Plans, and Premiers Department Regional Action Plans
3. Further upgrade asset and financial management requirements in IPR, including Delivery Programs (among other things, to provide a basis for proposed changes to rate-pegging).
4. Revise current guidelines to require improved internal audit processes
5. Place Local Government audits under the aegis of the Auditor General
6. Initiate improvements to the rating system e.g. exemptions, equitable system for rating apartments, and steps to ensure a more equitable distribution of federal Financial Assistance Grants and State grants
7. Establish a state-wide Local Government finance facility to cut the cost of borrowing
8. Commission IPART to review the regulatory, compliance and reporting burdens imposed on councils
9. Strengthen political leadership: re-write the roles of Mayors, Councillors and General Managers
10. Introduce minimum 2-year terms for mayors elected by the councillors
11. Amend the State Constitution to secure recognition of elected Local Government
12. Re-constitute the Boundaries Commission to progress evidence-based, impartial assessment of possible mergers and boundary changes.

**LGNSW Position on Recommendation 63:**

LGNSW does not support recommendation 63 which covers a *Priority Implementation Package*.

**Comment:**

At one level, the Panel's proposed *Priority Implementation Package* represents a reasonable starting list to negotiate on, recognising that there remain concerns about some individual items as covered in discussing previous recommendations.

However, at an absolute level it is difficult for LGNSW to support it as a package, because items 1, 2, the second part of 6, 9 and 10 are not fully supported as discussed in previous sections of this submission.

The majority of councils at all Fora did not support the Panel's proposed *Priority Implementation Package* because of their doubts about the following elements:

- including Regional Roads Groups, Water Alliances and sub-regional planning groups in pilot JOs;

- the lack of detail on the proposed 3-way strategic planning process that brings together a new regional component of IPR, DP&I Regional Growth Plans, and Premiers Department Regional Action Plans;
- the lack of detail on the steps to ensure a more equitable distribution of federal Financial Assistance Grants and State grants;
- the detail of the proposed re-write the roles of Mayors; and
- concerns about an activist Boundaries Commission.

**Recommendation 64** Further develop the proposals for legislative changes detailed in Boxes 43 and 44, and seek to introduce the amendments listed in Box 43 in early 2014.

The matters for legislative change are as follows:

- Provisions for Joint Organisations, 'Rural Councils' and Community Boards
- Reconstitution of the Boundaries Commission and amendments to the process for dealing with amalgamations and boundary changes (but defer application to Sydney metropolitan region – see section 11.4)
- Amendments to rate-pegging provisions (and associated changes to IPR Guidelines)
- Enabling oversight of Local Government audits by the Auditor General (may be handled instead *through Public Finance and Audit Act*)
- Establishment of Far West Regional Authority (possibly separate Act)
- Establishment of a Local Government finance facility (preferably by simply amending TCorp legislation)
- Amendment to State Constitution to strengthen recognition of elected Local Government
- New or revised provisions in the *Local Government Act* covering:
  - Goal of sustainable councils
  - Concept of a system of Local Government
  - Appointment of Chief Financial Officers (or equivalent)
  - Roles of the Council (governing body), Mayors, Councillors and General Managers
  - Direct election of Mayors
  - Preparation of Councillor Development Plans and mandatory professional development requirements for Councillors and Mayors
  - Holding of an Annual General Meeting
- Revised IPR Guidelines for:
  - Delivery Programs and service reviews
  - Regional component of Community Strategic Plans
- New mandatory guidelines for internal audit and continuous improvement processes (including committees).

**LGNSW Position on Recommendation 64:**

LGNSW does not support recommendation 64 which covers a list of proposed legislative changes simply because it is premature and assumes a number of preceding recommendations will be supported and adopted, whereas this may not be true.

**Comment:**

These are legislative process matters that would be necessary should the recommendations preceding them are adopted in full or part.

The majority of councils at all Fora supported the view that the list of proposed legislative changes was premature.

**Recommendation 65** Adopt in principle the proposed implementation timeline.

**LGNSW Position on Recommendation 65:**

LGNSW does not support recommendation 65 which covers adopting a proposed implementation timeline, simply because it is premature and assumes a number of preceding recommendations will be supported and adopted, whereas this may not be true.

**Comment:**

These are process matters that would be necessary should the recommendations preceding them are adopted in full or part.