

**STRUCTURAL REFORM OF LOCAL
GOVERNMENT**

IN NEW SOUTH WALES

Department of Local Government

September 2004

NSW LOCAL GOVERNMENT

Local Government is a \$6 billion industry in NSW.

Local Councils collect \$2.158 billion in rates.

Councils manage infrastructure assets worth \$55 billion made up of:

- Buildings - \$7.0 billion;
- Roads - \$31.9 billion;
- Drainage - \$6.8 billion;
- Water- \$4.6 billion;
- Sewer - \$4.2 billion;

There are 1601 Councillors on NSW Councils.

Total income in each council ranges from \$4.1million to \$185 million per annum.

Council areas range from six square kilometres (Hunters Hill) to 53,500 square kilometres (Broken Hill).

BACKGROUND TO CURRENT LOCAL GOVERNMENT REFORM PROGRAM

FINANCIAL PRESSURE

In March 2003 there were 172 Councils in NSW.

In 2002, 116 of them had spent more than they earned in the previous financial year, while 124 of them were not spending enough to maintain basic infrastructure.

At the same time, the Federal Government continues to investigate a new system for allocating Commonwealth Financial Assistance Grants (FAGS) that would direct funds away from NSW councils.

All of these factors place pressure on local councils to improve their operations.

In June 2003 the Department of Local Government had 30 councils on its monitoring list - 27 of which were in rural areas.

Some were under notice because of poor audit reports, others because of a departmental examination of the accounts.

The situation in rural councils is readily seen from the financial statements and is generally acknowledged as poor. However, in the larger councils, financial stress is not quite so evident until an examination of infrastructure spending is undertaken.

In the 2002-03 financial year:

Councils spent \$684 million – that is nearly 25 per cent less than is required to maintain infrastructure at current levels

No less than 17 councils required more than \$100 million to be spent for a satisfactory standard to be achieved.

Only 48 councils were spending sufficient amounts to maintain their assets - 124 were not.

COMMUNITY ENGAGEMENT

The Minister for Local Government was also concerned about the general operation of some councils and the level of scrutiny of some council decisions.

In some cases there were instances of the community not being consulted about key decisions. For example:

- One metropolitan council had a payment scheme for untaken sick leave - which was recently improved (with the first beneficiary being the retired General Manager) - and which appears well in excess of common standards;
- One regional council voted its councillors motor vehicles for private and official use - a decision that was subsequently stopped by regulation;
- Two metropolitan councils approved expense allowances to councillors, in addition to annual fees and out-of-pocket costs (also stopped by regulation).

Most in the community would be unaware of these expenses.

CONFLICT IN COUNCILS

Administrative, political and system inefficiencies are reflected in ongoing pecuniary interest allegations, conflict of interest and corruption matters.

There are also all too frequent examples of a lack of teamwork and conflict between elected representatives and staff. This often results in the very public removal of the General Manager.

Examples include Hawkesbury, Rylstone, Auburn, Armidale, Bega, Broken Hill, Deniliquin, Kogarah, Moree and Manilla.

Long and costly litigation has occurred in some cases. The Ombudsman has been concerned for some time about the relationship between staff and elected representatives.

There is also a higher degree of change in elected representatives in local government than at any other level.

Of the **152 councils**, **just 30 have popularly elected Mayors who are elected every four years.**

For the **remaining 122 councils**, the **mayorality has changed for 77 councils** in the **last 3 years.**

These changes do not provide continuity of civic leadership, and hinder council planning, stability and leadership.

INVESTIGATIONS INTO COUNCILS

Four Councils have been dismissed following independent public inquiries since March 2003.

Warringah Council was dismissed in July 2003 as a result of its inability to make decisions and function appropriately.

In March 2004 Liverpool Council was dismissed as a result of an inquiry into its handling of the Oasis project.

Rylstone Council was also dismissed in March 2004 as a result of financial mismanagement and breaches of the Local Government Act.

In June 2004 Walgett Council was also dismissed following an investigation, which found financial mismanagement.

Warringah, Liverpool and Walgett Councils remain in the hands of administrators while Rylstone Council was impacted by boundary changes affecting the surrounding councils.

Glen Innes Municipal Council was declared non-functioning and also placed under administration earlier this year, following many concerns of mismanagement.

THE CURRENT REFORM PROGRAM

In July 2003, the Minister for Local Government wrote to all councils in NSW. He outlined the challenges facing local government and asked all councils to submit to the Department of Local Government their proposals for structural reform.

The Minister explained that the goal of structural reform should be improved services for ratepayers and residents.

He did not identify any particular council that should be amalgamated but asked councils themselves to make their own suggestions. He did argue however, that some possible outcomes could be:

- Fewer administrative units;
- Greater community participation;
- More accountability and transparency;
- Efficient processing of Development Applications;
- Greater emphasis on core activities, particularly in relation to maintenance and replacement of essential infrastructure;
- A regional, or catchment focus;

- Higher standard of elected representative and more professional staff;
- Elected council concentrating on policy determination and planning rather than the present emphasis on detail;
- Streamlined land use planning processes;
- Enhanced financial capacity;
- Clear definition of core and non-core services;
- Increased resource sharing between councils;
- Corporate services; and
- Plant management.

In September 2003 the Government's Local Government Reform Program was announced, with funding approved for 2 years, with in-principle approval for a third year subject to success of the program.

The Minister outlined the NSW Government's intention to facilitate Regional Reviews as an extra form of community consultation, which would allow overlapping proposals to be thoroughly negotiated with the affected community.

Regional Reviews were initiated to allow discussion of possible structures to take into account local needs before formal proposals are finalized.

They examined the provision of local government services on a regional or catchment basis.

In some cases, these reviews also considered proposals already developed for consideration.

Regional reviews were conducted by an independent facilitator and supported by the Department of Local Government. They involved extensive discussions with councils, local government and shires associations, community groups, unions, individuals and government agencies.

Six regional reviews were conducted across NSW at a cost of \$643,000.

More than 62 meetings were held and 1217 submissions considered. All of the reviews resulted in formal proposals, which were forwarded to the Boundaries Commission.

A total of 17 proposals from Regional Reviews were referred to the Boundaries Commission for examination and report.

All Councils in NSW responded to the Minister's call for suggestions on structural reform. Many of these suggestions have now been implemented or are well under way.

RESULTS

As at August 2004, the NSW Government has created 22 new councils following Regional Reviews and examination of proposals by the Boundaries Commission.

The **number of Councils has been reduced from 172 in March 2003 to 152.**

- 6 February 2004 new Council of the City of Sydney proclaimed and commenced operations;
- 11 February 2004 new Cooma-Monaro, Eastern Capital City Regional, Greater Argyle, Greater Queanbeyan City, Tumut, Upper Lachlan and Yass Valley Councils proclaimed and commenced operations;
- 25 February 2004 new Clarence Valley Council proclaimed and commenced operations;
- 17 March 2004 new Tamworth Regional, Gwydir Shire, Liverpool Plains Shire and Upper Hunter (not including part of Merriwa Council) Councils proclaimed and commenced operations;
- 26 May 2004 Greater Hume, Albury City, Corowa Shire, Bathurst Regional, Mid-Western Regional, Oberon, Lithgow City and Upper Hunter Shire (including part of Merriwa Council) Councils proclaimed and commenced operations;
- 25 August 2004 New Warrumbungle Shire Council proclaimed and commenced operations;
- 15 Sept 2004 Glen Innes/Severn Council proclaimed and commenced operations.

NEW COUNCILS

1. **City of Sydney** – former City of Sydney and South Sydney City Councils;
2. **Clarence Valley Council** – former Copmanhurst, Grafton, Maclean and Pristine Waters Councils;
3. **Cooma-Monaro Council** – former Cooma-Monaro and part of Yarrowlumla Councils;
4. **Eastern Capital City Regional Council** – former Tallaganda and part of Yarrowlumla, Gunning and Mulwaree Councils;
5. **Greater Argyle Council** – former Goulburn and part of Mulwaree Councils;

6. **Greater Queanbeyan City Council** – former Queanbeyan and part of Yarrowlumla Councils;
7. **Tumut Council** – former Tumut and part of Yarrowlumla Councils;
8. **Upper Lachlan Council** – former Crookwell and part of Yass, Gunning and Mulwaree Councils;
9. **Yass Valley Council** – former part of Yass, Gunning and Yarrowlumla Councils;
10. **Tamworth Regional Council** – former Tamworth and Manilla and part of Barraba and Parry Councils and boundary alteration with Gunnedah Council;
11. **Gwydir Shire Council** – former Bingara and Yallaroi and part of Barraba Councils;
12. **Liverpool Plains Shire Council** – former Quirindi and part of Murrurundi, Parry and Nundle Councils and boundary alteration with Gunnedah Council;
13. **Greater Hume Shire Council** – former Culcairn and Holbrook (apart from 19 sq km) and part of Hume Councils;
14. **Albury City Council** – former Albury and part of Hume Councils;
15. **Corowa Shire Council** – former Corowa and part of Hume Councils;
16. **Bathurst Regional Council** – former Bathurst and part of Evans Councils;
17. **Mid-Western Regional Council** – former Mudgee and part of Merriwa and Rylstone Councils;
18. **Oberon Council** – former Oberon and part of Evans Councils;
19. **Lithgow City Council** – former Lithgow and part of Rylstone Councils;
20. **Upper Hunter Shire Council** – former Scone and part of Murrurundi and Merriwa Councils;
21. **Warrumbungle Shire** - former Coolah and Coonabarabrah Councils; and
22. **Glen Innes Severn Shire Council** – former Glen Innes and Severn Councils.

ADDITIONAL REFORMS

Councils have also pursued a range of other improvements to their operations, which are already yielding results for ratepayers and residents.

More than 70 councils in NSW are currently part of a wider collaborative or strategic alliance.

Some examples of formal alliances in NSW are:

Blayney, Cabonne and Wellington Strategic Alliance which has achieved, among other things a joint records storage facility, double side welcome signs for Wellington and Cabonne and joint purchase/use of assets such as trucks and tractors;

Hunter Integrated Local Area Council, which means 13 councils share resources such as training, purchasing, regional records storage, Human Resources and waste processing;

New England Councils Strategic Alliance - Armidale Dumaresq, Guyra, Uralla and Walcha Councils undertake joint tendering, and share core support functions and plant utilization;

Forbes, Parkes, Lachlan and Weddin Alliance – These councils share a range of resources and work cooperatively for the region; and

Murray/Campaspe Cross Border Partnership – a range of facilities, staff and resources are shared.

Some examples of other alliances and collaborative arrangements are:

Upper Parramatta River Catchment Trust Partnership - Parramatta, Holroyd, Baulkham Hills and Blacktown Councils and the Trust have achieved innovative stormwater management and improvements to water quality, native vegetation and floodplain management;

Councils Online Program – Five NSW councils and a business partner provide 24-hour services via the Internet to cater for flexible resource allocation, effective use of capital and improved risk management; and

Western Division Group of the Shires Association of NSW – 13 councils have explored the feasibility of setting up a cooperative model to provide shared administrative services.

PROTECTING JOBS

The NSW Government was determined that structural reform local government not result in job losses. While in previous amalgamations employees were protected by proclamation, the Government has taken a number of steps to ensure additional protection.

The amendments to the Local Government Act 1993 effected by the *Local Government Amendment (Employment Protection) Act 2003* ensure that where an organisational restructure occurs within a council due to its structural reform by way of constitution, amalgamation or boundary alteration, the existing employment conditions of staff are protected.

The amendments prevent staff-shedding in anticipation of an amalgamation, constitution or boundary alteration by ensuring that staff cannot be made redundant without their permission during the proposal period for restructure.

Where the conditions of employment of staff members of a council are changed during a proposal period, and those changes are not approved by the Minister, then the council to whom those staff are transferred will not be bound by those altered conditions of employment.

In the event of structural reform by way of constitution, amalgamation or boundary alteration of a local government area, councils affected must notify staff vacancies internally and select candidates from within where an adequately trained pool of staff exists. Transferred non-senior staff will be preferred candidates for positions where they are qualified to fill the position.

Local Government Amendment (Council and Employee Security) Act 2004 provides enhanced employment protection for non-senior council staff where a staff transfer occurs as a result of a boundary alteration or amalgamation.

The employment protection provisions under Part 6 of Chapter 11 of the Act now apply to all non-senior staff of a council affected by such reform and not just transferred staff.

Existing staff of a transferee council and remaining staff of a transferor council will now be entitled to the benefit of the employment protections. Also, the operation of the lateral transfer requirements under the Act has been extended from 12 months to 3 years.

The Act also provides that for 3 years after a boundary alteration or amalgamation, transferred, existing and remaining non-senior staff members cannot be relocated without their consent outside the former council boundaries unless a relocation would not cause unreasonable hardship because of the distance concerned.

In addition, an affected council that employs staff at a rural centre will be required, as far as is reasonably practicable, to maintain any non-senior permanent staff numbers at the rural centre.

THE FUTURE OF LOCAL GOVERNMENT IN NSW

A number of other councils have indicated that they wish to pursue further amalgamations or boundary changes in the future.

If they should wish to make formal proposals, the NSW Government would facilitate community engagement on the issue as it has through 2003/04.

FINANCIAL INSPECTORS

The Department of Local Government has employed five additional investigators to undertake additional investigation and monitoring of councils on a programmed and regional basis.

This approach will assist councils in financial difficulty and ensure compliance with the Local Government Act.

SIN BINNING

Conflict and misbehaviour continues to be of concern in local government.

The NSW Government has developed the Local Government Amendment (Discipline) Bill 2004, which has passed the lower house and will be debated in Upper House during the Spring session of Parliament 2004.

PUBLIC PRIVATE PARTNERSHIPS

In the Spring session of 2004, the Government will introduce to Parliament additional regulation for councils pursuing public-private partnerships.

The legislation will implement recommendations from the public inquiry into Liverpool Council, where the Council lost an estimated \$22million in the failed Oasis project.

HISTORY OF LOCAL GOVERNMENT AMALGAMATIONS

The number of local governments in NSW has reduced from 327 in 1906 to 154 in 2004.

1858 The *Municipalities Act 1858* – established the system of permissive incorporation i.e. municipalities were constituted upon the petition of 50 householders of a city, town, hamlet or rural district. This resulted in a fragmentary establishment of some 327 local government areas - many small and uneconomic units.

1905-1906 A general system of rational and systematic incorporation of the State achieved. *1905 Shires Act* compulsorily incorporated 60% of the State into 134 Shires (as recommended by a Government Commission into the matter). The *Local Government Extension Act of 1906* brought pre-existing municipalities under the umbrella of the *Shires Act 1905*.

These Acts generally consolidated and amended laws relating to local government and laid the basis for the comprehensive system known today. Some principal features were: the introduction of rating on unimproved capital value; borrowing and rating limits for municipalities and rating limits for shires. Permissive incorporation was abolished in favour of a compulsory system. The Acts meant that the whole of the State, excepting the rural unincorporated areas of the Western Division, being divided into shires and municipalities.

1913 Royal Commission investigated local government areas in the metropolitan area of Sydney. Various schemes, which embraced 53 local units, were proposed but lapsed due to the onset of WW1.

1919 *Local Government Act 1919* set out the basis of State control over local government and the legislative framework for alterations of local government boundaries.

1931 Lang Government introduced a Bill, which would have reduced the number of authorities from 69 to 28. This lapsed when the Government was dismissed in 1932

1937 *Greater Newcastle Act 1937* – amalgamation of nine municipalities

1941-1947 **McKell reforms – Royal Commission of Inquiry into the Boundaries of Local Government Areas in the County Cumberland reported in 1946.**

***Local Government (Areas) Bill* presented to Parliament in 1947 proposed reducing 66 areas to 14. Bill was referred to a select committee of the Legislative Council. The committee recommended the formation of 17 new units from 43 existing local government areas and the adjustment of the boundaries of others. Much of the debate on the Bill concerned electoral boundaries within the proposed areas rather than the amalgamations themselves.**

1947 Greater Wollongong was created by merging two municipalities

- 1948 An Act to amend the *Local Government Act 1919* passed which reduced the number of local governments in the County of Cumberland from 68 to 39 (included adding 8 municipalities to the City of Sydney)
- 1948 Shoalhaven Shire was created from 5 municipalities
- 1964 Local Government Boundaries Commission set up following representations from LGSAs
- 1971-1974 As an alternative to LGSAs ongoing request for the whole state to be referred to the Boundaries Commission, the Minister established a Special Committee (Barnett Committee) to investigate local government boundaries and administration. The report released in 1974 recommended that the existing 223 municipalities and shires be reduced to 97. The committee stated:
- ...local government suffers from the existence of too many small economic areas, resulting in fragmentation of authority, unnecessary duplication of assets, the under-utilisation of plant, equipment and human resources, and inability to provide the varied kinds of expertise required by local councils in the modern world....
- The report was unpopular with councils and LGSAs lobbied for the whole state to be examined. This was granted in May 1974 and more than 100 proposals were received between 1974-78.
- 1976-1980 Wran Government continued with same direction and the Boundaries Commission steered through changes affecting more than 50 shires and municipalities. Some were established by agreement and others followed recommendations of Public Inquiries.
- 1980 44 county councils reduced to 20.
- 1981 38 councils were abolished and replaced by 17.
- 1982 Local Government (Boundaries Commission) Amendment Act 1982 altered terms of reference and structure of Commission.
- 1993 Local Government Act 1993 replaces the Local Government Act 1919
- 1999 *Local Government Amendment (Amalgamations And Boundary Changes) Bill 1999* - streamlines the procedures for voluntary amalgamations of council
- 1999-2001 10 councils became 5:
 Armidale Dumaresq Council
 Richmond Valley Council
 Canada Bay Council
 Pristine Waters Council
 Conargo Shire Council
- 2004 6 February 2004 New Council of the City of Sydney proclaimed and commenced operations

- 11 February 2004 New Cooma-Monaro, Eastern Capital City Regional, Greater Argyle, Greater Queanbeyan City, Tumut, Upper Lachlan and Yass Valley Councils proclaimed and commenced operations
- 25 February 2004 New Clarence Valley Council proclaimed and commenced operations
- 17 March 2004 New Tamworth Regional, Gwydir Shire, Liverpool Plains Shire and Upper Hunter (not including part of Merriwa Council) Councils proclaimed and commenced operations
- 26 May 2004 Greater Hume, Albury City, Corowa Shire, Bathurst Regional, Mid-Western Regional, Oberon, Lithgow City and Upper Hunter Shire (including part of Merriwa Council) Councils proclaimed and commenced operations
- 25 August 2004 Warrumbungle Shire (comprising Coolah and Coonabarabran) proclaimed and commenced operations
- 15 September 2004 Glen Innes Severn Shire proclaimed and commenced operations