

RESPONSE TO INDEPENDENT
LOCAL GOVERNMENT REVIEW PANEL
FUTURE DIRECTIONS FOR NSW LOCAL GOVERNMENT

SUBMITTED BY:
STEWART MCLEOD
CHAIR, WATER DIRECTORATE INC.
28 JUNE 2013

Stewart McLeod



WATER
DIRECTORATE

28 June 2013

Professor Graham Sansom
Chair
Local Government Review Panel
c/- Locked Bag 3015
NOWRA NSW 2541

Dear Professor Sansom

Water Directorate Response to Independent Local Government Review Panel

The Water Directorate would like to thank the Independent Local Government Review (ILGR) Panel for the opportunity to respond to the ILGR Panel's report *Future Directions for NSW Local Government, Twenty Essential Steps*. The Water Directorate is a membership association comprising 97 councils and county councils that provide water and sewerage services to approximately 1.9 million residents in regional NSW.

The Water Directorate's mission is to provide leadership and advice to the local water utilities in NSW. The Water Directorate supports the report findings that local government should retain its current responsibilities for water and sewerage and that local water utilities are performing very well following the introduction of the NSW Office of Water's *Best Practice Water Supply and Sewerage Management Guidelines*.

I look forward to further opportunities for input and I am happy to meet with the ILGR Panel to ensure that the provision of water and sewer services, an essential community public health service, is strengthened through the local government reform process. My contact details are 02 6801 4800 or stewart.mcleod@dubbo.nsw.gov.au.

Yours sincerely



Stewart McLeod
Chair

Water Directorate Submission

The Water Directorate welcomes the opportunity to deliver a submission to the Independent Local Government Review (ILGR) Panel on the Future Directions for NSW Local Government paper (Future Directions Paper).

The Water Directorate is a membership association that comprises 97 Local Water Utilities (LWUs) that supply water and sewerage services to approximately 1.9 million residents in regional NSW. Its mission is to provide leadership and support to the local government water supply and sewerage industry in NSW. The Executive Committee of the Water Directorate is structured such that it contains senior water supply and sewerage managers elected from all regions around NSW.

About the Water Directorate

The Water Directorate is a voluntary member-based organisation that represents 95% of NSW LWUs. Water Directorate members represent 3.2 times as many customers as Hunter Water and provide 89% of the reticulated water outside NSW metropolitan areas. The Water Directorate provides LWUs with independent expert advice, technical support, shared industry knowledge, improved efficiencies and assistance with long term planning.

The Water Directorate was founded by local government water and sewerage practitioners in 1998 that recognised that the structure and legislative framework for water authorities in NSW was not ideal following the abolition of the NSW Department of Public Works. The NSW Department of Public Works had previously acted as the overall coordinating agency and mentor for the water industry in regional NSW. Therefore an industry-specific association was formed to address the lack of coordination between government departments and local authorities as well as the declining level of technical advice provided by state agencies.

Importantly, the Water Directorate has the capacity and a strong focus on communicating with its membership on issues of interest or that directly affect the industry. This is a strength for the industry in respect of utility management that is not otherwise replicated by any other organisation or government agency.

Since its establishment the Water Directorate has provided consistent state-wide management tools at a low cost to its members in NSW. As a result the Water Directorate has:

- Invested more than \$3.5 million developing relevant guidelines and technical documents to support industry best practice;
- Co-managed an \$8.73 million investment by the Federal Government and members in a water loss management program saving 5.5 billion litres of water annually;
- Advocated for LWUs in responding to the Armstrong/Gellatly Review and a series of other government reviews by Infrastructure Australia, the National Water Commission, the Productivity Commission and Infrastructure NSW;
- Supported the industry through technical on-line discussion groups, technical workshops and industry leadership not provided by State Government Departments;
- Encouraged excellence in regional water engineering and operations through sponsorship for members' attendance at state and national conferences including young engineers and operators;
- Collaborated with other industry groups including delivering the Water Directorate Forums at the Local Government NSW Water Management Conference and at the Institute of Public Works Engineering Australia (IPWEA) annual conference; and
- Supported best practice through the sponsorship of several annual awards including the IPWEA Excellence Award for innovation in water and wastewater, initiative the WIOA

Operator of the Year awards and the joint AWA/ Water Directorate Conference Attendance Award.

This ILGR Panel submission was developed by the Policy sub-committee of the Water Directorate with input invited from all members. This submission represents councils from the coast to the outback with a variety of structural models and utility sizes.

1 Local Water Utilities

The Water Directorate unanimously supports the Future Directions Paper's finding that;

“local government should retain its current responsibilities for water supply and sewerage, not only because it is delivering those services efficiently and effectively, but also because those services give rural local government critical financial mass and the capacity to recruit and retain professional staff.”

LWUS are committed to meeting the water and sewerage needs of their communities and they are committed to meeting the requirements of their complex operating environment. Attachment A summarises the legislative instruments applicable to LWUs. In light of this complex operating environment, the Water Directorate welcomes the finding of the Future Directions Paper and can confirm from NSW Government and National Water Commission publications that;

“local government water utilities are performing very well. Accordingly, the Panel sees no case for major changes in the way they are being managed unless the councils concerned identify a need to make adjustments.”

The Water Directorate is very supportive and proud of the achievements of all its member councils, whether they are general purpose councils or special purpose county councils. The Water Directorate believes that there is no obvious impediment to being a high achieving and highly acclaimed water utility that arises from being either a small or large general purpose council or a special purpose county council. Our member councils have won numerous national and state awards presented by peak industry bodies including the Australian Water Association, LGNSW, Engineers Australia and IPWEA. The NSW Office of Water has highlighted many examples of excellent practice amongst LWUs in its various guidelines and documents. The NSW local government water industry is a highly skilled and high-achieving sector of the Australian water industry as attested to by the benchmarking results published nationally by the National Water Commission.

2 Local Water Utility Structure

The Water Directorate supports the range of models currently operating successfully in different parts of NSW. These models provide for flexible regional collaboration:

- Local government ownership and management of the local water and sewerage utility.
- Local government ownership and management of the local water and sewerage utility assisted by membership of a binding (or mandatory) alliance as proposed by the Water Directorate in 2007/08, such as the Lower Macquarie Water Utilities Alliance (LMWUA).
- Local government ownership and management of the local water and sewerage utility assisted by membership of a Region of Council (ROC), for example the Centroc (Central NSW Councils) Water Utilities Alliance (CWUA).
- County council ownership and management of the water utility and local government ownership of the sewerage scheme, for example Riverina Water and Wagga Wagga City Council.
- County council ownership and management of both water and sewerage systems, for example MidCoast Water.
- County council provision of bulk water to constituent councils, for example Rous Water.

The Water Directorate is concerned by the “one-size-fits-all” nature of the multi-purpose County Councils proposed in the Future Directions Paper. This appears to be in direct contradiction to the statement in the Strengthen Your Community Paper “there is no one-size-fits-all solution” for structural models for local government. The Water Directorate is reticent, therefore, to opt for any one model to restructure the industry, because in doing so, it would dismantle highly successful existing arrangements in other parts of the state.

The Water Directorate sees flexibility as a key component of delivering effective services and identifying initiatives that lead to continuous improvement across the sector. New ideas often arise out of diversity, and not necessarily out of uniformity. There are also concerns that water catchments may not align with transport corridors, strategic road networks, core customer bases and other determinants of “community of interest”. Also, arrangements that may be appropriate in far or near western NSW may not be appropriate for some fast growing coastal regions.

3 Regional Collaboration

The Water Directorate supports improved regional collaboration for utilities with less than 10,000 connections. To ensure effective, efficient and sustainable provision of water supply and sewerage services in regional NSW, it is important to facilitate the sharing of resources and technical capacity among LWUs and to ensure the NSW Office of Water’s *Best Practice Water Supply and Sewerage Management Guidelines* and regulatory requirements are met. Strengthening arrangements for regional cooperation and resource sharing will enable councils to address challenges including:

- Implementing regional water resource planning and integrated water cycle management;
- Responding to uncertain (reduced) water availability;
- Responding to demand variations; and
- Building professional capacity to implement ever-increasing technical, environmental and water quality standards.

The Water Directorate supports the use of binding alliances and ROCs as well as county council to facilitate this collaboration to support the smaller utilities (<10,000 connections). CWUA and LMWUA are examples of regional collaboration that benefits all of the members. These organisations provide strategic direction to their member councils through a project officer who facilitates knowledge transfer across the member councils and coordinates procurement for strategic planning and best practice requirements on a regional basis. A committee and board structure provides the strategic direction required by that project officer.

The Water Directorate believes that for enhanced strategic capacity in the provision of water supply and sewerage provision in regional NSW, councils should be permitted to choose between:

- Joining a binding alliance;
- Joining a binding alliance auspiced by a ROC;
- Joining a county council providing agreed management services only; or
- Joining a “full” county council where all assets and all operations are transferred from the constituent councils

The Water Directorate acknowledges the limitations of voluntary ROCs and voluntary alliances. We would therefore recommend that such entities, in future, be created under a “firm” Deed of Agreement that overcomes these limitations. In our opinion such “firmness” does NOT require changes to be made to the *Local Government Act 1993* in order to allow administration through this mechanism. In addition, these entities have the potential to be beneficial to both state and local government in terms of implementing particular regional plans and priorities by mutual agreement within a Deed of Agreement as opposed to government fiat.

These new Deeds of Agreement could, in the Water Directorate's opinion, be significantly enhanced over current models by:

- The State Government also being a signatory;
- The inclusion of sanction provisions for use by the alliance should a member council or councils seek to circumvent adopted alliance policies, or withdraw completely from the alliance; and conversely
- The inclusion of an appeals process by which individual member councils could challenge alliance policies and actions within an agreed legal framework.

Should the ILGR Panel require additional detail with respect to these suggestions, representatives of the Water Directorate would be happy to discuss the suggestions with the ILGR Panel and/or the proposed Local Government Development Board.

In some areas of detail the effectiveness of ROCs and alliances, particularly in the area of procurement, is limited by the current *Local Government Act 1993*. To permit regional collaborations to reach their full potential, it is noted that there will need to be some minor and specific changes to the *Local Government Act 1993*. In particular, some of the functions which a council is currently not permitted to delegate under Section 377 should be able to be delegated to an alternative model such as an alliance. The Water Directorate's earlier submission to the Local Government Acts taskforce suggested that Section 377 needs to be broadened to support alternative models.

The benefit of combining multiple utilities, each responsible for over 10,000 connections, such as Coffs Harbour and Clarence Valley Council or Shoalhaven, Eurobodalla and Bega Valley, is not clear. It should be for each of these utilities to decide for themselves within the context of their respective regional settings whether the benefits would outweigh the drawbacks.

4 Multi-Purpose County Councils

The Future Directions Paper does not provide sufficient detail on the "high level" corporate services to be undertaken by the proposed Multi-Purpose County Councils based on regional centres. The report also does not explain the ILGR Panel's thinking on how a water utility could be a function within the multi-purpose County Council while assets and operations remain under local government ownership and control. With limited information, the Water Directorate cannot provide detailed comment on how water functions should be managed between the existing council or county council and a new Multi-Purpose County Council. The role of the multi-purpose County Councils and the water functions in relation to the proposed NSW Planning reform is not clear from the Future Directions Paper.

During the consultation workshops, a lack of regional planning and consideration was identified as motivation to establish the Multi-Purpose County Councils. Should significant management functions be transferred to the Multi-Purpose County Council, the on-going viability of some councils or county council may be threatened. If, however, there is limited transfer of management functions to the Multi-Purpose County Council it is difficult to see the benefit of this model over the alternatives nominated above.

Some of our members have expressed concern over devolving water utility functions to a Multi-Purpose County Council. Their concern arises, in part, from the historical change in governance structure of electricity supply from local government ownership to state government ownership through the establishment of electricity County Councils in the mid 1980s.

5 Leadership of Multi-purpose County Councils

The Future Directions Paper proposes that the Mayor and General Manager of the designated regional centre would also fulfil that role for the Multi-Purpose County Council. Our members have

expressed concern over the workload in undertaking both positions particularly where the Multi-Purpose County Council would have operational and service delivery functions.

6 Water County Councils

There are currently five special purpose county councils operating in NSW. There are: MidCoast Water, Riverina Water, Rous Water, Goldenfields Water and Central Tablelands Water. For the sake of clarity and to avoid confusion with the proposed Multi-Purpose County Councils these water utilities are referred to in this submission as water county councils. All five water county councils are members of the Water Directorate.

The water county councils successfully provide either water or water and sewerage services in regional NSW. The water county councils are responsible for strategic planning, asset ownership, operation and management and they all operate highly successful businesses. Water county councils attribute their success, in part, to the focussed nature of their business.

To ensure that the water and sewerage revenue from the water county council does not cross subsidise other business unit costs in an expanded Multi-Purpose County Council it would be essential that strong controls and internal audit functions are implemented. Regardless of the legal and financial model, sustainable LWUs based on the water county council model require dedicated management to ensure on-going essential service provision to the community as a commercially focussed business.

The Water Directorate believes the water county councils should not be absorbed into the ILGR Panel's recommended Multi-Purpose County Councils.

7 Western Regional Authority

The Water Directorate is concerned that the formation of the Western Regional Authority will remove access to regional expertise currently available to Bourke Shire Council, Brewarrina Shire Council and Cobar Shire Council through the LMWUA. This is an example of a boundary being created for apparent ease of administration which fails to take into account an existing, successful community of interest and instead becomes a barrier.

8 Existing Strategic and Technical Capacity

The Water Directorate has demonstrated, over the past 15 years, significant capacity for identifying and solving its members' problems within the regional urban water sector. The Water Directorate continues to develop technical guidelines for our members, with publications covering a broad scope from regulatory guidance and business continuity management to operations and maintenance manuals. The joint Water Directorate and LGSA Water Loss Management Program is a further example of a successful local government initiated project which has brought additional resources to NSW to address a crucial issue.

The Water Directorate already works closely with NSW Government departments including the NSW Office of Water and the Water Unit in the NSW Ministry of Health. Water Directorate members involved in regional collaboration models such as LMWUA, CWUA and the water county councils, including MidCoast Water and Riverina Water, can provide leadership, mentoring and support to areas that adopt these collaborative models.

9 Representation on Local Government Development Board

The ILGR Panel supports and recommends the establishment of a Local Government Development Board. Because of the major financial stake regional councils have in their water supply and sewerage funds the Water Directorate believes that there should be direct representation from LWUs on the new board irrespective of which structural model (alliance, ROC or Multi-Purpose County Council) is adopted and progressed.

The Water Directorate, as the peak industry body for LWUs, therefore requests representation on the Local Government Development Board.

10 Finance

The Water Directorate supports the establishment of a state-wide Local Government Finance Agency and progressive re-distribution of grant funding to provide greater assistance to those councils with limited rating bases. The Water Directorate also supports the continuation of the Local Infrastructure Renewal Scheme (LIRS) with a focus on councils facing the most severe infrastructure problems.

11 Summary

The Water Directorate supports the report findings that local government should retain its current responsibilities for water supply and sewerage and that LWUs are performing very well following the introduction of the NSW Office of Water's *Best Practice Water Supply and Sewerage Management Guidelines*.

The proposed "one size fits all" approach of Multi-Purpose County Councils based on regional centres does not meet the need for effective regional collaboration across the entire state. The Water Directorate supports instead a flexible approach utilising a range of models.

The Water Directorate believes concerns raised by the ILGR Panel in recent consultation workshops regarding "non membership" and "non bindingness" that relate to binding alliances and ROCs can be easily overcome by a suitably developed "Deed of Agreement" under the *Local Government Act 1993*.

If the ILGR Panel is seeking outcomes of regional collaboration to facilitate strategic planning and provide high level technical support, the Water Directorate believes the strengthening of existing regional collaborations through suitable Deeds of Agreement will result in improved regional strategic planning and procurement.

High level advocacy and technical support is currently provided on a state-wide basis through the Water Directorate. The Water Directorate, as the peak industry body for LWUs, strongly requests representation on the proposed Local Government Development Board.

The Water Directorate cannot provide detailed comment on how water functions should be managed between a council and a Multi-Purpose County Council based on the information provided in the Future Directions Paper. The Water Directorate would welcome an opportunity to meet with the ILGR Panel to ensure that the provision of water and sewer services, an essential community public health service, is strengthened through the local government reform process.

Attachment A - Current Regulatory Environment for Local Water Utilities

Instrument	Jurisdiction	Type	Relevance	Water							Sewerage Services ¹							Recycling										
				Source protection	Dams	System Protection & operation	Levels of service	Pricing	Public Health	Environment protection	Governance	Reporting	Source protection	System Protection & operation	Levels of service	Pricing	Public Health	Environment	Governance	Reporting	Source protection	Dams	System Protection & operation	Levels of service	Pricing	Public Health	Environment	Governance
Competition and Consumer Act 2010	Commonwealth	Statute	Fitness for purpose of water, evaluate capacity for third party access within Council's operations				Y	Y					Y										Y	Y				
Environment Protection and Biodiversity Conservation Act 1999	Commonwealth	Statute	Catchment management in particular for areas of national environmental significance						Y					Y											Y			
Water Act 2007	Commonwealth	Statute	Under Part 7 of the <i>Water Act 2007</i> , the Bureau of Meteorology is required to collect, hold, manage, interpret and disseminate Australia's water information. Section 126 of the Act places an obligation on persons specified in the Regulations to give certain water information to the Bureau																									
Water Regulations 2008	Commonwealth	Regulation	The regulations define who must give specified water information to the Bureau and the time and format in which it must be supplied																									
Catchment Management Authorities Act 2003	NSW	Statute	Catchment management	Y					Y					Y											Y			
Dams Safety Act 1978	NSW	Statute	Set outs requirements for management of dams	Y																			Y					Y
Environmental Planning and Assessment Act 1979	NSW	Statute	Planning activities which require assessment						Y					Y											Y			
Fair Trading Act 1987	NSW	Statute	Includes provisions for goods (and services) to be fit for purpose. Includes plumbing inspections		Y		Y	Y					Y										Y					
Fisheries Management Act 1994	NSW	Statute	Protection of fish habitats (including threatened and protected species management)	Y					Y					Y									Y			Y		
Food Act 2003	NSW	Statute	Need to maintain water quality and suitable chain of custody use of recycled water in food production						Y																Y			
Forestry Act 1916	NSW	Statute	Management of state forests	Y																								
Local Government Act 1993	NSW	Statute	Urban water services and management/review of on-site sewage management systems; Governance including tendering, billing and system protection	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Instrument	Jurisdiction	Type	Relevance	Water							Sewerage Services ¹						Recycling													
				Source protection	Dams	System Protection & operation	Levels of service	Pricing	Public Health	Environment protection	Governance	Reporting	Source protection	System Protection & operation	Levels of service	Pricing	Public Health	Environment	Governance	Reporting	Source protection	Dams	System Protection & operation	Levels of service	Pricing	Public Health	Environment	Governance	Reporting	
Local Government Amendment (Planning and Reporting) Act 2009	NSW	Statute	Requirement to develop a community strategic plan, long term resourcing strategy that includes long-term financial planning, workforce management planning and asset management planning				Y	Y	Y	Y	Y	Y	Y				Y	Y	Y	Y	Y				Y	Y	Y	Y	Y	Y
Native Vegetation Act 2003	NSW	Statute	Native vegetation management (in the context of catchment management)	Y																										
Natural Resources Commission Act 2003	NSW	Statute	Catchment management	Y																										
Plantations and Reafforestation Act 1999	NSW	Statute	Regional forest agreements	Y																										
Plumbing and Drainage Act 2011	NSW	Statute	On-site plumbing and drainage work that connects to a water supply or sewerage system		Y								Y												Y					
Protection of the Environment Operations Act 1997	NSW	Statute	Environment protection including licensed discharges. Protocol for industry notification of pollution incidents. Preparation of pollution incident response management plans						Y	Y		Y			Y	Y		Y							Y			Y	Y	
Protection of the Environment Administration Act 1991	NSW	Statute	EPA can direct public authorities to do anything within that authorities power to contribute to environmental protection	Y					Y				Y		Y					Y				Y						
Public Health Act 2010	NSW	Statute	Protection of public health, follow any advice issued from the Chief of Health regarding water quality to the public; sample water in accordance with NSW Health recommendations						Y					Y										Y						
Roads Act 1993	NSW	Statute	Planning of roads (and how they might impact on source waters)	Y																										
Soil Conservation Act 1938	NSW	Statute	Soil management (in the context of catchment management)	Y																										
Threatened Species Conservation Act 1995	NSW	Statute	Catchment management	Y																										
Water Industry Competition Act 2006	NSW	Statute	Could allow a private company to access Council's reticulation systems			Y	Y	Y	Y		Y			Y	Y	Y	Y	Y					Y	Y	Y	Y	Y			
Water Management Act 2000	NSW	Statute	Water management, drainage, water licences, water/river management committees, strategic business planning	Y																										
Wilderness Act 1987	NSW	Statute	Catchment management	Y						Y					Y											Y				

Instrument	Jurisdiction	Type	Relevance	Water								Sewerage Services ¹								Recycling								
				Source protection	Dams	System Protection & operation	Levels of service	Pricing	Public Health	Environment protection	Governance	Reporting	Source protection	System Protection & operation	Levels of service	Pricing	Public Health	Environment	Governance	Reporting	Source protection	Dams	System Protection & operation	Levels of service	Pricing	Public Health	Environment	Governance
Work Health and Safety Act 2011	NSW	Statute	Obligations to provide a safe working environment. Also applies to end users for recycled water							Y								Y										Y
Work Health and Safety Legislation Amendment Act 2011	NSW	Statute	Obligations to provide a safe working environment. Also applies to end users for recycled water							Y								Y										Y
Local Government (General) Regulation 2005	NSW	Regulation	Governance, tendering, system protection including enforcement and approvals	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Plumbing and Drainage Regulation 2012	NSW	Regulation	On-site plumbing and drainage work that connects to a water supply or sewerage system			Y				Y	Y				Y	Y					Y			Y	Y			
Protection of the Environment Operations Regulation 1998	NSW	Regulation	Submit annual National Pollutant Inventory (NPI) returns if any of the specified reporting thresholds are exceeded (water contamination issues)	Y						Y	Y				Y	Y		Y							Y	Y		Y
Public Health Regulation 2012	NSW	Regulation	Requirement to notify the Medical Officer of Health if Council believes a situation has arisen from a water quality context which poses risk, or is likely to pose risk to public health			Y				Y					Y											Y		
Water Industry Competition (General) Regulation 2008	NSW	Regulation	Sets out the requirements to be addressed in a WICA licence. Regulatory discrepancies lead potential WICA licensees to seek local government to get approval for schemes rather than private operators (particularly with lack of certainty about arrangements of Retailer of Last Resort and Operator of Last Resort)			Y	Y	Y	Y	Y			Y	Y	Y	Y	Y						Y	Y	Y	Y	Y	
Work Health and Safety Regulation 2011	NSW	Regulation	Obligations to provide a safe working environment. Also applies to end users for recycled water							Y								Y										Y

¹ Sewerage services includes trade waste, collection treatment and effluent disposal