



16 October 2015

Office of Local Government
Level 9, 6-10 O'Connell St
SYDNEY NSW 2000

Re: Submission to Office of Local Government Review of Joint Organisations, Emerging Directions Paper

The Water Directorate welcomes the opportunity to make a submission to Office of Local Government on the Joint Organisations Emerging Directions Paper (September 2015). The Water Directorate is a membership association that comprises 97 local water utilities from around NSW. The Water Directorate's mission is to provide leadership and support to the local government water supply and sewerage industry in regional NSW.

In NSW, local government owned water utilities provide water and sewerage services delivering public health outcomes and environmental protection for regional NSW.

The Water Directorate membership supports in principle the Fit for the Future process and the Joint Organisations Emerging Directions Paper. In supporting this process, the Water Directorate believes further improvements can be made, particularly associated with the on-going provision of water and sewerage services to regional communities.

This submission has identified a number of areas where the Joint Organisations Emerging Directions Paper can be improved. Specifically the NSW Water Directorate makes the following recommendations:

1. Joint Organisations should be enabled to undertake regional water and sewerage planning where tangible benefits can be demonstrated.
2. Joint Organisations should be enabled to provide regional water and sewerage services where this is the most appropriate approach given the local conditions.
3. The on-going role of existing water corporations, water and/or sewerage county councils, water utility mandatory alliances and water utility informal alliances should be clarified in the Joint Organisation Working Framework Paper.

NSW Water Directorate would like to thank Office of Local Government for the opportunity to participate in this review, and looks forward together on Fit for the Future projects, including the Joint Organisation Working Framework.

Yours sincerely

Jeffery Sharp
Chair

1 THE WATER DIRECTORATE

The Water Directorate is a voluntary member based organisation that represents 95% of all NSW local water utilities. Its mission is to provide leadership and advice to local water utilities. Our members:

- provide 89% of reticulated water outside metropolitan NSW
- manage \$23 billion in assets
- have 3.2 times more customers than Hunter Water

The Water Directorate was initiated by local government water and sewerage practitioners in 1998. Our founding members recognised that the structure and legislative framework for water authorities in NSW was not ideal following the abolition of the Department of Public Works which had previously acted as the overall co-ordinating agency and mentor for regional NSW. 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 the state agencies.

Since our establishment the Water Directorate has provided consistent state-wide management tools at a low cost to our members. As a result we have:

- invested more than \$3.5 million on 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 local water utilities including responding to the Armstrong/Gellatly Review, and a whole series of other Government reviews undertaken by Infrastructure Australia, the National Water Commission, the Productivity Commission and Infrastructure NSW
- supported the industry with valuable information through on-line discussion groups, technical workshops and informal mentoring not provided by State Government departments

2 ACRONYMS

DPC	Department of Premier and Cabinet
DPI	Department of Primary Industries
EPA	Environment Protection Authority
KPI	Key Performance Indicators
MOU	Memorandum of Understanding
NSW	New South Wales
OLG	Office of Local Government

3 COMMENTS ON ISSUES LISTED

The Joint Organisations Emerging Directions Paper provided an outline of the Joint Organisations pilot progress to September 2015 and reflects on the key elements of the emerging model. The reflections are grouped into three areas:

- purpose, principles and functions;
- entity and powers; and
- governance and accountability.

The paper provided a brief outline of each area to be considered, followed by a table titled “Emerging Directions”. This submission provides a discussion of each of the points identified in the emerging direction tables.

Part A: Purpose, Principles and Functions

Purpose

The purpose of Joint Organisations, as stated in the NSW Government’s Joint Organisation Roadmap and confirmed through the pilot process to date, is: *To provide a consistent regional forum for local councils to work together, with the State and others, on issues of regional strategic priority.*

It is heartening to see that Minister for Local Government The Hon Paul Toole MP acknowledges that “the issues that matter to regional communities are jobs, transport, water and tourism” (p3), though it is disappointing to see that OLG has modified the Minister’s message to “the things that matter most to regional communities such as jobs, education, transport and housing” (p7). The NSW Water Directorate strongly endorses the Minister’s emphasis on water as one of the key issues that matter to regional communities, as jobs, education, transport, housing and tourism all require access to safe, reliable water supplies. The NSW Water Directorate requests that the Minister’s emphasis on water as a key issue for regional communities be reflected in the body of the document.

Principles

Emerging Direction - Principles
<p>Joint Organisations should:</p> <ul style="list-style-type: none">• have legal status;• be enabled through the Local Government Act and recognised in other relevant legislation;• not be a fourth tier of government;• not impose significant red tape or cost and ensure benefits outweigh the costs;• embed collaborative relationships between local government and NSW Government, as well as a wide range of other stakeholders and partners;• have a consistent core with flexible elements;• protect entitlements for council staff;• enable significant projects and initiatives, and associated funding and assets, to be managed regionally;

- ensure good governance; and
- serve the best interest of the region while being accountable to member councils.

The NSW Water Directorate endorses the proposal for Joint Organisations, and recommends that Joint Organisations should:

1. have legal status, to allow regional tendering of water industry projects;
2. not be a fourth tier of government, with local water utilities managed by either Council or the Joint Organisation, but not both;
3. not impose significant red tape or cost and ensuring benefits outweigh the costs, including no additional reporting by local water utilities and no additional approval requirements;
4. embed collaborative relationships between local water utilities and NSW Government agencies, such as NSW Health, DPI Water, EPA, and Dams Safety Committee, as well as a wide range of other stakeholders and partners;
5. have a consistent core with flexible elements, including the ability, but not the requirement, to establish regional water utilities as an optional Joint Organisation Formed Entity;
6. protect entitlements for local water utility staff;
7. enable significant water and sewerage projects and initiatives, and associated funding and assets, to be managed regionally where tangible benefits can be demonstrated;
8. ensure good governance, resulting in a sound process for making and implementing decisions regarding the local water utilities; and
9. serve the best interest of the region for drinking water supply, sewerage services and beneficial utilisation of reclaimed water and biosolids, while being accountable to member councils.

Core Function

Emerging Direction – Core Function

The core functions of: regional strategic planning and priority setting; intergovernmental collaboration; and regional leadership and advocacy are not only consistent with the recommendations of the Independent Local Government Review Panel, but have also been sufficiently tested through the pilot process to possess both appropriate scope and flexibility for the Joint Organisations to partner effectively with the State.

The NSW Water Directorate endorses the three core functions of Joint Organisations identified through the pilot process, and recommends the following:

- Regional strategic planning and priority setting for water supply and sewerage services, especially where there is an effective “community of interest” for water supply and sewerage issues. “Community of interest” for water supply and sewerage may be based on:
 1. Geographic proximity;
 2. Local water utilities located in the same catchment;
 3. Local water utilities accessing the same raw water source;
 4. Discharge of effluent into the raw water catchment of another local water utility; or

5. Proximity of water or sewerage infrastructure allowing for effective and efficient regional solutions.

An example of an effective “community of interest” for water supply and sewerage is the Lower Macquarie Water Utilities Alliance, which covers a wide and diverse area over several catchments, with multiple water sources and effluent discharge locations. The members of the Lower Macquarie Water Utilities Alliance have a common interest in the sustainable delivery of water supply and sewerage services to achieve and maintain gazetted Best Practice by the earliest feasible date.

- Intergovernmental collaboration, with strategic water industry policies being developed at a “whole of government” level, with commitment from relevant agencies such as NSW Health, DPI Water, EPA, and Dams Safety Committee.
- Regional leadership and advocacy for water industry issues, including regional water supply and sewerage management solutions.

Regionally Defined Functions

Emerging Direction – Regionally Defined Functions
Joint Organisations must be enabled, under legislation, to undertake a range of regionally defined functions. This would provide each Joint Organisation with options for how they undertake these regionally defined functions, either through the ‘core’ or Joint Organisation-formed entity.

The NSW Water Directorate agrees that that regionally defined functions should be:

- Determined by the constituent councils;
- Enabled, not prescribed, by the legislation; and
- Flexible.

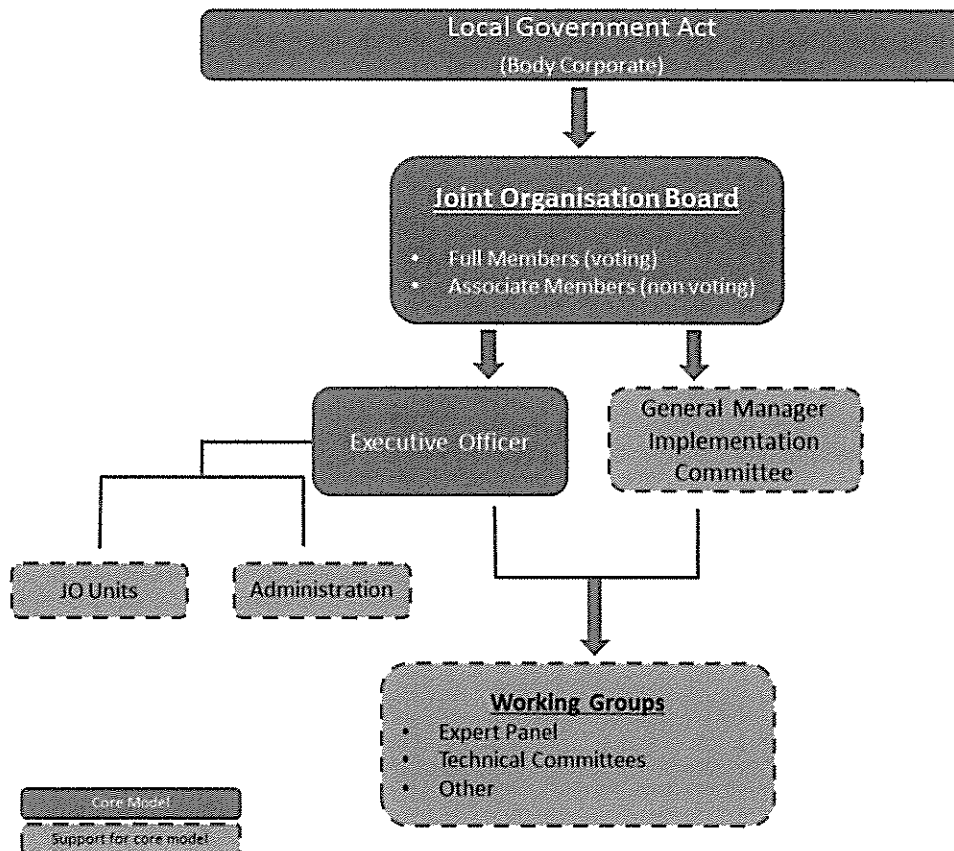
In addition, the NSW Water Directorate advocates that each Joint Organisation should be enabled, if it desires, to form a regional water utility to service some or all of the constituent councils. The establishment of regional water utilities should be enabled, not prescribed, to allow the most effective and efficient form of service delivery to be determined in each area.

The NSW Water Directorate advocates that regional water utilities, if formed, should be established as “Joint Organisation formed entities” rather than regional water and sewerage services being provided by the “core” Joint Organisation. The benefit of regional water utilities being separate entities are that they would be able to have a dedicated focus and reduce cross subsidisation.

Part B: Entity and Powers

Emerging Direction – Entity and Powers

The Joint Organisation entity should be Body Corporate in the Local Government Act (Enabling). This will enable the Joint Organisation to operate wholly under the Local Government Act and have other provisions within the Act apply to Joint Organisations.



The NSW Water Directorate concurs with the position put forward in the Joint Organisations, Emerging Directions Paper that the Joint Organisations should be Body Corporate in the Local Government Act (Enabling), allowing the Joint Organisations to operate and carry out regionally defined (optional) functions, either directly or through other arrangements.

Creating Joint Organisations as Body Corporate in the Local Government Act (Enabling) is preferred, as it:

- Is the most enabling and flexible option;
- Has defined core functions, with the flexibility to create Joint Organisation Created Entities to undertake specific functions, such as providing water and sewerage services; and
- Provides protection for water and sewerage staff under the Local Government (State) Award.

Part C: Governance and Accountability

Emerging Direction – Governance and Accountability

Composition of the Joint Organisation Board:

- One representative from each full member council
- DPC regional coordinator is an associate (non-voting) member
- Representative of member councils must be an elected representative and chosen by the council based on capability and capacity
- Appointment to the Joint Organisation Board is 2 years to align with proposed changes to mayoral terms
- The Chair of the Joint Organisation Board is to be chosen by the voting members of the Board.

Voting and decision making:

- Member councils should have equal voting rights
- The Chair should not have a casting vote
- Appropriate authority for core regional functions should be delegated to the Joint Organisation
- A majority vote on a Joint Organisation Board (75%) should be required for a decision to be made, to recognise the importance of regional-scale decision making.

Role of Joint Organisation Board members:

- The Joint Organisation member role should be modelled on the councillor role in the Act but includes a need to act in the best interest of the Joint Organisation and region as a whole
- The role of the Chair should be modelled on the role of the Mayor (less the urgent policy making function), with a requirement to act in the best interests of the region as a whole.

Planning and Reporting:

- Joint Organisations should be required to develop succinct work plans drawn from existing local and regional plans, in collaboration with the State Government and others and identify Key Performance Indicators (KPIs)
- Joint Organisations should be required to produce succinct Annual Performance Statements to show key stakeholders the extent to which they are achieving their priorities according to the KPIs identified by the Joint Organisation
- Current minimum requirements in the Local Government Act for financial reporting and accounting for councils apply to Joint Organisations.

Resourcing:

- Joint Organisation members should receive a Joint Organisation Board sitting fee
- Members fund ongoing administration and regional priorities from available sources, most likely largely based on contributions from member councils using a locally negotiated formula

- Joint Organisation staff be employed under the Local Government (State) Award
- Joint Organisations be required to employ an Executive Officer, with the equivalent capabilities and at an equivalent level to a General Manager, senior staff member in a council or a Department of Premier and Cabinet Regional Coordinator.

Composition of the Joint Organisation Board

In addition to the above recommendations regarding the composition of the Joint Organisation Board, the NSW Water Directorate advocates that:

- The DPC regional coordinator, who is not an elected representative, should be an advisor to the board rather than an associate (non-voting) member of the board
- The Chair of the Joint Organisation Board must be an elected representative of a full member council, and is to be chosen by the voting members of the Board

Voting and Decision Making

In addition to the above recommendations regarding voting and decision making, the NSW Water Directorate advocates that:

- Member councils must have equal voting rights
- The Chair should have a deliberative vote, but not a casting vote

The NSW Water Directorate encourages the terms of a Memorandum of Understanding (MOU) for a Joint Organisation, or Joint Organisation Formed Entity, to include mechanisms to cover the situation where a majority decision by the Joint Organisation is not supported by a member council. NSW Water Directorate encourages consideration be given to include agreed appeal mechanisms and sanction provisions to address issues where unanimous agreement is unable to be reached.

Role of Joint Organisation Board Members

In addition to the above recommendations regarding the role of Joint Organisation Board members, the NSW Water Directorate advocates that:

- The “Joint Organisation full member” role should be modelled on the councillor role in the Act but includes a need to act in the best interest of the Joint Organisation and region as a whole.
- The “Joint Organisation associate member” role should be determined by the Joint Organisation full members, and include a need to act in the best interest of the Joint Organisation and region as a whole.

Planning and Reporting

In addition to the above recommendations regarding planning and reporting, the NSW Water Directorate advocates that Joint Organisations should be enabled to develop regionally based NSW Best Practice Management of Water Supply and Sewerage strategy documents where tangible benefit can be demonstrated for taking a regional approach. There may be tangible benefits for developing regional water and sewerage strategic planning documents in situations where:

1. There is geographic proximity between local water utilities;
2. Local water utilities are located in the same catchment;
3. Local water utilities are accessing the same raw water source;
4. Effluent is discharged into the raw water catchment of another local water utility; or
5. Proximity of water or sewerage infrastructure allows for effective and efficient regional solutions.

Resourcing

In addition to the above recommendations regarding resourcing, the NSW Water Directorate advocates that Joint Organisation full members should receive a Joint Organisation Board sitting fee, but that Joint organisation associate members, who are remunerated by salary, should not receive a Joint Organisation Board sitting fee.

Part D: Other Considerations

Boundaries

The Local Government Act will require mandatory membership of Joint Organisations within designated areas based on clear communities of interest, within strategic regional growth planning boundaries.

The NSW Water Directorate advocates that the boundary criteria also consider:

- Catchment boundaries
- Water sources
- Existing strategic water industry assets

County Councils

In its response to the Independent Local Government Review Panel, the Government said it would consider the relationship between existing county councils and water utilities with Joint Organisations.

The NSW Water Directorate's position is that county councils (eg Mid Coast Water and Rous Water) are currently providing effective and efficient water and sewerage services to their communities, and should be allowed to continue to do so. The arrangements for effective water and sewerage service provision should be determined locally, as a "one size fits all" approach will not work across the diverse NSW urban water industry. Any changes to the relevant legislation should enable:

- 1) existing multi-purpose councils to continue to provide water and/or sewerage services
- 2) existing county councils to continue to provide water and/or sewerage services
- 3) "Joint Organisation formed entities" to provide water and/or sewerage services

In addition to county councils, the relationship between Joint Organisations and other cooperative arrangements, such as water corporations (eg Hunter Water), mandatory alliances (eg Lower Macquarie Water Utilities Alliance and CENTROC Water Utilities Alliance), and informal alliances (eg Northern Rivers Water Mangers Group) needs to be clarified in the Joint Organisation Working Framework Paper.

Joint Organisation Formed Entities

The Water Directorate keenly anticipates the detail of the Joint Organisation Formed Entities and the relationship these entities will have with the core Joint Organisation, which will be explored further in the Joint Organisation Working Framework Paper.

The Water Directorate advocates that the Joint Organisation Formed Entities be able to provide a number of functions, including water and sewerage services. As such, the legislation should be enabling to provide sufficient flexibility to provide a variety of services in a variety of setting, including regional and remote areas of NSW.

4 CONCLUSION

NSW Water Directorate would like to thank Office of Local Government for the opportunity to participate in this review, and looks forward to working cooperatively on upcoming Fit for the Future projects, including the Joint Organisation Working Framework Paper.

This submission has identified a number of areas where the Joint Organisations Emerging Directions Paper can be improved. Specifically the NSW Water Directorate makes the following recommendations:

1. Joint Organisations should be enabled to undertake regional water and sewerage planning where tangible benefits can be demonstrated.
2. Joint Organisations should be enabled to provide regional water and sewerage services where this is the most appropriate approach given the local conditions.
3. The on-going role of existing water corporations, water and/or sewerage county councils, water utility mandatory alliances and water utility informal alliances should be clarified in the Joint Organisation Working Framework Paper.

The above recommendations will improve the Joint Organisations Emerging Directions Paper, and better inform the Fit for the Future Process, including the Joint Organisation Working Framework Paper.