

LOCAL GOVERNMENT AMENDMENT (PARLIAMENTARY INQUIRY RECOMMENDATIONS) BILL 2016

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Second Reading

Reverend the Hon. FRED NILE (15:40): I move:

That this bill be now read a second time.

On behalf of the Christian Democratic Party, I speak to my Local Government Amendment (Parliamentary Inquiry Recommendations) Bill 2016, which addresses and recognises the recommendations of the inquiry into local government in New South Wales, chaired by my colleague the Hon. Paul Green, member of the Legislative Council. This is a unique bill, introduced to implement the recommendations of the committee. We normally wait for the Government to do that, but in this case we are taking the initiative.

The Hon. Duncan Gay: We are doing our own work in this area.

Reverend the Hon. FRED NILE: Yes, I am helping you. I am the right arm. The object of the bill is to give effect to some of the recommendations contained in the report of the Legislative Council General Purpose Standing Committee No. 6, entitled "Local Government in New South Wales 2015". Those recommendations relate to amalgamations and other boundary changes, joint service delivery and cooperation between councils, mayoral elections, political donations, election expenditure and the financing of councils. The reality is that these proposals come from the grass roots of local government. I will give a basic overview of the bill and then expand on each amendment. We aim to amend the Local Government Act 1993, first, to modify the functions and procedures of the Boundaries Commission; secondly, to increase the independence of the Boundaries Commission; thirdly, to extend the capacity for councils to cooperate in the exercise of their functions; fourthly, to modify the financing of councils; and, fifthly, to modify the procedure for the election of mayors.

The Election Funding Expenditures and Disclosures Act 1981 will also be amended to introduce donation and spending caps for local government elections. The first local councils in New South Wales were established in 1842 and, by 1858, there were 327 local councils in the State. Over time, many reforms have taken place in local government as well as a series of reviews of council boundaries and rounds of amalgamations. Prior to the one announced by the Premier today, the most recent amalgamations occurred in 2004 when the number of councils was reduced from 172 to the present total of 152. These councils range from six kilometres squared to 53,000 kilometres squared and serve populations between 1,200 and 300,000. There is widespread agreement that reform of the sector is needed and this consensus has been building for some years.

In September 2014 the New South Wales Government set out its plan for reform in the Fit for the Future program. Fit for the Future was developed in direct response to the report of the Independent Local Government Review Panel in which the Government stated that a Fit for the Future council is one that is sustainable, efficient, effectively manages infrastructure and services, has sufficient scale and capacity to engage effectively across community, industry and government to deliver key priorities. The Legislative Council inquiry found that the Government did not accept all the recommendations of the Independent Local Government Review Panel. Instead, it appears to have deliberately chosen to focus on the structural and boundary changes suggested by the panel. The Legislative Council General Purpose Standing Committee No. 6 inquiry into local government, chaired by the Hon. Paul Green, found the apparent failure of the New South Wales Government to build on the consultative approach that had been established during the Destination 2036 conference in Dubbo in 2011.

A key principle for successful reform is building partnerships and bringing people with you on the road to change. Many of this inquiry's participants argued that the Fit for the Future program did not do this. We are now seeing protests all over New South Wales against the Government's current merger proposals. My colleague the Hon. Paul Green stated:

Lessons from a previous era have taught us that local government is not one size fits all—every community sees itself as unique and its needs have to be addressed through this filter. History has shown when the State Government has doesn't acknowledge the unique needs of communities or listen to its local government counterparts its days in Government are numbered.

Remember what happened to other State governments. The Government's response to the local government inquiry argued that all reviews into council amalgamations "involved extensive engagement with the local government sector". The problem is that the feedback was often negative against the Government's proposals. The consultation works on one hand, the feedback is received and then it is ignored. Using the word "consultation" makes it sound like they have reached agreement, but they have not. The Hon. Paul Green further stated that finding number eight, relating to the adequacy of New South Wales Government consulting with councils and the community on local government reform, is not supported. The Fit for the Future reform program built on the consultative approach of Destination 2036, as acknowledged by the inquiry, and was developed by taking into account extensive community consultation undertaken by the Independent Local Government Review Panel and the Government.

Over a three-year period the panel held face-to-face discussions across the State with councils, community organisations, businesses, local ratepayers and residents about their councils. One of the most troubling issues with council amalgamations is that whilst the game was being played, the rules were being changed. The question has to be asked: If this was such a consultative process, why has it caused such a monumental uproar in local council disgust. That disgust was demonstrated in the Domain behind Parliament House at 1.30 p.m. today, which will be seen on television tonight.

The bill I have introduced will make changes to the Local Government Act 1993, which reflects the findings of the Legislative Council inquiry into local government, in particular, that no merger of councils can be proposed by the Minister unless there is demonstrable evidence that the councils are severely financially unsustainable and at the point of insolvency or otherwise unable to maintain an acceptable level of service provision to their respective local communities.

We know for a fact that many of the councils where this issue emerged are very efficient and effective financially and are not insolvent. Also, many ratepayers have given positive feedback on the services provided by many of these councils. In particular, I am referring to my local council, Warringah Council.

I will now speak directly to the overview of this bill. This bill seeks to amend the Local Government Act 1993. Paragraph (a) of the overview of the bill states that the Act will be amended to modify the functions and procedure of the Boundaries Commission. First, as suggested by the 2013 Independent Local Government Review Panel report, this bill seeks to allow the Boundaries Commission to initiate proposals for amalgamations or boundary changes or to constitute an area when warranted by appropriate public authorities. Such authorities include the Minister, a council or a specified minimum number of enrolled electors. Second, the bill changes the Boundaries Commission procedure in examining and reporting on amalgamation and boundary change proposals. These changes were prompted by feedback about the Government's current merger proposals.

The bill retains the current provisions for public inquiries, but removes the Minister's power to decide whether an inquiry is warranted. It also requires the commission to conduct a survey or poll of all residents and ratepayers in the areas affected, unless it is a voluntary merger and councils have undertaken adequate community consultation. That is a very important aspect of this bill as it will ensure the interests of residents and ratepayers are heard.

Third, this bill proposes the Government adopt a policy of no forced amalgamations of councils, unless the council is shown to be severely financially unsustainable or unable to provide services, whilst noting that councils should only be considered to be severely financially unsustainable if they are bankrupt or on the imminent verge of bankruptcy. Fourth, the bill requires a period of transition between any decision to amalgamate council areas and the creation of the new merged council. This allows for sufficient time to ensure effective planning, consultation and implementation and ongoing service delivery to local communities. This is also a very important factor in the current debate in this State over the Governments merger proposals.

The bill takes into consideration the needs of local communities to ensure that council processes remain largely uninterrupted and also allows for consideration to be given to staff. This will help to ensure that there is adequate support and assistance if their positions are lost in an amalgamation. That is a sore

point for employees of local councils and the union that represents them. There was a demonstration outside the Parliament today by the unions on this very issue. I gave an assurance that this bill would give a five-year guarantee of employment for all local government employees during the merger process. I believe staff should have certainty of employment during the process.

Fifth, the bill requires the commission to undertake regular reviews of local government boundaries across the State by conducting inquiries. Sixth, it empowers the commission to initiate proposals for boundary changes when the opinion that change is required arises. Seventh, it changes the process for the Boundary Commission's examination and reporting. Eighth, it extends the list of factors to which the commission must have regard in exercising its functions.

Paragraph (b) of the overview of the bill states that the Act will be amended increase the independence of the Boundaries Commission, which is important because there is suspicion about whether the commission simply rubberstamps the Government's plans. The commission must be independent and be seen to be independent and that is why this bill covers the membership of the commission. This will give the Boundaries Commission opportunity to provide an independent and consultative approach to considering amalgamation proposals, which is vital. This will be achieved by changing the membership of the Boundaries Commission, so that it consists of three commissioners appointed by the Governor, one of whom is nominated by the Minister to be the independent chairperson of the commission, with the other two being nominated jointly by the Minister and the President of Local Government NSW. This would give local government a say in the process, which is very important.

Independence will also be achieved by making serving public officials, current or former members of a council, county council or joint operational organisation, or current or former members of the Legislative Assembly or of the Legislative Council ineligible for membership of the commission, which is important. The Minister will be required to ensure that the commission is assisted in the performance of its functions by a secretariat consisting of the number of staff determined by the Minister, having regard to the recommendations of the Boundaries Commission and Local Government NSW.

Paragraph (c) of the overview of the bill states that the Act will be amended to extend the capacity for councils to cooperate in the exercise of their functions. This will be achieved by providing for councils to cooperate in the exercise of their functions through joint operational organisations, which will replace county councils. This is a positive recommendation and one that has been widely discussed prior to the merger proposals of the Government. In a cooperative model of local governance proposed by the New South Wales Government in its Fit for the Future agenda was the establishment of joint organisations. This cooperative model is currently being piloted in five locations throughout New South Wales.

In July 2015 the Office of Local Government conducted a mid-pilot workshop involving councils from the five pilot joint organisation regions to discuss the "successes, challenges and learnings from the piloting of Joint Organisations thus far". Participants at the workshop noted several achievements of the pilot program thus far. But they also recognised various challenges that had arisen. One of the positive values of the joint organisation is that the participating councils can work out what equipment is needed and what equipment can be shared. For example, they can share earthmoving equipment, machinery for repairing roads and so on, which would reduce some of the capital costs for the participating councils.

During the inquiry promising signs were shown by the joint organisation pilot program. Despite the Independent Local Government Review Panel recommendation that joint organisations should not be rolled out across this State until council amalgamations had taken place, we believe the reverse: that establishing joint organisations statewide should have been the first step in reforming local government, before considering whether to proceed to costly and disruptive amalgamations.

The bill also provides for councils to cooperate in collaboration, planning and service delivery through regional joint authorities, which may have service delivery functions. The joint regional authorities model is very similar in structure and function to that of the New South Wales Government's regional joint organisation pilot program. It is a pity that the Government seems to have lost faith in that process. We note that the establishment of the joint organisations reflects the strong demand from metropolitan councils to engage in joint entities in the absence of the New South Wales Government's joint organisation pilot program in the metropolitan region. This model achieve the desired outcomes of strategic capacity and regional planning without losing local identity and without incurring the very large costs that accompany amalgamations.

Paragraph (d) of the overview of the bill, which relates to amendments to modify the financing of councils, states that, first, the bill will ensure that water utilities currently operated by local councils remain under the exclusive control of that council unless the council unanimously resolves otherwise following community consultation. Water utilities play an important role in ensuring the financial sustainability of many

local councils, particularly those in regional areas. It is an important factor for those members representing country electorates and members of the The Nationals. Water utilities are a core piece of the puzzle with regard to council finances and play an important part in securing the services that council provides to their communities.

Secondly, it will ensure consistency in the treatment of assets in the financial reports of council. Cost shifting by State and Federal governments is an issue that has a significant impact on the financial sustainability of local councils where the responsibility for, and costs of, providing services, assets, concessions or other regulatory functions are imposed on local government by the New South Wales Government. The Government should provide adequate funding to cover those costs. Where there is cost shifting, the costs should be evaluated and the State Government should meet those costs. That burden should not be placed on local government.

Thirdly, it will create an exemption from rate pegging and allow councils to determine their own rates conditional on the delivery of a local work plan outlining the expenditure associated with any proposed rate increases and demonstrated community support. Since 2011-2012 the Independent Pricing and Regulatory Tribunal [IPART] has determined the rate peg to apply each financial year. The Independent Pricing and Regulatory Tribunal's determination is based on the local government cost index, which measures price change over the previous year for goods, materials and labour used by an average council. The community should be able to decide the level of services provided by their local council and the rates they are willing to pay for such services. Rates should be set by local councils in consultation with their community rather than by the New South Wales Government. Paragraph (e) of the overview of the bill states:

(e) to modify the procedure for the election of mayors:

(i) by requiring a constitutional referendum to be held about whether the mayor of a council should be elected by the electors (for those councils where the mayor is currently elected by councillors), and

(ii) by extending the term of office of mayors who are elected by councillors from 1 year to 2 years.

This provides continuity in the policy decisions of the council. It was identified in evidence during the inquiry into local government in New South Wales that one year is too short for council-elected mayors to be in office. Longer terms for elected mayors will mean improved civility and stakeholder relationships within local councils, thereby improving the delivery of services to the community. This bill also seeks to amend the Election Funding (Expenditure and Disclosures) Act 1981 to introduce donation and spending caps for local government elections. I note today that the Government has also issued a media release regarding those matters.

The bill takes note of the recommendations of the general purpose standing committee and seeks to incorporate those, as well as the findings of that committee, into the bill. I present this bill to the House and urge members to give it serious consideration. Although we are in the midst of Government policy changes, I believe Parliament can consider this bill, and I urge the House to adopt it. There are practical advantages in the bill which in the long term will help the Government do a better job governing the State.

Debate adjourned.