Local Government Association of NSW

Shires Association of NSW

SUBMISSION TO THE NSW LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON NATURAL RESOURCE MANAGEMENT INQUIRY INTO SUSTAINABLE WATER MANAGEMENT	
DATE	*April 2010*

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1. Introduction

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government.

Together, the Local Government Association and the Shires Association represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community and the media.

The Associations thank the NSW Legislative Assembly Standing Committee on Natural Resource Management for the opportunity to make a submission to its Inquiry into Sustainable Water Management.

The first part of the submission focuses on recent Australian Government policy initiatives in the Murray-Darling Basin aimed at addressing current over-allocation of water and potential future decreases in water availability in the basin; i.e. the development of a basin plan by the Murray-Darling Basin Authority and the purchase of water entitlements under the *Restoring the Balance in the Murray-Darling Basin Program*.

Both initiatives are expected to result in substantial reductions in water availability for consumptive use. This is likely to have significant socio-economic impacts on affected communities (e.g. reduction in irrigated agriculture and flow-on effects).

Less water for consumptive use also has the potential to directly impact on council's town water supplies. To ensure communities, particularly communities in regional and rural areas, can maintain quality living standards, social well being and economic development opportunities, the Associations urge the NSW Parliament and the NSW Government to ensure that town water supplies for urban use are excluded from the sustainable diversion limits under the Murray-Darling Basin Plan and guaranteed under the provisions of the *Water Act (Cwth) 2007* that secure critical human needs. This guarantee needs to include water requirements for actual and anticipated growth experienced and planned for in communities (population and industrial development).

The second part of the submission showcases a number of examples of Local Government achieving best practice in water management and conservation and in the provision of water supply and sewerage services.

Local Government plays an important role in water management and in the provision of water services to the community. Councils use water for their business activities and community services and continuously aim to improve the efficient use of this scarce resource. In regional NSW, councils also provide water supply and sewerage services. There are currently 107 local water utilities providing water supply and sewerage services to communities in regional NSW, including 97 council-owned and operated local water utilities, four water supply county councils, and one water supply and sewerage county council. Local water utilities service over 1.8 million people – approximately 30% of the state. This is a significant responsibility including ensuring supply security through infrastructure provision, demand management and integrated water cycle management. The Associations call on the NSW Parliament and the NSW Government to continue to work with and support councils in their pursuit of best practice water management and conservation.

The third part of this submission brings to the committee's attention the current NSW Government inquiry into the institutional and regulatory framework for local water utilities in regional NSW. The Associations have contributed significantly to this inquiry and provided comprehensive submissions outlining that Local Government is best placed to deliver water supply and sewerage service in regional NSW.

2. Submissions to the Murray-Darling Basin Authority and to the Restoring the Balance in the Murray-Darling Basin Program

While recognising the need for and supporting the implementation of sustainable levels of water diversion to protect the environmental health, resilience, and productive base of the Murray-Darling Basin's river system, the Associations are concerned about the negative impacts recent Australian Government policy initiative, such as the development of a basin plan by the Murray-Darling Basin Authority and the purchase of water entitlements under the *Restoring the Balance in the Murray-Darling Basin Program,* might have on regional communities.

The Associations urge the NSW Parliament to ensure socio-economic impacts on regional communities as well as the security of town water supplies are taken into account and addressed and structural adjustment assistance is provided when governments implement these initiatives. To illustrate the Associations' concerns, their submissions to the Murray-Darling Basin Authority and to the *Restoring the Balance in the Murray-Darling Basin Program* are provided below.

Submission on the Murray-Darling Basin Authority's Issues Paper entitled Development of Sustainable Diversion Limits for the Murray-Darling Basin (December 2009)

Introduction

The Local Government Association of NSW and Shires Association of NSW (the "Associations") thank the Murray-Darling Basin Authority (MDBA) for the opportunity to make a submission on its issues paper entitled *Development of Sustainable Diversion Limits for the Murray-Darling Basin.*

The Associations are the peak bodies for NSW Local Government. Together, the Associations represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to the NSW Government and the Australian Government; provide industrial relations and specialist services to councils and promote Local Government to the community and the media.

The Associations believe that, when making decisions on sharing water between the environment and consumptive use, social, economic and environmental considerations should be placed on an equal footing.

The Associations recognise that the *Water Act (Cwth) 2007* establishes a process for the integrated management of the Murray-Darling Basin and the setting of sustainable water diversion limits by the MDBA. At this stage, the Associations will confine their comments to improvements that can be made within the established process.

The Associations continue to call for adequate consideration of socio-economic impacts of diversion limits on regional communities. Sustainable diversion limits are expected to result in substantial reductions in water availability for consumptive use. This is likely to have significant socio-economic impacts on affected communities and regional economies (e.g. reduction in irrigated agriculture and flow-on effects). Less water for consumptive use also has the potential to directly affect council's town water supplies and, as a result, impact on population and economic growth.

Addressing socio-economic impacts

The Associations note and welcome that socio-economic impacts associated with the setting of sustainable diversion limits are to play a more substantive part in the development of the Basin Plan under the *Water Act (Cwth) 2007*. In the Associations' understanding of the issues paper, socio-economic issues are to be considered as follows:

- *Socio-economic analysis*
  Comprehensive social and economic analysis is to be undertaken across the basin and for those irrigation areas of the basin which account for the largest proportions of current water diversions and might potentially be significantly affected by any changes in future water availability. The aim would be to determine the potential implications for a range of possible changes in water availability.

- *Socio-economic optimisation of sustainable diversion limit options*
  Results of the social and economic analysis are to be used to optimise how, when and where the environmental water required to satisfy sustainable diversion limits can be delivered at least social and economic cost. This optimisation process appears to mainly look at alternative options for "sourcing" the water required for the environment, including sourcing the water from different catchments. For example, if environmental water for one catchment were sourced from a different catchment, the sustainable diversion limit of the former would increase and more water would be available for consumptive use. The issues paper indicates that there would be scope to review sustainable diversion limit options and re-run the hydrological modelling to facilitate adjustments for better social and economic outcomes.

- *Reporting on socio-economic implications*
  Once sustainable diversion limits have been determined for inclusion in the proposed Basin Plan, an analysis of the social and economic implications is to be provided to the Murray-Darling Basin Ministerial Councils. The council includes basin state governments.

- *Transition period*
  A 5-year transition period can be included in new state water sharing plans accredited under the Basin Plan where the sustainable diversion limit for a water resource is lower than the long term average quantity of water that had been taken from the resource for consumptive use. Temporary diversion provision are added to the sustainable diversion limits and reduced to zero within 5 years of the commencement of the new water sharing plan (in NSW in 2014).

However, the Associations believe that the suggested approach to addressing socio-economic impacts needs to be further strengthened as follows:

Socio-economic optimisation of sustainable diversion limit options
Results of socio-economic analysis should not only be used for optimising where environmental water is delivered from but also allow for a re-evaluation of what has been determined as key environmental asset and ecosystem function and associated environmental water requirement. In order to maximise social, economic and environmental benefits to communities, this re-evaluation must take into account community preferences about the trade-off between water for the environment and water for consumptive use, particularly where the determination of key environmental assets goes beyond setting minimum environmental water requirement necessary to maintain basic ecosystem functions.

In relation to optimising delivery options, the Associations seek clarification on the process and set of criteria for determining which sustainable diversion limit option would result in the "least social and economic cost". This determination is a critical process as it inevitably requires a judgement about which regional economy/agricultural area is comparatively more or less valuable. In its issues paper, the MDBA indicates that criteria such as the gross value of irrigated agricultural production would play an important role. However, the issue paper does not indicate which social criteria would be relevant and whether communities would be consulted in the process. To ensure outcomes of this process are well understood and accepted by basin communities, a comprehensive set of social and economic criteria needs to be develop and applied and appropriate consultation with communities and other affected stakeholders be undertaken.

Finally, socio-economic analysis should not only look at direct impacts but also analyse and present

transition options for communities in the event of reductions of water for consumptive use.

Reporting on socio-economic impacts and structural adjustment
To ensure the Australian Government and basin state governments are fully and regularly informed about social and economic implications, reporting on these implications to the Murray-Darling Basin Ministerial Council should be on a regular basis in conjunction with the rolling update of the Basin Plan and its sustainable diversion limits. Regular and comprehensive reporting on these implications and potential transition options should prompt and enable governments to implement structural adjustment assistance where required and appropriate. Furthermore, to enable communities to deal with these implications and adapt to necessary changes, reports should be made publicly available.

In addition, the Associations urge the Australian Government to establish an interdepartmental and whole-of-government approach to assessing the need for and implementing structural adjustment assistance based on the analysis of the social and economic implications undertaken under the Basin Plan. Coordination among relevant government agencies and ministerial offices will be crucial in providing assistance in the most effective, efficient and equitable way.

Town water security and critical human needs
In their role, the Associations represent council-owned and operated local water utilities which provide water supply and sewerage services to communities in regional NSW. These local water utilities service over 1.8 million people – approximately 30% of NSW. Town water use, including water use by manufacturing and other industries that is supplied by local water utilities, make up only a small proportion (about 4%) of total water use in the basin.

Councils are concerned about how the Basin Plan and its sustainable diversion limits will affect their town water allocation and their ability to plan for and support population and economic growth. The Associations stress the importance of giving priority to town water supplies, particularly critical human needs, and taking into account actual and anticipated growth patterns (population and industrial development) experienced and planned for in communities. Considering the small proportion of town water use in relation to total water use in the basin, priority to town water supplies can be given in the Basin Plan without affecting essential environmental flows.

Integration with existing policies and plans on land management
The Associations understand the legislative restrictions on the MDBA under *the Water Act (Cwth) 2007* to address land management, however believe that it is crucial that the proposed Basin Plan is not isolated from existing policies and plans on land management. A broad range of polices and plans already exist at a state, regional and local scale, across a broad range of water management, land management, land use planning and economic development issues.

It is unrealistic to expect the Basin Plan to solve all of the issues in the basin in isolation. An increase in environmental water will not repair environmental degradation without appropriate and integrated improvements in land management activities, and long term protection through strategic land use planning.

While the Murray Darling Basin Agreement specifically restricts the scope of the Basin Plan to water management, the MDBA must ensure that appropriate 'hooks' and/or directions are included within it to encourage other activities to align with the objectives of the Basin Plan.

Conclusion & Recommendations
The Associations welcome the recognition by the MDBA of the importance of socio-economic considerations. However, the Associations believe that the process of considering socio-economic impacts needs to be strengthened further to ensure decisions on sustainable diversion limits, where possible, take into account community preferences on the trade-offs between environmental water and water for other uses. Most importantly, to ensure communities, particularly communities in regional and rural areas, can maintain adequate living standards, social well being and economic development opportunities, it is crucial that essential water supplies for urban use (Local Government town water

supplies) are guaranteed.

Furthermore, socio-economic analysis should also include options for communities to make the transition to a future with less water and inform structural assistance where required. The Association urge the MDBA to strengthen the mechanism for reporting on socio-economic impacts and identifying and implementing structural adjustment assistance.

Finally, to ensure optimal environmental outcomes, the Associations call on the MDBA to ensure the Basin Plan is adequately coordinated and integrated with the land management process.

The Associations hope their submission is of assistance and look forward to continuing to work with the MDBA on the development of the Basin Plan.

Submission to the Stakeholder Consultative Committee on the Australian Government's *Restoring the Murray-Darling Basin Program (August 2008)*

I. Introduction

The Local Government and Shires Associations of NSW (LGSA) welcome the opportunity to provide comments to the Stakeholder Consultative Committee on the Australian Government's *Restoring the Murray-Darling Basin Program*.

The LGSA are the peak bodies of Local Government in NSW representing the interests of all 152 general purpose councils, as well as about 13 special purpose councils. Thirteen regional Aboriginal Land Councils are also eligible to be members of the LGSA.

In this role, the LGSA represent local water utilities in NSW which provide water supply and sewerage services to communities in regional NSW, including 97 council-owned and operated local water utilities, four water supply county councils, and one water supply and sewerage county council. Local water utilities service over 1.8 million people – approximately 30% of NSW.

The LGSA are concerned about the impacts of the Australian Government's *Water for the Future Plan* on local communities, particularly the impact of water buybacks on regional and local economies.

The LGSA believe there is a need to establish a regular consultative mechanism between the Australian Government and peak local government bodies, such as the LGSA, not only on the *Restoring the Murray-Darling Basin Program* but also on a number of other programs under the *Water for the Future Plan*.

II. Background and questions for comment

In April 2008, the Minister for Climate Change and Water, Senator the Hon Penny Wong announced the Australian Government's *Water for the Future Plan*.

The plan includes the *Restoring the Murray-Darling Basin Program* (at least $3.0 billion over the next ten years). Under the program the Australian Government is to purchase water entitlements and return the water associated with the purchased entitlements to the environment in order to achieve sustainable water diversion levels.

Other programs under the *Water for the Future Plan* are:

- *National Greywater and Rainwater Initiative* ($250 million) to provide direct incentives for household rainwater and greywater use;
- *Sustainable Rural Water Use and Infrastructure Program* ($5.8 billion) to improve productivity and efficiency of irrigation infrastructure;
- *Improving Water Information Program* ($450 million) to measure water availability and usage and produce national water accounts, supported by national water monitoring and data collecting

network (Bureau of Meteorology);

- *Urban Water and Desalination Program* ($1.0 billion) to fund new and innovative water supply projects in desalination, recycled water and stormwater harvesting in areas with a population of 50,000 or more and to establish centres of excellence in water recycling in Brisbane, and in desalination technology in Perth; and
- *National Water Security Plan for Towns and Cities* ($250 million) to fund infrastructure renewals, enhancements and practical projects to save water and reduce water losses in areas with a population of less than 50,000.

The Stakeholder Consultative Committee on the *Restoring the Murray-Darling Basin Program* has invited comments on the following questions:

1. What general stakeholder group do you belong to and/or represent on the Committee?
2. How aware are they of the program and its objectives?
3. What opinion does your broader stakeholder group have of the water entitlement purchase program?
4. What is their major concern?
5. What aspect/s of the program do they support?
6. What do you think are the main strengths of the program?
7. What do you think are the main weaknesses of the program?
8. What type of communication products or use of media do you think is required to meet the needs of your stakeholder group?
9. Did the presentations at the recent Committee meeting in Canberra help you better understand the program?
10. What do you think about:
    a. The criteria used to ensure the water was obtained for a high value asset?
    b. The Departments approach to paying market prices?
    c. The adequacy of communication products?
    d. The transparency of program reporting on the website?
11. What are the main concerns that you would like addressed in this review?
12. How would you suggest the program could be improved?

III. LGSA comments on the *Restoring the Murray-Darling Basin Program*

The LGSA recognise the need for and support the implementation of sustainable levels of water diversion to protect the health, resilience, and productive base of the river system in the Murray-Darling Basin.

However, the LGSA are concerned about potential socio-economic impacts of water buybacks on regional and rural communities.

Many areas in regional and rural NSW are largely dependent on agricultural industry with significant long-term investment and little opportunity for diversification. The purchase of water entitlements from irrigators and other water dependent industries could ultimately result in these industries leaving rural and regional areas. This could lead to adverse impacts on local employment, economic development, and the viability and cohesion of local communities that are already struggling under current drought conditions.

The LGSA believe it is critical that these impacts are identified and appropriately managed and that structural adjustment programs are in place where required.

The LGSA will continue to monitor impacts of the program in consultation with their members.

The LGSA also believe that, to ensure optimal environmental, social, and economic outcomes, it is important to appropriately coordinate water buy-backs under the program with water buy-back programs of the NSW Government (e.g. the Living Murray Program, the Water for Rivers Program,

and the Department of Environment and Climate Change's Riverbank Program).[1]

IV. General comments on consultation
To ensure Local Government's concerns are addressed, councils in NSW, and the LGSA as their peak representative body, need to be involved in comprehensive consultation to assess socio-economic impacts on regional and rural communities and identify required support for structural adjustment.

The process of consultation with the LGSA so far has been fragmented and unsatisfactory.

The LGSA request the establishment of a regular consultative mechanism on the *Water for the Future Plan*, particularly on the *Restoring the Murray-Darling Basin Program* as well as on other relevant programs such as the *Sustainable Rural Water Use and Infrastructure Program*[2] and the *National Water Security Plan for Towns and Cities*[3].

The *Water for the Future Plan* presents a significant opportunity for all levels of government to work together to secure long term sustainable water supply for Australian communities. The LGSA look forward to working with the Australian Government on this important plan.

3. Local Government Water Management and Conservation Activities

The following section showcases a number of examples of how Local Government contributes to best practice in water management and conservation:

LGSA Water Management Conference
The Associations organise and hold an annual water management conference providing a forum for discussion on urban water supply and sewerage as well as broader water management issues. The event attracts up to 250 delegates from NSW and interstate, including councillors and council general managers, water managers and professionals, policy makers from government agencies, and key industry stakeholders. This conference enables councillors and council professionals to be up to speed with and apply latest developments in water management and conservation.

Water Loss Management Program
The Water Loss Management Program is a joint initiative of the Associations and the Water Directorate NSW in partnership with the Australian Government. The program supports councils' local water utilities in their efforts to reduce leakage from their drinking water distribution systems by providing specialist knowledge, equipment and financial assistance to help councils identify, develop and implement water saving projects.

The program, which commenced in the financial year 2006/07, is funded by the Australian Government's Water Smart Australia program to the amount of $7.38 million providing funding to councils of up to 33% of the costs of projects directly related to water loss reduction. The remaining project funding is made up by councils. The Australian Government also provides funding for the program management (including staff cost) with some contributions in kind by the Associations and the Water Directorate. The program is managed by a team based within the Associations.

Currently, more than 70 councils participate in the program with expected total water savings of more than7 GL per annum.

Orange City Council – Blackmans Swamp Stromwater Harvesting Scheme

[1] The NSW Government budget for 2008/09 allocated $137 million to buyback water entitlements.
[2] The *Sustainable Rural Water Use and Infrastructure Program* ($5.8 billion) aims to improve productivity and efficiency of irrigation infrastructure through funding of major infrastructure projects.
[3] The *National Water Security Plan for Towns and Cities* ($250 million) aims to fund infrastructure renewals, enhancements and practical projects to save water and reduce water losses in areas with a population of less than 50,000.

Orange City Council's Blackmans Swamp Stormwater Harvesting Scheme represents the first large scale, indirect-to-potable stormwater harvesting project in NSW, if not Australia. The scheme is capable of providing between 1300-2100ML of additional water into the Orange's raw water supply each year from the city's stormwater system, meeting up to 40 per cent of the city's total water needs.

The scheme is as a new and innovative approach to augmenting water supply through capturing urban stormwater flows. It is the largest potable stormwater reuse system in Australia and has won several industry awards. The scheme is also a remarkably successful exercise in public communication and education, with the community willingly accepting reused stormwater for their drinking supply.

CENTROC Water Study
Responding to a decade of drought and calls from communities across Central NSW, the Central NSW Councils Regional Organisation of Councils (CENTROC) undertook a comprehensive water security study aiming to provide a strategy for the sustainable assurance of water security across the region of 16 member councils over the next 50 years.

The Study addresses:
- The likely impact of climate change of the availability of water resources under different climatic scenarios;
- Approaches to the management of water resources by all water users in the region, including the irrigation and mining sector, and the provision for environmental flows; and
- Best practice in water conservation and management and the role of water savings and demand management.

Among other things, the study provides advice on infrastructure augmentation in Central NSW to improve water security for the communities served by member councils. It recommends large scale infrastructure solutions, including a core regional supply and distribution network to provide for the supplementary water requirements and a number of pipeline connections. The study also makes recommendations with regards to demand management and best practice management for water utilities. CENTROC is now in the process of considering options for co-operative programming across its members to implement the recommendations of the study.

Coffs Harbour City Council and Clarence Valley Council Regional Water Strategy
To improve supply security to meet the future needs of the area and to achieve improvements in water quality and environmental flow protection, Coffs Harbour City Council and Clarence Valley Council developed and adopted in July 1997 their Regional Water Supply Strategy which includes build and non-build components.

The build approach involves 87 kilometres of pipelines connecting reservoirs with Coffs Harbour's Karangi Dam and the new Shannon Creek Dam. Shannon Creek Dam will secure bulk raw water supply until at least 2030. Current storage is around 65% capacity, holding around 19,000 ML, which is already three times the storage available in Karangi Dam.

The non-build strategy focuses on water efficiency initiatives and also introduced a cap on water extraction from the Nymboida and Orara River resulting in much improved environmental flows. The efficiency program has won numerous awards and is an ongoing implementation of the Regional Water Efficiency Strategic Plan (WESP). The WESP has involved extensive communication with the community and reduces the need for a much larger storage. The program includes the introduction new water efficiency initiatives such as the *WaterWise Schools* program for local school education and endorses existing strategies such as water restriction policies, drought management, rebates for water saving devices, integrated water cycle management, reclaimed water and stormwater reuse.

4. Submission to the Inquiry into Local Water Utilities

In 2007, the NSW Government commenced an inquiry into the provision of water supply and sewerage services by council owned and operated local water utilities in regional NSW. The purpose of the inquiry is to identify the most effective institutional, regulatory and governance arrangements

for the long term provision of water supply and sewerage services, and to ensure these arrangements are cost-effective, financially viable, sustainable, optimise whole-of-community outcomes, and achieve integrated water cycle management.

The inquiry was undertaken by an independent panel, comprising the former NSW Deputy Premier, The Hon Ian Armstrong OBE, and the former head of the NSW Premier's Department, Dr Colin Gellatly. The panel reviewed more that 140 submissions, including a submission form the Associations, and conducted public hearings throughout NSW during which it heard presentations from more than 115 stakeholders.

On 14 January 2009, the Minister for Water, the Hon Phillip Costa MP, released the Independent Panel's final report. In summary, the recommendations of the inquiry include:

- Formation of 32 regional groupings out of the current 107 local water utilities, including some bigger utilities that remain as they are (stand-alone utilities).
- Two structural models for the governance of groupings that do not remain as stand-alone utilities: (1) a binding alliance model comparable to a strategic alliance of councils but with mandatory membership and (2) a corporation owned by member councils.
- Function of groupings is mainly strategic business planning (incl. asset management) and regional water planning; a takeover of operational functions or infrastructure was not recommended.
- Mandatory regulation (based on current best practice guidelines) including mandatory pricing regulation (charges based on proper business plan, oversight by independent body).
- Mandatory risk management according to Australian Drinking Water Guidelines.

In April 2009, the Associations made a submission on the recommendations of the inquiry's final report. The submission's main points include:

- The Associations support a binding alliance model as a good model to facilitate regional co-operation and resource sharing, improve local water utilities' capacity to satisfy best practice (ever-increasing technical, environmental and water quality standards), and coordinate member councils' strategic business planning.
- "Binding" means binding in terms of membership; i.e. councils enter voluntarily but once you are in you are in. The Associations object to forcing councils to enter into alliances or any other structures.
- The alliance has a coordination role; i.e. member councils continue to undertake their own strategic business planning and determine levels of service and service charges.
- The alliance does not have the power to compel councils to implement its strategic directions; nor any authority to impose cross-subsidisation or postage stamp pricing (however, this could occur by mutual agreement).
- The Associations support the strengthening of the regulatory framework and making best practice mandatory. However, the Associations' support is conditional upon the NSW Government agreeing to the alliance model proposed by Local Government.
- In terms of pricing, the Associations suggest a process of external audit of price determination by council auditors instead of IPART or departmental intervention.
- The Associations generally support the regional groupings (including stand alone utilities) recommended by the inquiry but are not fixed on the number (32). Councils should have the option to join different groups if that better suits their economic, social and hydrological circumstances.

The Associations strongly believe that to ensure an integrated and locally appropriate approach to water supply and sewerage management and achieve optimal whole-of-community outcomes for local communities, it is crucial that institutional and regulatory arrangements maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure.

To illustrate the Associations' position on how Local Government can best provide water supply and sewerage services in regional NSW, their submissions to the inquiry are provided below.

First Submission to the NSW Government Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-metropolitan NSW (May 2008)

I. Introduction

The Local Government Association of NSW and Shires Association of NSW (LGSA) welcome the opportunity to make a submission to the Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-metropolitan NSW (the "Inquiry").

The LGSA is the peak body of Local Government in NSW representing the interests of all 152 general purpose councils, 13 regional Aboriginal land councils and the majority of special purpose county councils in the state. There are currently 107 local water utilities in NSW providing water supply and sewerage services to communities in regional NSW, including 97 council-owned and operated local water utilities, four water supply county councils, and one water supply and sewerage county council. Local water utilities service over 1.8 million people – approximately 30% of the state.

The provision of water supply and sewerage services is a significant responsibility of councils in regional NSW often making up a quarter or more of their annual budget and employing a significant number of their professional workforce. Water supply and sewerage services are also an important element of communities' understanding of and involvement in Local Government as a "one stop shop" to access essential services and deal with local issues. Local water utilities also have flow on effects on local and regional economies and employment. Removing water supply and sewerage functions from councils would have significant negative impacts on the financial sustainability of councils as well as on local economies and local employment.

Regional NSW is characterised by a variety of geographic, demographic, climate related and socio-economic circumstances with regions ranging from large, dry, remote and sparsely populated areas in western NSW, regional centres and large agricultural areas, to relatively wet, fast growing coastal areas. Given this diversity and the resulting differences in water resource and demand profiles, it is important to recognise that a "one size fits all" approach to providing water supply and sewerage services will not be appropriate. Local circumstances and community preferences will be important factors in determining the best solution for different areas. Local Government, being the level of government that is closest to communities and understands local priorities, is best placed to find and should therefore have the autonomy to establish solutions that suit local/regional circumstances.

Strengthening arrangements for local decision making, local accountability, and local service provision will help enable water utilities to engage the community, utilise local knowledge, and so enhance service effectiveness and respond to challenges such as uncertain (reduced) water availability due to climate change and drought, demographic changes, and skills shortages in a sustainable manner and responsive to community needs and local conditions.

The LGSA does not promote any particular model for institutional, governance and regulatory arrangements. However, as a general principle, the LGSA supports arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure. Maintaining Local Government responsibility and ownership will ensure locally appropriate water supply and sewerage provision in the context of sustainable whole-of-community outcomes.

To encourage input and inform the Inquiry, the LGSA, together with the Water Directorate NSW, have provided the attached options paper entitled *Options paper on the Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-metropolitan NSW* (the "Options Paper"). The Options Paper was prepared by the Institute for Sustainable Futures, Sydney and contains a comprehensive analysis of a range of potential institutional/governance models for the provision of water supply and sewerage services in regional NSW. The Options Paper forms part of this submission and the models analysed in the paper are repeatedly referred to throughout this submission.

Finally, the LGSA would like to commend the Minister for Water, the Hon Nathan Rees MP and the Inquiry Panel, the Hon Ian Armstrong OBE and Dr Colin Gellatly, for conducting the Inquiry in an open and transparent manner and providing Local Government with ample opportunity to respond.

II. Summary of Inquiry objectives

Pursuant to its terms of reference the objective of the Inquiry is to identify the most effective institutional, regulatory and governance arrangements for the long term provision of water supply and sewerage services in country NSW; and ensure these arrangements are cost-effective, financially viable, sustainable, optimise whole-of-community outcomes, and achieve integrated water cycle management.

The terms of reference further clarify that water supply and sewerage service providers are expected to be able to:

- Respond and plan in advance to the challenges facing the industry;
- Be financially self sufficient;
- Be able to comply with appropriate stringent environmental and public health standards; and
- Implement cost-effective service standards.

During regional meetings the Minister for Water, the Hon Nathan Rees MP also announced that any model must satisfy the following six criteria:

- Maintain and enhance existing revenue streams;
- Maintain and enhance existing capital works programs;
- Maintain and enhance local employment in the industry;
- Establish programs to develop professional and technical capacity of the industry (scholarships, apprenticeships etc);
- Establish appropriate pricing mechanisms; and
- Have in place best practice governance arrangements.

Further, among other things, the inquiry is to consider the impact of any new arrangements on the financial sustainability of councils as well as the socio-economic circumstances of the communities affected.

III. General comments on the Inquiry objectives

As outlined in the Options Paper, a number of conceivable institutional/governance models exist ranging from council-owned and operated local water utilities, county councils, regional alliances of councils, (sub-) catchment-based regional councils, corporate models with councils as shareholder, to state-owned regional water utilities, or one big state-owned water utility for the whole of regional NSW.

To ensure an integrated and locally appropriate approach to water supply and sewerage management and achieve optimal whole-of-community outcomes for local communities, the LGSA supports institutional and governance arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure.

The LGSA acknowledges that regional solutions might be required to share professional resources, undertake catchment-based water supply and demand planning and potentially plan, fund and deliver infrastructure necessary to provide secure, safe and efficient regional water supply and sewerage services over the long term. However, regional solutions do not require the removal of water supply and sewerage functions from Local Government. They can be achieved through appropriately structured regional alliances of councils which maintain Local Government responsibility and ownership as well as capture the benefits associated with regional planning without having the

disadvantages of institutional settings where water supply and sewerage functions are removed.

The LGSA rejects any form of privatisation of the sector, either as privatised, vertically integrated monopoly providers or as privatised entities within a disaggregated sector, because of the direct conflict between the whole-of-community objectives of service provision, demand management and water conservation, and profitability requirements of the private sector.

The LGSA strongly believes, that the potential benefits of any model, particularly models that remove water supply and sewerage functions from Local Government, need to be thoroughly assessed against the impacts they might have on the financial sustainability of councils and on local and regional economies and employment. Many council submissions to the Inquiry provide detailed information on the significant negative impacts the removal of water supply and sewerage functions would have on the general viability of council and on local and regional economies and employment.

Water supply and sewerage services are a major part of most regional councils' operations. They contribute to a critical mass of responsibilities that make councils financially viable and attractive for skilled professionals. In many councils, especially in smaller rural council, water supply and sewerage services are a significant part of engineers' and senior officers' workload. Employees are often multi-skilled and shared between general purpose functions and water supply and sewerage functions providing for efficient workforce flexibility. Removal of water supply and sewerage functions from councils would eliminate these synergies effects and result in the departure of professional staff due to insufficient workload and challenges or because their services become unaffordable for councils. Loss of operations and staff in councils would have serious direct and flow-on effects on small communities and the affected families, particularly in rural areas where councils are often the largest employer.

Local Government's concerns in this regard were also recognised by the NSW Government Rural and Regional Task Force which recommended that the Inquiry carefully consider the wider impacts of any possible changes to the existing Local Government based service model particularly with regard to applying a test of clear and demonstrable overall benefit supporting proposed change.[4]

IV. Comments on specific Inquiry objectives

In support of our view and in response to the specific objectives of the Inquiry, the LGSA provides the following comments:

1. Institutional arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and ownership of water supply and sewerage infrastructure are most effective in achieving whole-of-community outcomes and integrated water cycle management, utilise efficiency of economies of scope, and so allow for sustainable, locally appropriate long term strategic planning and service provision.

Whole-of-community outcomes

In order to achieve whole-of-community outcomes, the priorities and needs of a wide range of community stakeholders need to be balanced taking into consideration the economic, social and environmental impacts associated with those priorities and needs as well as the availability of resources to achieve them.

To undertake this balancing act an integrated approach to strategically planning for and delivering all community services is essential. Evidently, such an approach also needs to be responsive to the needs and priorities of local communities.

Being responsible for a wide range of community services and functions, Local Government already allows for such integrated strategic planning. Also, Local Government is best placed to manage local

[4] Rural and Regional Taskforce, New South Wales Government, Report to the Premier, (March 2008), recommendation 11f, page 21.

services and facilities because they are closest to the community and understand local issues and priorities.

Maintaining the integration of water supply and sewerage functions with other general purpose functions of councils ensures that strategic planning for water supply and sewerage operations and infrastructure is part of such an integrated planning framework and that objectives specifically related to water supply and sewerage are determined within the broader context of ecological, social and economic sustainability. For example, Local Government will most effectively:

- Coordinate strategic land use planning and strategic planning for water supply and sewerage operation and infrastructure (e.g. water sensitive urban design, see below);
- Coordinate water supply and sewerage operations and infrastructure with economic development priorities;
- Coordinate water demand management with the local supply and demand profile as well as local and catchment-wide environmental objectives; and
- Coordinate water supply and sewerage operations and infrastructure with the provision of other council operations that are major water users; e.g. parks and reserves, aquatic leisure centres, airports, showgrounds, and caravan parks.

These desirable benefits would be much more difficult to achieve in an institutional setting where strategic planning for and delivery of water supply and sewerage operations and infrastructure were removed from Local Government. Separate water utilities, let alone entities in a disaggregated sector, would struggle to facilitate integrated planning due to a lack of direct involvement in the strategic community planning process and access to the powers of both the *Local Government Act (NSW) 1993* and the *Environmental Planning and Assessment Act (NSW) 1979*. Also, decision makers in water supply and sewerage entities which are completely removed from Local Government might not have the incentive to look beyond their business objectives and aim to achieve whole-of-community outcomes.

Most models outlined in the Options Paper only provide for horizontal integration of water supply and sewerage functions. Only council-owned and operated water utilities also provide for true integration with other general purpose functions such as stormwater management, land use planning and control, economic development, and environmental management.

It is noted that the Department of Local Government through its Integrated Planning Reform is in the process of establishing a community outcomes focussed integrated strategic planning framework for NSW Local Government including a minimum 10 year strategic community plan and a 4-year delivery program.

Integrated water cycle management

Increasing efforts are now being made to implement the concept of integrated water cycle management and its sub-component water sensitive urban design to minimise the impacts of urban development on the water balance and the environment and to help address water scarcity by diversifying supply options and conserve water.

Local Government across regional NSW, because of the integration it affords to particularly strategic

[5] National Water Commission, Institutional and Regulatory Models for Integrated Urban Water Cycle Management, Issues and Scoping Paper, (2007), page 15.

[6] It is noted that full cost recovery does not require a return on existing rural water assets, although it does require provision for future asset refurbishment or replacement.

[7] NSW Department of Water and Energy, 2005/06 Water Supply and Sewerage, NSW Performance Monitoring Report, Appendix C, pages 50-52; NSW Department of Energy, Utilities and Sustainability, 2004/05 Water Supply and Sewerage, NSW Benchmarking Report, Table 3, pages 111-113.

[8] Refers to the criteria pricing with full cost recovery, without significant cross subsidies.

[9] Rural and Regional Taskforce, New South Wales Government, Report to the Premier, (March 2008), recommendation 11f, page 21.

water supply planning, water supply and sewerage provision, stormwater and drainage management, strategic urban planning, and land use development control, is best placed to put this concept into reality.

Whereas traditional water management used to look at each component of the urban water system in isolation, integrated water cycle management combines all aspects of the urban water cycle (water supply, sewerage, stormwater, conservation, recycling, pollution prevention, flood control etc) and related aspects such as energy consumption related to water supply and treatment to ensure that water is used optimally for urban development as well as within the natural water catchment. Integrated water cycle management does not only require integration of the various elements of the water cycle but also integration with strategic urban planning and land use development controls.[5]

Water sensitive urban design applies the principles of integrated water cycle management in the built environment and focuses on on-site residential and commercial developments. Examples of water sensitive urban design include rainwater tanks, recycling, greywater, and stormwater harvesting schemes.

Institutional models that result in the removal of water supply and sewerage functions from councils have the potential to severely disrupt the integration that currently exists, inevitably leading to reduced capacity to implement integrated water cycle management and water sensitive urban design.

For example, the implementation of elements of water sensitive urban design that are intrinsically linked to urban and land use planning, such as stormwater harvesting for water supply, greywater reuse, or rainwater tanks, becomes increasingly difficult for an entity that is removed from the land use planning and control processes.

Vertical disaggregation of a separated water supply and sewerage sector into bulk supply, treatment, distribution, and retail function would only further reduce the capacity to implement integrated water cycle management. For example, the multi-layered model envisaged for South East Queensland appears to be too mechanistic and, because of barriers between the layers of entities, could actually prevent integrated water cycle management

Economies of scope

Associated with the integration of water supply and sewerage function and other general purpose functions are economies of scope resulting in real cost-efficiency gains.

In economic terms, economies of scope occur if it is cheaper for one entity to provide a range of services together (i.e. water supply and sewerage services and other general purpose services), than for each of the services (e.g. water supply and sewerage services) to be provided by separate entities. Economies of scope may arise from integration of technical, managerial and administrative resources.

In council-owned and operated water utilities technical and managerial synergies arise from the integration of engineering, asset management and corporate planning system for water supply and sewerage, roads and transport, communication, waste management, or recreational services. Economies of scope also arise from the ability to effectively and efficiently coordinate strategic land use planning and land use development control with infrastructure intensive services such as water supply and sewerage services as well as private commercial and residential related investment into water solutions. Furthermore, the broad range of services provided by general purpose councils, affords the range of responsibilities required to attract highly professional staff and benefit from their skills and knowledge which would otherwise not be available.

In administrative terms, economies of scope arise from the integration of information technology services, or the ability to provide one billing and customer service system for all community services.

Large, stand-alone water supply and sewerage providers may well achieve some economies of scale, however cannot capture the identified economies of scope. Benefits commonly associated with water

utilities covering larger regional areas such as catchment-based, regional strategic water supply and demand planning and infrastructure delivery could equally be achieved through regional alliances of councils without loosing the economies of scope associated with the integration of water supply and sewerage functions and general purpose functions.

2. Governance arrangements need to ensure decision makers are accountable to the communities that are to benefit from and fund the provision of water supply and sewerage services as well as for the achievement of broader whole-of-community outcomes.

According to the objectives of the Inquiry as identified above, water supply and sewerage providers are required to have in place best practice governance arrangements.

Best practice governance generally refers to a decision making process that has clear objectives, allows for the consideration of relevant stakeholder interests, and provides for well-aligned incentives and the absence of conflict of interest for decision makers. In relation to the provision of essential community services such as water supply and sewerage services, the LGSA considers it best practice governance if there is clear accountability of decision makers to the communities served as well as for the achievement of broader whole-of-community outcomes.

Local Government provides such a framework of clear accountability. Democratically elected councillors are responsible for the setting of strategic direction for councils' operations in order to achieve desired whole-of-community outcomes including outcomes related to water supply and sewerage provisions. Furthermore, maintaining water supply and sewerage services as visible and accessible local operation within Local Government also contributes to accountability within the community and provides incentives for the provision of reliable customer service and serviceability.

Structural models that remove responsibility for water supply and sewerage services from Local Government, and thus from elected local representatives, must necessarily address how decision makers would be accountable to the communities that are to benefit from and fund the provision of water supply and sewerage services. It is questionable whether such models can provide the appropriate incentives to ensure that decision makers integrate water supply and sewerage objectives into broader whole-of-community outcomes and sustainability principles.

Another issue in relation to governance arrangements is the trend to populate decision making bodies with independent, external persons. An example is the proposed Central Coast Water Corporation where only a minority of board members can be appointed from the councillors and employees of the constituent councils (section 12 of the *Central Coast Water Corporation Act (2006) NSW*).

Independent, external persons have only a limited accountability to the community and the disadvantages associated with such limited accountability need to be outweighed by the benefits of having "externals" on the decision making body.

It is often argued that the benefits of allowing externals on decision making bodies is to access the expertise, knowledge and perceived "objectivity" of independent experts and professionals. However, the conflict between accountability and access to independent expertise can be resolved satisfactorily without distorting the clear accountability provided in councils. An institutional setting that allows for and encourages regional alliances would enable councils to involve experts and professionals in the decision making process of the regional alliance in appropriate ways and where they are needed. Resource sharing arrangements within the regional alliance model could also provide the resources to make expert services more accessible and affordable for councils.

3. Decision making with regards to water pricing needs to be socially, environmentally and economically sustainable, responsive to local community needs, and flexible to enable local water utilities to respond to changing circumstances. Pricing decisions should continue to be guided by the best practice pricing policies required by the Department of Water and Energy.

Pricing for water supply and sewerage service is an important consideration in the determination of whole-of-community outcomes. It is essential to ensure that pricing decision are responsive to community needs, based on local water supply and demand profiles, and integrate water supply and sewerage objectives into broader whole-of-community outcomes and sustainability principles.

Pricing decision should continue to rely on the well-tested best practice pricing policies provided by the economic regulator; the Department of Water and Energy. The department's best practice pricing policies are based on general principles established by the Independent Pricing and Regulatory Tribunal NSW (IPART) and gazetted under the *Local Government Act (NSW) 1993*.

Pricing principles should be based on cost recovery considerations (i.e. the recovery of the long term operational and capital cost of providing water supply and sewerage services).[6] The LGSA also supports water utilities being provided with the option to send stronger pricing signals to customers to encourage water conservation and demand management and facilitate the implementation of integrated water cycle management strategies.

In terms of appropriate pricing mechanisms, the Minister for Water, the Hon Nathan Rees recently made statements to the effect that consideration is to be given to IPART having an increased role in price determinations across the whole of NSW. The LGSA does not support pricing determination for regional NSW by IPART or similar bodies for several reasons:

- It would be highly impractical and costly from a regulatory perspective as well as for councils to enable IPART to collect information about and consider the diverse local water supply and demand profiles and community preferences in regional NSW. Councillors, supported by best practice pricing policies, are much better placed to make strategic decisions about pricing because of their local knowledge;
- The current system of price setting is transparent and cost-efficient; and
- Determination by a central agency such as IPART could result in significant inefficiencies caused by operational inflexibility (e.g. long periods between pricing determinations during which local water utilities are unable to timely respond to changes in circumstances such as potential additional cost associated with required infrastructure spending due to drought or increased demand).

4. Regulatory arrangements need to be improved to avoid regulatory duplication, inconsistency and conflict; regulatory arrangement should facilitate integrated water cycle management and encourage regional solutions/models to facilitate catchment based-planning and water resource sharing arrangements among utilities.

Within the current regulatory framework there is scope to better coordinate regulation in relation to health, environmental, economic and land use planning objectives and set clear regulatory responsibilities to avoid duplication and inconsistency and resulting confusion and inefficiencies. It is often difficult for local water utilities to keep up with regulatory objectives and requirements, particularly when responsibilities of agencies overlap.

A significant number of agencies are currently involved in the administration of a range of regulation relevant to water supply and sewerage including:

- Department of Health – regulates and monitors water quality in reticulated water supplies, including fluoridation of water supplies;
- Department of Natural Resources – regulates water supply extractions and volumetric entitlements, including water sharing plans and monitoring of waterways;
- Catchment management authorities – responsible for implementation and funding of catchment activity plan;
- Dam Safety Committee – responsible for surveillance and monitoring of prescribed dams for both water supplies and regulated waterways;

- Department of Water and Energy (DWE) - responsible for approvals pursuant to section 60 of the *Local Government Act (NSW) 1993*, main regulator of the sector through the DWE Best Practice Management for Water Supply and Sewerage Guidelines, performance reporting through the DWE Water Supply and Sewerage NSW Performance Monitoring Report, management of the Country Towns Water Supply and Sewerage Program;
- Independent Pricing and Regulatory Tribunal – review of DWE Developer Charges Guidelines for Water Supply, Sewerage and Stormwater; and
- Department of Local Government – responsible for compliance with *Local Government Act (NSW) 1993* and ensuring the implementation of proper governance in the industry.

Recent examples of regulatory inconsistency and confusion include:

- Inconsistencies between the two prominent initiatives of Integrated Water Cycle Management (IWCM), an essential component of the NSW Government's Best-Practice Management of Water Supply and Sewerage Guidelines, and the Building Sustainability Index (BASIX), a state-wide, government requirement for houses and units to achieve certain energy and water consumption reduction targets (e.g. potential for BASIX targets, to override more stringent locally appropriate water conservation and demand management measures as identified by local water utilities in their integrated water cycle management plans; potential for BASIX to limit the options developed in IWCM plan (e.g. rainwater tanks are being encouraged in areas where they may prove to be a less effective option than other initiatives and can be a costly burden to developers, consumers and potentially to council owned water utilities should they be required to finance future rainwater tank rebates)
- Confusion around the issue of load based licensing and reuse versus effluent credits for river discharge; and
- Confusion among agencies about the regulatory requirement and objectives in relation to the issue of non-connection of development to urban water and sewerage services.

Further, the LGSA believes that the basis for any regulatory arrangement should be the continued implementation and improvement of the existing best practice framework; i.e. Best-Practice Management of Water Supply and Sewerage Guidelines produced by the NSW Department of Water and Energy.

The guidelines set out best-practice management to achieve effective, efficient and sustainable water supply and sewerage businesses. Local water utilities have continuously improved best practice management and made significant progress in their adoption of the criteria of best-practice management identified in the guidelines:[7]

- Strategic business planning (83% compliance for water supply; 80% for sewerage; up from 58% and 57% respectively in 2004/05)
- Pricing and developer charges (72% compliance for water supply; 70% for sewerage; 82% and 68% respectively in 2004/05)[8]
- Water conservation and demand management for water supply (57% compliance; up from 49% in 2004/05)
- Drought management for water supply (64% compliance; up from 51% in 2004/05)
- Performance reporting (91%compliance; 92% in 2004/05)
- Integrated water cycle management; strategy commenced (27%; 29% in 2004/05).

Beyond existing regulatory objectives, regulatory arrangements could encourage the wider application of regional alliance models and provide mechanisms for improved coordination between the stakeholders involved in catchment-wide natural resource management and integrated water cycle management. This would, where appropriate, enable councils to truly contribute to regional, catchment-wide strategic water supply and demand planning. For example, submissions have raised the possibility of water sharing arrangement among members of regional alliances and the regulatory framework should provide local water utilities with the option to do so.

5. To ensure local water utilities throughout regional NSW have the financial capacity to provide the level of water supply availability and security and sewerage treatment that is required by the community, a permanent State Government infrastructure funding program should accompany efforts by the sector, such as regional alliances, to facilitate resource sharing and regional infrastructure provision.

According to the terms of reference of the Inquiry, the NSW Government expects water supply and sewerage service providers to be financially self-sufficient.

Financial self-sufficiency means that water supply and sewerage providers have available sufficient own-source income to fund operational and capital requirements for the provision of water supply and sewerage services over the long term; i.e. without financial support from the State Government or other governments in the form of subsidies or other resources.

Related to the requirement of financial self-sufficiency is the concept of cross subsidisations among areas to enable utilities to achieve, in a financially self-sufficient manner, similar service levels for similar prices in areas of different cost structures. It needs to be noted that the concept of cross subsidisation already exists on a small scale where small towns and villages in an individual council area are provided with a level of water supply and sewerage services they could not afford by themselves. Facilities in such small villages can only be funded through the revenue generated in the whole area covered by the water utility.

However, large scale cross subsidisation by large regional water utilities (which are, due to their size, necessarily separated from Local Government) is not desirable because they eliminate all the benefits of Local Government integrated services provision (e.g. whole-of-community outcomes, locally appropriate solutions, water sensitive urban design and decentralised solutions).

Many existing local water utilities in regional NSW are financially self-sufficient and it is therefore doubtful whether there is a need to restructure the whole sector. Most local water utilities achieve positive real rate of return based on recently undertaken fair value revaluation of assets. At worst case, the economic real rate of return is slightly negative for a handful of councils implying that the revenue raised is only just insufficient to renew water supply and sewerage infrastructure in the long term by no more than a few percent.

However, in light of the challenges posed by drought, climate change and skills shortage, some smaller local water utilities in rural and remote regions might not have the capacity to renew or modernise existing or construct new water supply and sewerage infrastructure. Regional alliances can help address these financial challenges through resource sharing and financial coordination to and support by all member councils for regionally appropriate water supply and sewerage solutions. However, regional circumstances will dictate what is achievable and in some regions, particularly in rural and remote regions, communities might not be able to afford the desired level of water supply and sewerage service even from a regional perspective.

It is also questionable whether water utilities should be required to solely depend on internal cross subsidisation or whether horizontal equalisation objectives such as equal supply security, demand restrictions and achievement of comprehensive health and environmental standards, are more appropriately achieved through subsidies funded from a broader base such as general taxation income.

To ensure local water utilities throughout the whole of regional NSW can provide safe secure water supply and sewerage services, the LGSA supports the retention of a permanent funding program to provide technical and financial assistance to local water authorities for the renewal and enhancement of water supply and sewerage infrastructure in areas of need. The Department of Water and Energy could continue to administer a renewed and improved Country Town Water Supply and Sewerage Program.

In this regard it should be noted that the NSW Government Rural and Regional Task Force recommended that the NSW government consider further long term funding augmentation for the Country Town Water Supply and Sewerage Program.[9]

V. Conclusion

The provision of water supply and sewerage services is a significant responsibility of councils in regional NSW often making up a quarter or more of their annual budget and employing a significant number of their professional workforce. Water supply and sewerage services are also an important element of communities' understanding of and involvement in Local Government as a "one stop shop" to access essential services and deal with local issues.

To ensure an integrated and locally appropriate approach to water supply and sewerage management and achieve optimal whole-of-community outcomes for local communities, the LGSA supports institutional and governance arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure.

The LGSA acknowledges that regional solutions might be required to share professional resources, undertake catchment-based water supply and demand planning and potentially plan, fund and deliver infrastructure necessary to provide secure, safe and efficient regional water supply and sewerage services over the long term. However, regional solutions do not require the removal of water supply and sewerage functions from Local Government. They can be achieved through appropriately structured regional alliances of councils which capture the benefits associated with regional planning and infrastructure provision without having the disadvantages of institutional settings where water supply and sewerage functions are removed from councils.

To ensure local water utilities throughout the whole of regional NSW have the financial capacity to provide the level of water supply availability and security and sewerage treatment that is required by the community, a permanent State Government infrastructure funding program should accompany efforts by the sector, such as regional alliances, to facilitate resource sharing and regional infrastructure provision.

Finally, given the geographic, demographic, climate related and socio-economic diversity in regional NSW and the resulting differences in water resource and demand profiles, it is important to recognise that a "one size fits all" approach to providing water supply and sewerage services will not be appropriate.

Local Government is best placed to identify local requirements and community preferences and should therefore have the autonomy to establish solutions that suit their local/regional circumstances. To ensure councils have the ability to explore solutions most suitable to their region, the NSW Government should make funds available to undertake further research and analysis.

Submission on the Final Report of the Inquiry into Local Water Utilities (April 2009)

1. Introduction

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government. Together, the Associations represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community and the media.

The Associations welcome the opportunity to make a submission on the final report of the independent panel of the *Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-Metropolitan NSW* (the "inquiry report"). The Associations have welcomed the inquiry report and support in principle the concept of regional alliances of councils.

According to comments made by the Minister for Water, the Hon Phillip Costa MP, the NSW Government is in the process of drafting legislation in relation to the binding alliance model recommended in the inquiry report. This legislation is intended to provide the framework for councils to establish alliances in their regions and is expected to be put to the NSW Parliament this year. Furthermore, the NSW Government is in the process of reviewing the current regulatory environment for councils' local water utilities with a view to strengthening and/or making mandatory regulation dealing with the protection of public health and safety, the environment, and consumers.

This submission intends to inform the process of drafting legislation on the alliance models and reviewing the regulatory framework. The Associations' support for an alliance model does not suggest that the Associations consider the binding alliance as the only appropriate model. The Associations believe that councils should be able to choose from a range of organisational models for regional co-operation and resource sharing, including the alliance model supported in this submission, county councils or regional water corporations.

The Associations believe that, in terms of introducing and managing improvements in the provision of water supply and sewerage services in regional NSW, an alliance model is a better model to start with. An alliance model will be more flexible and can better address identified weaknesses. It involves less risk and is more readily implemented. The alliance model will thus be a more resilient model during the process of change.

The first section of the submission outlines the alliance model supported by the Associations. The second section deals with the recommendation to strengthen the regulatory framework. Subsequent sections comment on the regional groupings recommended in the inquiry report, call for seed funding to implement alliances or other structures as well as for an ongoing funding program, particularly for disadvantaged areas and comment on the proposal for local water utilities to participate in the Energy and Water Ombudsman NSW scheme. General principles for the provision of water supply and sewerage services by Local Government in regional NSW have been outlined in the Associations' previous submission. Most importantly, the Associations support arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure

The Associations call on the NSW Government to consult again with Local Government once the draft legislation for the alliance model has been prepared.

2. The alliance model supported by the Associations

The Associations principally support the concept of regional alliances of councils.

The Associations believe that 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 councils' local water utilities and to ensure best practice management and regulatory requirements are met. Strengthening arrangements for regional co-operation and resource sharing will also help 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 alliance's main function should be to guide, coordinate and facilitate strategic business planning by member councils of both their water supply[10] and sewerage service provision[11] as follows:

- In its guidance and coordination role, the alliance would develop high level strategic direction for the alliance region and coordinate member's strategic business planning to achieve effective regional water resource planning and integrated water cycle management. Where appropriate, the alliance would identify and manage regional/shared infrastructure.
- In its facilitation role, the alliance would provide technical support to member councils and assist with the sharing of knowledge and professional staff to ensure member councils can meet best practice and other regulatory requirements. The alliance should facilitate best practice, compliance with regulatory requirements and reporting on performance of the region to the relevant regulator(s).

Strategic business planning by member councils includes:

- The determination of levels of service[12] and infrastructure required to provide them;
- Long term financial planning and asset management to ascertain the full cost of providing services and supporting infrastructure: and
- The determination of water supply and sewerage charges to ensure services and supporting infrastructure can be funded over the long term and costs are fully recovered.[13]

The alliance model supported by the Associations is distinct from the alliance model proposed in the inquiry report (appendix 2) in that it does not remove from member councils the essential function of strategic business planning, including the determination of water supply and sewerage charges. Member councils, not the alliance, would actually implement and be accountable for the strategic business planning for their area of operation.[14] Furthermore, it is important to note that under the Associations' model, the alliance would provide guidance on and coordinate member's strategic business planning but would not be able to compel member councils to implement strategic directions. However, the Associations believe that the alliance model should have the potential to evolve. Member councils should be able to assign, by mutual agreement, additional functions to the alliance.

The Associations oppose giving the alliance any authority to impose cross-subsidisation between alliance members or introduce postage stamp pricing. However, this could occur by mutual agreement of alliance members.

The Associations support an alliance model that is binding in terms of membership; i.e. member councils, once they voluntarily entered into an alliance, are generally precluded from withdrawing from it. However, the Associations object to any attempt to force councils to enter into alliances or any other organisational structure. To ensure genuine support from Local Government, any form of

[10] Including both reticulation and bulk supply where applicable.

[11] Stormwater management should be included where there is a direct association with integrated water cycle management (e.g. stormwater as a water supply source).

[12] This determination would be based on mandatory standards and community needs and priorities. It would cover issues such as water quality, level and reliability of water supply, or sewerage treatment.

[13] For regulatory oversight of price determination, see below under comments on the regulatory framework.

[14] As recommended in the inquiry report, asset ownership and day to day operations would remain with councils apart from potential regional/shared infrastructure where the alliance should have the option to indentify and implement other management structures.

regional cooperation should be established voluntarily.

The alliance should be fully owned by member councils. Its decision making body should comprise elected members from member councils elected by resolution of member councils. The decision making body should be supported by a technical body containing council professionals and external experts where appropriate. Potentially, those two bodies could be merged. However, the Associations would not support any governance structure where the decision making body is controlled by non-Local Government members.

The Associations believe that the governance model for the alliance should be based on section 355 of the *Local Government Act (NSW) 1993* with modifications to reflect the functions of the alliance outlined in this submission. Alternatively, special provisions for an alliance model could be developed within the *Local Government Act (NSW) 1993.*

3. Comments on the regulatory framework

The inquiry report recommends strengthening the regulatory framework including audit and enforcement of strategic business and financial plans and independent pricing oversight to ensure business plan objectives can be funded and all cost are recovered. The inquiry report also recommends strengthening of water quality and environmental regulatory requirements including mandating of compliance with and establishment of risk management frameworks required under the *Australian Drinking Water Guidelines*.

The Associations recognise the need to meet current and future standards and best practice in the provision of water supply and sewerage services and generally support a strengthening of the regulatory framework. However, this support is conditional on the NSW Government agreeing to the alliance model proposed in this submission.

In terms of pricing regulation, the Associations support a regime of external audit of price determination by councils. Under this regime, water supply and sewerage charges are set by councils according to their strategic business plan and pricing principles established by regulation (e.g. full cost recovery). Appropriateness and accuracy of strategic business plans, cost allocations, and price determinations are evaluated by councils' independent external auditor. This audit would form the basis for regulatory oversight by and performance reporting to the economic regulator (e.g. Department of Water and Energy). A similar external audit process exists and is already applied when local water utilities want to pay a dividend to council's general fund.

Finally, as pointed out in the Associations' previous submission, current regulatory arrangements need to be improved to avoid regulatory duplication, inconsistency and conflict. Improved regulatory arrangements should streamline data reporting to and among agencies, facilitate integrated water cycle management, and encourage regional solutions/models to facilitate catchment based-planning and water resource sharing arrangements among utilities.

The Associations therefore support the recommendation that the reporting and regulatory roles undertaken by NSW Government agencies be reviewed with a view to streamlining these requirements and to ensure a consistent approach across these agencies (recommendation 5). The Associations request that the NSW Government establish a working party to address this issue and that the Associations and the Water Directorate NSW be a member of this working group.

4. Comments on the regional groupings proposed in the inquiry report

The Associations generally support the regional groupings including stand alone utilities recommended in the inquiry report as a guide for future local water utilities aggregations. However,

[15] Rural and Regional Taskforce, New South Wales Government, Report to the Premier, (March 2008), recommendation 11f, page 21.
[16] Final Report of the Inquiry into Local Water Utilities, page 86.
[17] NSW is the only jurisdiction that requires councils to fund nearly half the cost of these rebates.

councils should have the option to join different groups if that better suits their economic, social and hydrological circumstances. The Associations do not support the model of 15 regional groupings discussed in the inquiry report.

The Associations note that a significant number of councils raised concerns about the timeframe provided by the NSW Government to respond to the inquiry's recommendations. Many councils require more time to investigate the regional groupings proposed and the organisational model suitable for their area and negotiate and formalise arrangements. The Associations call on the NSW Government to allow more time for those councils to respond and provide for a trial period during which council can test their models. The Associations suggest that the NSW Government confirm that the current round of submissions is not the final step the process of reform and that there will be further opportunity for councils to consult with the NSW Government.

5. Seed funding for the implementation of alliances

The Associations believe it is essential to make funds available for the implementation of new institutional arrangements and assist councils with the detailed analysis of functions and operations of any particular model and the preparation of appropriate business cases. A number of groups of councils have outlined in their submissions the cost involved in setting up a new model. This submission refers to these submissions.

6. Funding to bring alliance members up to equal footing

The Associations also call on the State Government to provide funding, including capital funding, to bring all member councils of a regional alliance up to the desired common standards. Such funding was promised by the then Minister for Water, the Hon Nathan Rees MP and is a key element in the reform process. To ensure alliances are successful, member councils should be brought up to an equal footing before the alliance becomes fully operational (e.g. existing infrastructure renewal or upgrade requirements identified under the Country Town Water Supply and Sewerage Program or under council studies such as the CENTROC water study).

7. Ongoing State Government funding program for disadvantaged areas

To ensure councils have the financial capacity to provide the level of water supply availability and security and sewerage treatment that is required by the community, a permanent State Government infrastructure funding program should accompany efforts to facilitate resource sharing and regional water resource planning.

In light of the challenges posed by drought, demographic shifts, climate change and skills shortages, some smaller local water utilities in rural and remote regions might not have the capacity to renew or modernise existing or construct new water supply and sewerage infrastructure. Regional alliances could help address these financial challenges through resource sharing and coordination of regionally appropriate water supply and sewerage solutions. However, regional circumstances would dictate what is achievable and in some regions, particularly in rural and remote regions, councils might not be able to afford the desired level of water supply and sewerage service even from a regional perspective.

It is also questionable whether water utilities should be required to solely depend on internal financial resources to achieve horizontal equalisation objectives such as equality in supply security, demand restrictions and achievement of comprehensive health and environmental standards. These objectives are more appropriately achieved through subsidies funded from a broader base such as general taxation revenue.

The NSW Government Rural and Regional Task Force recommended that the NSW Government consider further long term funding augmentation for the Country Town Water Supply and Sewerage Program.[15]

8. Ombudsman scheme

The Associations generally have no objections to local water utilities participating in the Energy and

Water Ombudsman NSW scheme subject to, as recommended in the inquiry report, the demonstration of net benefits in doing so. The Associations are yet to see an analysis of whether the benefits of participating are outweighed by the potential cost involved. The Associations note that many councils already have in place comprehensive complaint management arrangement and might not require an additional scheme.

9. Other comments

The Associations would like to comment on the remarks in the inquiry report on pensioner rate rebates.[16] It is the Associations firm policy position that addressing social impact issues through welfare and income support is the responsibility of central governments who are able to spread the cost of such assistance more equitably and efficiently over a broader revenue base. Therefore, welfare and income support such as pensioner rate concessions should be fully funded by the higher levels of government.[17] If councils were required to provide rebates, they should be fully reimbursed by the NSW Government to achieve full cost recovery.

Addendum to the Local Government and Shires Associations of NSW (LGSA)' Submission on the Final Report of the Inquiry into Local Water Utilities of April 2009 (October 2009)

This addendum to the LGSA submission outlines the separation of functions between member councils and the alliance in the binding alliance model as proposed in the submission. It should be read in conjunction with the submission.

The LGSA advocate a binding alliance model where:

- Resource sharing and skills pooling are undertaken by an alliance membership of which is binding;
- Best Practice Guidelines become mandatory Regulations for each council, and
- Compliance with regulation is properly audited by external auditor or the alliance.

Functions of the alliance

In the alliance model proposed by the LGSA, the main function of the alliance is to facilitate resource sharing and skills pooling among member councils and provide skills and knowledge to assist member councils in undertaking strategic business planning and satisfying regulatory requirements. The alliance would also coordinate and guide strategic business planning by member councils, particularly where there are benefits in regional solutions (e.g. regional supply solutions). To enable the alliance to perform this function, it should develop a regional integrated water cycle management strategy, outcomes of which would inform the member councils' planning. However, the alliance has no power to direct member councils' strategic business planning process, including pricing decisions.

The alliance could also be responsible for auditing strategic business planning by member councils (including pricing determinations) and compliance with regulations and reporting to the regulator (see below). This audit process would facilitate peer pressure among member council to achieve required service standards.

It needs to be noted that this model does not preclude the alliance, over time and by mutual agreement of member councils, from taking on functions previously performed by member councils and /or being granted the authority to make binding decision for member councils (e.g. management of beneficial regional infrastructure).

Function of member councils

In the alliance model proposed by the LGSA, member councils continue to be responsible for the strategic business planning for their utility's area of operation. This includes:

- Determination of service levels for water supply and sewerage services. This determination should:
  - Be based on what service level the community wants and is willing and able to pay for;

  - Be based on local conditions, including hydrological and technical (system) conditions; and
  - Meet mandatory regulatory requirements ("mandatory best practice") as a baseline or minimum standard; i.e. regulatory requirements to ensure appropriate health, water quality, safety, environmental and social outcomes;
- Determination of operational, recurrent and future capital (infrastructure) requirements to deliver the determined level of service; and determination of charges (pricing) to fund operational and capital requirements based on economic regulations (e.g. full cost recovery, provision for return of, and on, capital).

The strategic business planning process should be subject to an external audit ensuring that assumption and processes are fit for purpose and regulations are complied with. The audit could be undertaken by an external auditor or by the alliance and would form the basis for regulatory oversight by the government.

A good example
A good example of this model is the Lower Macquarie Water Utilities Alliance. This alliance provides assistance to member councils in achieving best practice where required. It is also preparing a regional integrated water cycle management plan to improve regional co-operation.

Other benefits of this model
The LGSA believe that, in terms of introducing and managing improvements in the provision of water supply and sewerage services in regional NSW, this alliance model is the best model to start with. It will be more flexible and can better respond to identified weaknesses than other models. It involves less risk and is more readily implemented. The alliance model will thus be a more resilient model during the process of change.

5. Conclusion

As short concluding remarks the Associations would like to reiterate the important role Local Government plays in managing water and providing water supply and sewerage services as well as the dramatic effect policy changes in water management can have on regional communities and their town water supplies. The Associations call on the NSW Parliament and the NSW Government to continue to work with and support councils in their pursuit of best practice water management and conservation.

In relation to recent Australian Government policy initiative, i.e. the development of a basin plan by the Murray-Darling Basin Authority and the purchase of water entitlements under the *Restoring the Balance in the Murray-Darling Basin Program*, the Associations urge the NSW Parliament to ensure socio-economic impacts on regional communities are addressed and structural adjustment assistance is provided when governments implement these initiatives. Most importantly, the Associations urge the NSW Parliament and the NSW Government to ensure that town water supplies for urban use are excluded from the sustainable diversion limits under the Murray-Darling Basin Plan and guaranteed under the provisions of the *Water Act (Cwth) 2007* that secure critical human needs. This guarantee needs to include water requirements for actual and anticipated growth experienced and planned for in communities (population and industrial development).

In relation to the NSW Government Inquiry into Local Water Utilities, the Associations request the NSW Parliament to support their call for institutional and regulatory arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure. The Associations believe that this is crucial to ensure an integrated and locally appropriate approach to water supply and sewerage management and optimal whole-of-community outcomes for local communities.