Council Reference:

TWEED SHIRE COUNCIL

31 May 2024

Australian Government
House of Representatives
Standing Committee on Regional Development, Infrastructure
And Transport
www.aph.gov.au/Parliamentary_Business/Committees

Dear Sir/Madam

Inquiry – Local Government Sustainability

Thank you for the opportunity to provide input to the above inquiry.

Local government is entrusted with the responsibility to provide a wide range of vital infrastructure and services to the local community within a complex statutory framework. While there are many commonalities across the industry, each state has its own framework, each council faces its own geographic and demographic challenges and they may be a purely general purpose or water authority or both.

It is hoped the inquiry will be able to address the many funding challenges councils face in an environment of increasing expectations and service levels.

Inquiry Terms of Reference

The financial sustainability and funding of local government

Financial Sustainability

While financial sustainability is widely accepted as a critical objective for councils to achieve and maintain, the first problem is there are no formal industry definitions or measurements to base relevant plans or results on.

Councils, especially multi-purpose councils, have a complicated array of services and infrastructure to provide and revenue sources to fund them. This may contain several specific activities that should be self-funding and analysed separately from the general operations of council to get a true overall position. Consolidated financial reports do not provide the required detail or matching of income and expenditure for a reliable measure of performance and Audit Office reports accordingly can only focus on compliance. The special rate variation process in NSW which is often required to address sustainability issues provides no specific guidelines and it is up to each council to make their own case.

The NSW state government attempted a form of financial health check about ten years ago which included specific measures. However, it was largely based on financial statements and seemingly with the main purpose of determining council amalgamations at the time. The main incentive for councils was to avoid amalgamation rather than accurately determine sustainability.

While much has been done in legislation, guidelines and financial reporting practices to improve the focus and basis of financial sustainability, there are still no specific definitions, measurements and practices to ensure reliable, comparable and timely information is available for sound analysis and action.

Financial sustainability generally requires the ongoing ability to fund; all the services the community requires and is willing to pay for, all the required maintenance and renewal costs of infrastructure and facilities, as well as maintenance of relevant reserves and contingencies.

This requires a reliable measure of the communities priorities, sound asset data and management systems, efficient resource allocation, reliable income sources and good governance. In NSW this is largely encouraged and facilitated by the local government act (LGA) and the Integrated Planning and Reporting Framework (IP&R).

While these measures have improved the focus on sustainability over recent years, there are a number of lingering historical issues and factors outside of councils control that are preventing councils from reaching and maintaining sustainability.

Services

In regard to what service functions council are required to provide, the LGA only states that:

> A council may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law.

Other than certain regulatory functions and works on private land, the LGA and regulations do not prescribe the services a council should or can provide or for that matter services or functions a council should not provide or fund. This has resulted in some councils growing the functions and services it funds from community and business group representations, and also tends to lead to cost shifting from other tiers of government The other services provided by local government are largely historical obligations or local requirements. This creates a large mix of possible services competing with essential services and infrastructure for available funds.

Historical obligations include a number of commitments the state government has transferred to local government before reducing the funding provided leaving councils to absorb the difference.

Councils need to ensure they are reflecting the communities priorities and are addressing funding implications when determining service types and levels.

Infrastructure

Councils are responsible for the provision of a variety of essential and desirable infrastructure to local communities including the broad categories of; transport, drainage, recreation, culture, waste management, and water/sewer services.

Sustainable funding of these assets includes the ability to perform optimal maintenance and renewal works in addition to operating costs. Accurate measurement and application of this requires detailed asset data and sound asset management and accounting systems.

Prior to 1993 there was little focus on these factors in the local government framework. Despite the significant improvements to this introduced by the 1993 amended local government act, it wasn't until about 2007 that the factors were wholly adopted and true sustainability measures could be made.

This finally highlighted that funding levels available for infrastructure fell significantly short of that required, resulting in accumulated and growing renewal backlogs. Most councils took the unpopular but necessary action to apply for special rate variations to increase rate income to more sustainable levels. This is a difficult process and rarely achieves the required level of approval from the public, councillors and IPART.

Local government plays a critical role to supply through the orderly release of appropriately zoned land and through the provision of infrastructure.

Provisioning of infrastructure is essential to Supply. Developer contributions (charges) are an essential source of income to fund infrastructure for new development.

In NSW, s7.11 of the EP&A Act, 1979 (NSW) provides for developer contributions, and these have been capped by the State Government since August 2012 at $20,000 per each brownfield dwelling and $30,000 for a greenfield dwelling; without regard to Council's costs in providing those services. It is widely known and accepted that capital costs and materials, land etc. has increased significantly since August 2012.

The NSW Government believes that by restricting contributions payable to councils, it will open up supply and make land more affordable. This is a folly. If councils cannot forward plan and build infrastructure because they cannot fund it, they simply won't. In the longer term this will result in the necessary infrastructure for development not being available which will lead to a significant housing crisis (worse than currently being experienced) with long lead times to resolve.

Deloitte recently produced a report paper for DPE on the NSW Housing Status showing over the next 8 years, four out of five lots (66,000 lots) that could be developed do not have the required infrastructure to service those lots. 76% require sewer infrastructure, 70% require water and 50% require electricity and roads. Furthermore 27,000 lots have been identified by greenfield developers where the only constraint on supply is enabling infrastructure such as sewer, water, power or roads.

Now is the time for the developer infrastructure caps to be lifted and indexed annually to avert a future housing crisis even worse than what we are currently experiencing. The capping results in councils (ratepayers) having to subsidise the cost of infrastructure. It does not provide for cheaper housing supply, as recently evidenced in the "Staged Release – Peering behind the land supply curtain" report by Prosper Australia.

Tweed Context
The average lot in Tweed ten years ago sold for approximately $300,000 with developer contributions at $30,000 representing 10% of the land value. Today lots are in excess of $750,000 and contributions are still at $30,000 (4%).

In the last 15 years Council has borrowed in excess of $130M to build a new water treatment plant and upgrade two waste water treatment plants to accommodate and service new major developments.

New houses lots have in that time been largely limited to the remaining sites in Salt, Casuarina and the start of Area E Terranora. The delay in the other sites coming to market, is an impost on council finances as we must continue to pay loans on the money borrowed, without recouping developer contributions to pay down the capital. This in turn affects the current rate base and users of the system, as the user and access charges must increase so the council can meet its interest payments.

In the Tweed, approximately 25% of our rate base are pensioners. It is simply nonsensical to have pensioners subsidising the cost of development. In the end it becomes a strain on the commonwealth as cost-of-living pressures increase for those who can least afford it.

The combined impact of regulated service income and capping of contributions from developers, all with little regard to the cost of providing the services and infrastructure, is that councils are forced to cross subsidise these services and infrastructure costs from other revenue. In turn, this restricts the ability of the Council to deliver other essential services to the community including asset maintenance and asset replacement as well as investment in new assets, not funded through developer contributions, to service growth.

Continued underfunding of infrastructure will result in failing assets and intergenerational inequity.

Infrastructure Investment Uncertainty Created by the Water Industry Competition (WIC) Act

The NSW Water Industry Competition Act creates risks to Council in a number of areas:

1. The uncertainty as to whether a development may be serviced by the private sector through a WIC scheme creates a financial risk to Council or delays in development. Council cannot responsibly invest in infrastructure to service a development if there is a risk that Council cannot recoup the capital expenditure through developer charges. To mitigate the financial risk Council must delay the provision of services until there is certainty the development will be serviced by Council. This in turn delays development.

2. Further, where a private sector water and or sewerage provider fails and is unable to provide water and or sewerage services to a community, the Minister can appoint a Last Resort Provider. Recent changes in legislation allow for both local authorities (Council) and other licensees to be appointed. Prior to appointment IPART must investigate and make a recommendation to the Minister on the Last Resort Provider. The legislation requires IPART to give primary consideration to any public water utility in whose area of operations the essential infrastructure is located. Although this means that Council is not mandated to become the Last Resort Provider it is still highly probable it will be. Council has no recourse to say no.

This poses a significant risk to Council in that Council may not be resourced or have the financial capacity to take over the scheme as Last Resort Provider. Further it may mean Council has to operate and retail two separate schemes with different pricing structures and levels of service which may impair Councils reputation.

There are various avenues which may be available to Council to recover any costs (as approved by IPART) incurred undertaking the role of Last Resort Provider. The decision on whether Council can recover costs rests with the minister after a recommendation from IPART. Council has no guarantee its cost will be recovered. Where costs can be recovered, if the costs cannot be recovered from the failed licensee nor operator and the costs cannot be recovered from "the industry" costs may be recovered from the customers. This places the customers at financial risk in that they may be liable for costs incurred by others over which they have no control. It may also mean the customer is required to pay significantly more than council serviced customers for a lesser level of service through no actions on their part.

Tweed Shire Council has advocated that the NSW Government put in place measures to protect customers serviced by the private sector provider through a WIC scheme and Council from financial disadvantage resulting from:

(a) Failure of a private sector provider of water and or sewerage services.

(b) The financial structures used by a WIC scheme proponent, which would cause customers serviced by the scheme to be disadvantaged as compared to customers serviced by the local water authority.
(c) The investment in infrastructure by Council without certainty that the development will be serviced by Council and/or the delays in the provision of infrastructure due to that uncertainty.

This could be achieved by mandating use of a public authority unless the public authority has indicated that they are not able to service the development and as such a private scheme is necessitated.

The full funding of infrastructure needs to be formally prioritised to complete the progress made in improved measurement and reporting practices.

Income

Councils funding sources are mainly derived from:

- Rates and annual charges
- Fees and user charges,
- Interest on investments,
- Grants, and
- Contributions.

It is important to distinguish between general purpose and specific purpose income. General purpose income, mainly in the form of general rates and unties grants, provide the funding for all indirect services and subsidies required for direct chargeable services.

Rates provide the autonomous tax income for local government using unimproved land value as the basis for applying the benefit and ability to pay principles. While it is not a very reliable measure for either it is efficient and has survived many rating reviews over several decades. General rates must be levied on all ratable properties and special rates may also be levied for specific purposes to the ratable properties that are deemed to benefit.

Councils often receive representations from seniors requesting an increase to the Pension Rebate. The pensioner concession rebate amounts have not been amended since the commencement of the NSW Local Government Act 1993. To fund increased pensioner concession rebates across all NSW local governments would require a change in the position of the NSW state government. Council is not in a financial position to provide any additional funding support above the current 45% contribution without a major change in service delivery or to apply for increased rate revenue through a special rate variation which would increase rates for the 75% of rate payers who are not pensioners.

With the current housing crisis councils are also under pressure to permit dual occupancy on both urban and rural allotments. Whilst land that is strata subdivided can be rated separately, dual occupancy or secondary dwellings on non-strata land obtains no additional rate income, due to the nature of unimproved land value (ULV) rating. This impacts a councils ability to service the additional demand placed upon assets and infrastructure such as water, wastewater, waste, library, roads, sports fields, etc. Additional people and residents with no corresponding increase to the rate base.

Given a trend to encourage dual occupancy and secondary dwellings, consideration should be given to introducing a multiplying factor for assessable rates for a property where more than one residence exists (1.5x for example for two residences). Alternatively, a move to capital improved value rating may be necessitated over time to ensure full financial sustainability of local government.

The rate peg system in NSW forces councils to restrict cost increases to levels often below relevant inflation. Councils cannot simply increase rates to match cost requirements and are required to prepare a substantial business case to maintain sustainability or cater for new services/facilities through special variation process, even if a special rate is involved. This is despite often having to cover charges from state government that are not so restricted, such as: emergency services levies, valuation fees and audit fees.

Annual Charges can be raised for specific services supplied to properties such as waste, water and sewer. They can and should be set to meet the reasonable efficient costs of providing the service without subsidisation in conjunction with related fees and user charges. Councils should be able to provide these services sustainably and they should be excluded from financial reports when considering the sustainability of general operations.

Fees and user charges for general operations can be used to reduce the pressure on general purpose contributions and apply the user pay principle to some degree for the more direct services. Services not fully funded by fees are subsidised by general purpose contributions. Council sustainability should include a fair and equitable allocation of these community service obligations.

Some statutory fees are set by state government with no cost recovery provisions included which forces council into subsidising these services.

Interest on investments is critical to maintaining the buying power of funding reserves. Funding Reserves are a critical feature of local government sustainability to ensure current consumers are paying their way for future replacement costs.

Grants are essentially untied or specific purpose. Untied grants provide local government with a share of state and federal taxation to supplement and reduce the inequities of localised rating. State and Federal governments should ensure this is applied equitably and in full consideration of the limitations on local government to raise tax income and the importance of their allocated responsibilities for the general social and economic wellbeing of the nation.

Acknowledging the election cycle, council's grant funding (financial assistance grants aside) is at the vagaries of the government of the day and does not provide for any financial planning of grant funding to be included in long term financial plans.

Additionally, more focus needs to be directed to funding the renewal of infrastructure rather than new infrastructure that places additional pressure on council's financial capacity to own/operate/renew.

Grants should also always include a project management allowance of up to 5% of the project cost. Councils are struggling to resource the delivery of the grants which normally exclude project management costs.

Specific purpose grants are essential for new and upgraded infrastructure as councils are struggling to fund the renewal of existing infrastructure. Generally this means that the eventual replacement of these assets will require grant funding as well.

Ongoing grant funding is also received for essential renewal works. However, in many cases they are not specific programs making reliability, resource planning and administration very difficult. More reliable rolling programmes for these would enable councils to be much more effective with them.

Developer contributions are another critical source of funding for infrastructure upgrades to meet growing demands. They ensure necessary works can be done especially in relation to essential infrastructure. State governments have tried to restrict the amounts raised in the belief that they are prohibitive to development. The reality is development cannot happen without the improvements identified and the improvements cannot be done without the funding from contributions. It is a fair and responsible funding source that should be allowed to operate per the reasonable plans created. Refer Infrastructure Section comments above for further detail.

Specific Sustainability issues

Revenue Restrictions

Council's ability to raise revenues to required levels are impacted by;

- Pegging of rate income
- Difficulties of special rate variations
- Limits on statutory charges
- The ad hoc nature of some grant allocations
- Limits placed on developer contributions.
- Unimproved land value rating methodology (or no multiplying factor for land with multiple residences and non strata subdivided).

Cost Shifting

Cost shifting occurs when the actions of a higher level of government impacts the financial performance of local government in some way.

In NSW this has accumulated in a number of ways including:

- Imposition of emergency services and waste levies
- Forced rate exemptions for various land owners including government
- Imposition of additional regulatory functions
- Reduced funding of imposed services
- Reduced reimbursement of forced rate concessions

Local Government NSW recently engaged consulting firm MorrisonLow to develop a comprehensive report on this issue with current financial data on the impact it has.

The changing infrastructure and service delivery obligations of local government

Local government has responsibility for a wide range of community based services and infrastructure and most have experienced significant increases in demand and obligations over recent decades. The extent of this is summarised below under functional categories.

Public order and safety

Growing urban and more mobile populations have impacted on services like:

- Animal control
- Beach control
- Graffiti and vandalism management

- Enforcement of regulations, and
- General ranger services

Environmental protection

Greater awareness and need for protecting the natural environment has increased demands for:

- Noxious plants and animals control
- Native flora and fauna protection
- Mitigation of floods and fire

Waste Management

It is no longer suitable to just provide a hole in the ground for waste to be dumped and left smouldering until rudimentarily covered up. Waste collection and facilities need to cater for various forms of recycling and hazardous waste control to minimise landfill demands. Strict environmental controls require ongoing management of landfill leachate and gas emissions and eventual remediation.

The NSW Government levies a waste levy on all waste to landfill, however less than half of this is returned to the local government authority collecting and managing the waste into perpetuity. It is an indirect form of taxation.

Stormwater Drainage

Increased urban development, expectations and weather events have put greater demands on drainage with vastly improved networks of: kerb and gutter, underground drains and outlets.

Roads and bridges

Increased use of road transport has required greater quantity and quality of sealed roads and the replacement of ageing wooden bridges and low culverts with wider, greater load bearing and more all-weather concrete structures.

Footpaths and Cycleways

The need for more, safer and accessible pedestrian and cycle paths has required the replacement of old and the construction of a vastly increased footpath network.
Recreational Services

Councils play the major role in facilitating passive and active recreational pursuits for all ages. Facilities are now expected to be of high quality to meet required standards and ensure safety, maximum participation and attraction of events. Facility improvements now required include:

- Sport lighting minimum standards
- Playground equipment design, materials and accessibility
- Skateboarding facilities
- Aquatic centres
- Picnic and barbeque facilities
- Access to beaches, waterways and reserves
- Car parking

Cultural and Community Services

Councils have been required to maintain and upgrade historic town and public halls as well as providing modern facilities in the form of community centres, arts and performance venues, and various youth and aged care facilities.

Economic Development

Regional councils in particular have undertaken a growing role in enhancing the economic progress of their regions. This can include programs to attract tourism, events or commercial development, or direct involvement in development such as, land subdivisions, commercial properties and airports.

Administration and support services

This area has experienced greater demands and resource requirements from things like: legal requirements, technology and communications, human resource management and records management. The replacement of ageing and inadequate administration and civic buildings and works depots with modern equivalents necessitate significant outlays and ongoing funding.

Trends in the attraction and retention of a skilled workforce in the local government sector, including impacts of labour hire practices

The rising skills shortage, coupled with the financial reality of not being competitive in the labour market, could have a lasting effect on local government.

Adding to the resource shortage is housing affordability, particularly in the Tweed Shire where prices have increased significantly in recent years to the point prospective employees cannot afford to move here.

At Tweed Shire Council this skills shortage is upon us now with 52% of our workforce over 50 years of age.

The role of the Australian Government in addressing issues raised in relation to the above

In recognition of the vertical fiscal imbalance in the construct of government in Australia - the federal government introduced the Local Government (Financial Assistance) Act (FAG) in 1995. While this funding is always welcome – the local government sector needs increased support for these grants at 1% of commonwealth tax revenue – not the estimated 2022/23 allocation of 0.55%.

Whilst ad hoc natural events like the recent flooding that has impacted multiple NSW communities (causing significant infrastructure and property damage) will always need support from the federal government, increased FAG funding will provide greater financial capacity, security and planning particularly if tied to the renewal and betterment of existing infrastructure.

In addition, it would be hugely beneficial for the various grant programs to be set out over a 3 to 5 year time frames to allow councils to develop projects to 'shovel ready' stage rather than be restricted to what is shovel ready when the grants are suddenly announced.

Future human resources is so fundamental to council's (and the communities) continued operation programs need to be implemented urgently. Increased financial assistance for apprenticeships, or even a scheme much like the train and serve arrangements in the defence force.

Thank you for your consideration.

Yours sincerely

Date: 31/05/2024

Troy Green PSM
GENERAL MANAGER