

## **INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES**

**Organisation:** Riverina and Murray Regional Organisation of Councils  
(RAMROC)

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30 June 2015

The Director,  
General Purpose Standing Committee No. 6,  
Parliament House,  
Macquarie Street,  
SYDNEY NSW 2000

Dear Director,

### **Submission in response to Terms of Reference – Local Government in NSW Inquiry**

The Riverina and Murray Regional Organisation of Councils (RAMROC) is a voluntary regional organisation of councils comprising eighteen LGAs in the Riverina and Murray regions of south west New South Wales. It is established and operates by way of an agreement of the participating Councils under Section 355 of the Local Government Act.

RAMROC appreciates the opportunity to respond to the Parliamentary Standing Committee's Inquiry into Local Government and this submission will provide information and make comment in relation to the matters set out in the Terms of Reference, with particular reference to the NSW Government's Fit for the Future Reform proposals

Core statistics of the 18 participating Councils are as follows (refer also to the attached map):-

Council Name	Area (km2)	Population
Albury City	306	51,082
Balranald Shire	21,700	2,400
Berrigan Shire	2,066	8,413
Carrathool Shire	18,940	2,795
Conargo Shire	8,738	1,535
Corowa Shire	2,329	11,455
Deniliquin	143	7,437
Greater Hume Shire	5,749	10,258
Griffith City	1,640	25,811
Hay Shire	11,329	2,989
Jerilderie Shire	3,373	1,519
Leeton Shire	1,167	11,595
Murray Shire	4,344	7,466
Murrumbidgee Shire	3,507	2,528
Narrandera Shire	4,117	5,961
Urana Shire	3,356	1,147
Wakool Shire	7,521	3,990
Wentworth Shire	26,267	6,884
TOTALS	126,592	165,265

The RAMROC region has a mix of large regional centres, medium sized irrigation based towns and urban shires, through to a number of predominantly dryland farming shire areas, large in size but with a low population base.

**MEMBER COUNCILS** Albury , Balranald, Berrigan, Carrathool, Conargo, Corowa, Deniliquin, Greater Hume, Griffith, Hay, Jerilderie, Leeton, Murray, Murrumbidgee, Narrandera, Urana, Wakool and Wentworth

The individual Councils within RAMROC may well respond to all or some of your Inquiry's Terms of Reference. On a broader regional basis, RAMROC is pleased to respond to a number of the specific TORs as follows:-

**TOR (a) - The New South Wales Government's "Fit for the Future" program**

RAMROC Councils are concerned that the NSW State Government appears determined to implement forced mergers of Councils in both the Sydney Metropolitan area and in regional/rural NSW, potentially with insufficient regard as to whether such mergers are in the best interests of councils, ratepayers, residents and the general wellbeing of communities.

Councils in the Riverina and Murray region are certainly not opposed to sensible and substantiated Local Government reform. However, they are strongly of the view that mergers or boundary adjustments should only proceed where they have been developed through a voluntary process and where it can be clearly demonstrated that there will be a clearly substantiated pathway for the delivery of increased and / or improved service levels to communities, coupled with improvements to the financial capacity and sustainability of the affected Councils.

Unfortunately, the NSW Government's reform proposals choose to downplay the fact that the financial capacity of Councils has continuously been decimated by the rate pegging philosophies and policies of successive Coalition and Labor Governments for the past 38 years following the introduction of rate pegging in 1977.

Rate pegging, together with the cost shifting of services from Federal and State Governments onto local councils over the past 20 years or more, have clearly been the principal contributors to the financial sustainability and infrastructure backlog problems that now confront a large number of Councils throughout the State.

Furthermore, the State Government has done very little to support local government over recent years in its ongoing representations for the development of fair and equitable Commonwealth / State / Local funding arrangements, preferably based on a fixed percentage share of the national taxation pool.

The mergers proposed in the ILGRP Final Report were not substantiated at that time by way of any form of Business Case Studies, yet they have been adopted as the default benchmark for purposes of IPART's consideration of Councils' FFTF proposals.

Under the Premier's Terms of Reference for the IPART Assessment process, IPART is required to submit its report to the Government by 16th October 2015 as to whether each Council is assessed to be "Fit for the Future". However, the apparent implication is that if a Council does not meet the IPART methodology and performance criteria, then by default the Government is very likely to proceed with mergers of councils which were suggested in the ILGRP report.

If that be the case, there is strong potential for any forced merger of two or more Councils into one new entity to be an ad hoc decision, which could in turn result in disastrous outcomes for both the newly established council and the communities generally.

RAMROC Councils are certainly not convinced at the veracity of the Government's consistent rhetoric during this FFTF process that *"big is better"*, that *"152 Councils is too many"*, that *"mergers will deliver better services, better infrastructure and put downward pressure on rates"* and that *"there is an urgent need for change"*.

**TOR (b) - The financial sustainability of the local government sector in New South Wales, including the measures used to benchmark local government as against the measures used to benchmark State and Federal Government in Australia**

Several inquiries and reports over recent years have dealt with the need to secure the long term financial sustainability of the NSW local government sector.

In brief, the most significant of these have been as follows:-

1. In 2006, the Allan Inquiry into Financial Sustainability of NSW Councils concluded that some 25% of NSW Councils were in danger of financial failure and a further 50% would struggle to maintain long term sustainability

The Allan Inquiry concluded that NSW local government had an accumulated infrastructure renewals backlog of \$ 6.3 billion and that the backlog would grow by \$500 million each year without adequate additional resources being raised

2. In 2009, IPART carried out a review of local government and concluded that financial sustainability challenges are mainly experienced by the smaller sized councils, due to the limited size of their revenue base and that rural councils with less than 10,000 population are at the greatest risk of remaining sustainable over the long term
3. In December 2011, TCorp was appointed by the Department of Local Government to assist the Department and NSW Treasury in relation to the Local Infrastructure Renewal Scheme (LIRS). This initiative provided councils with an interest rate subsidy on borrowings to fund infrastructure backlog projects and TCorp's role was to undertake a financial assessment and benchmarking report on councils that had made application for LIRS funding.

Following the announcement of the ILGRP in March 2012, the Department of Local Government expanded the scope of TCorp's reports to prepare financial sustainability assessments on all 152 general purpose councils. These TCorp assessment reports were referenced extensively by ILGRP in its Final Report and Recommendations.

TCorp's principal tasks included:-

- Creating a definition of sustainability
- Establishing a set of appropriate benchmark indicators
- Developing an assessment methodology, including a rating scale and methodology that could be used to compare councils against the sustainability definition
- Reviewing both historical financial results and the long term (10 year) financial forecasts of each council
- Creating a Financial Sustainability Rating (FSR) to rate each individual Council

TCorp developed its own definition of sustainability, which is *"a local government will be financially sustainable over the long term when it is able to generate sufficient funds to provide the levels of service and infrastructure agreed with its community"*

In undertaking its review and report of each council, TCorp assessed the following:-

- The financial capacity of each council based on data from 2009 to 2012
- The long term sustainability of each council, including an assessment of integrating Council's Asset Management Plans and Long Term Financial Plans
- The financial performance of each council in comparison to a range of similar councils, when measured against the established benchmarks

The results of the Financial Sustainability Rating (FSR) of all 152 Councils as determined by the TCorp process indicated that 113 (74.2%) of the 152 Councils were rated as Moderate or better and 39 (25.7%) were rated as Weak or Very Weak.

TCorp also prepared an Outlook Distribution rating, based on the likely movement of an individual Council's FSR over the ensuing 3 years. This resulted in only 5 Councils having a Positive rating, 74 Councils having a Neutral rating and 73 having a negative rating.

On basis that the Outlook assumptions were proved accurate in practice, it would mean that 82 Councils (53.9%) would be rated as Moderate or higher, with 70 Councils being rated as being Weak or lower.

However, it is probably fair to say that amongst many Councils and including their external Auditors the TCorp assessments are not without challenge and don't necessarily portray the strength of a Council's current financial status and long term financial sustainability

4. On 27<sup>th</sup> April 2015, the NSW Minister for Local Government announced that IPART, supported by South Australian local government expert John Comrie, would act as the Expert Advisory Panel to review the Fit for the Future submissions lodged by Councils by the 30<sup>th</sup> June 2015 deadline.

The Government requires the Expert Panel to undertake its assessment of the Councils' FFTF submissions and to report back to the Minister by 16th October 2015.

The IPART Terms of Reference set by Premier Baird MP require the Expert Panel to assess whether each Council meets the four key criteria that the Government had adopted in September 2014 for a Council to be "Fit for the Future", these being:-

- scale and capacity to engage effectively across community, industry and government
- sustainability criteria – both operational and capital
- effectively managing infrastructure and delivering services for communities
- efficiency criteria

In late April 2015, IPART released a Consultation Paper "Methodology for Assessment of Council Fit for the Future Proposals" and invited submissions by late May. During May IPART also convened a number of public workshops to discuss the methodology. RAMROC lodged a submission and attended the workshop in Wagga on 21<sup>st</sup> May 2015

In early June 2015, IPART released its revised "Local Government – Assessment Methodology" Paper. In relation to the "sustainability" criterion, the Expert Panel definition (on page 37) is very similar to that of TCorp referred to above. It states:-

*"Sustainability means that councils will generate sufficient funds over the long term to provide the agreed level and scope of services and infrastructure for communities as identified through the Integrated Planning and Reporting process. We consider that ensuring Councils are financially sustainable, and being able to show this will occur into the future, is fundamental to demonstrating a council is FFTF"*

The Expert Panel has adopted three specific Performance Measures and associated Benchmarks that it will apply in determining Operational Sustainability, these being:-

- Operating Performance Ratio – Greater than or equal to break even average over 3 years
- Own Source Revenue – Greater than 60% average over 3 years

- Building and Infrastructure Asset Renewal Ratio – Greater than 100% average over 3 years

The Panel has also adopted three other Performance Measures and Benchmarks that it will apply in determining the Capital Sustainability for each Council, these being:-

- Infrastructure Backlog – Less than 2%
- Asset Maintenance Ratio – Greater than 100% average over 3 years
- Debt Service Ratio – Greater than 0% and less than or equal to 20% average over 3 years

#### Summary Comments on TOR (b)

It is clear from the above inquiries and reports into local government sustainability that no stone has been left unturned to question and test out the financial capacity of councils to meet the expectations and service levels required by their communities, in order to reduce their infrastructure backlogs, to satisfactorily maintain their assets and to remain financially sustainable for the long term.

The FFTF criteria, performance measures and benchmarks are stringent and there is a general concern amongst councils that they are likely designed so that many councils will not be able to meet the benchmarks and therefore will ultimately be at the whim of a political decision by the Government as to whether forced mergers will eventuate.

In relation to any comparisons with the sustainability measures and benchmarks that are applied to State and Federal Governments, the writer has been unable to establish that any such measures and benchmarks are publicly documented for those two levels of Government.

However from a comparison perspective, public available reports indicate that the national infrastructure backlog has been estimated in 2013 at some \$700 billion, which represents around 50% of the nation's annual gross domestic product (GDP). There is certainly a lack of funding at Federal and State level to address their backlogs, particularly amongst the States.

In addition to the infrastructure backlog, the combined Commonwealth and State Governments net debt (i.e. after deducting certain financial assets) will exceed \$ 350 billion by 2016-2017, which is almost 20% of GDP and more than 50% of general government revenue. In New South Wales, the net debt as a percentage of annual operating revenue is around 20%, very likely at the top end of the long term sustainability benchmark set for councils.

The NSW Government has recently legislated to the 49% long term lease (99 years) of the State's electricity "poles and wires" network. This is expected to generate \$20 billion in revenue, which is intended to be spent on a range of infrastructure projects. However, this is a "one-off" measure which will be impacted financially by the future loss of annual revenue that has been generated from the energy industry.

In simple terms, this tells us that both the Commonwealth Government and State Governments face serious infrastructure backlog, debt levels and financial sustainability issues into the future.

The Fit for the Future process has been beneficial in that it has provided a timely opportunity for Councils in their FFTF submissions to specifically review and address the question of their long term financial sustainability and to cement their asset management plans and financial planning programs and revenue raising strategies. Most notably this has been undertaken in genuine collaboration with their communities.

### **TOR (c) – the performance criteria and associated benchmark values used to assess local authorities in New South Wales**

The State Government established the performance measures and benchmarks for each of the criteria and embedded them into the Terms of Reference for IPART's assessment process, which Councils have now been required to report against.

IPART has no ability to change the measures and benchmarks and as a result these are now set out in the IPART methodology "*Table 1.1 – Fit for the Future Criteria and Measures*" and are as described earlier in TOR (b) above.

Accordingly, there is little purpose now in making a lot of further comment on these measures and benchmarks, except to say that they should be used only as part of a much broader assessment of whether a council can stand alone or whether it needs to be considered for merger.

ILGRP recommended that proposed mergers be independently assessed by a re-constituted and better resourced Boundaries Commission over the next few years. RAMROC strongly agrees, as this would remove the potential for a State Government ad hoc decision to simply legislate mergers based on the IPART's limited financial assessment alone, which would negate the important scrutiny of an open and transparent Boundaries Commission process,

The Boundaries Commission remains a critically important element in local government reform, because it will always deliver an independent and evidence based assessment of merger proposals. It will also provide the opportunity for the IPART performance measures and benchmarks to be further analysed as one component of a much wider merger investigation process.

However, against that background, the following brief comments are made:-

1. **Operating Performance Ratio** – the 5 year (2019-2020) timeframe for regional councils to "Must Meet" the benchmark is very short, especially taking into account the specified 3 year average which would have to commence as early as 2017-2018
2. **Own Source Revenue Ratio**
  - (a) Income from Financial Assistance Grants, Water and Sewerage and other income from contracted works etc should be allowable for ALL Councils
  - (b) It will be very difficult and sometimes impossible for regional and rural councils to achieve the 60% OSR. It is clear that increased income will principally have to come from rates, thus placing a severe burden on ratepayers
  - (c) Again the "Must Meet" benchmark within 5 years is unrealistic in most instances for the reason set out in (a) above

### **TOR (d) – the scale of local councils in New South Wales**

IPART'S methodology indicates that Councils will be rated as either "**fit**" or "**not fit**", with reasons given for the assessment. Councils that do not make a submission will be "**deemed not fit**"

Councils are required to demonstrate that they have, or will have “**scale and capacity**” in accordance with the ILGRP final report and recommendations and this has been adopted by IPART as the threshold criterion in its assessment of Councils’ submissions.

The key elements of scale and strategic capacity identified by ILGRP are as follows:-

- More robust revenue base and increased discretionary spending
- Scope to undertake new functions and major projects
- Ability to employ wider range of skilled staff
- Knowledge, creativity and innovation
- Advanced skills in strategic planning and policy development
- Effective regional collaboration
- Credibility for more effective advocacy
- Capable partner for State and Federal Agencies
- Resources to cope with complex and unexpected change
- High quality political and managerial leadership

These scale and capacity criteria have been addressed by the individual Councils within RAMROC, bearing in mind that the criteria are largely applicable to the regional cities of Albury and Griffith and to a lesser extent to the other medium sized Shire Councils.

Those shire councils in the RAMROC region that have submitted Template 3 submissions have responded to the specified characteristics to qualify as being a “Rural Council” and the above scale and strategic capacity elements have been relaxed.

**TOR (e) – the role of the Independent Pricing and Regulatory Tribunal (IPART) in reviewing the future of local government in New South Wales, assisted by a South Australian commercial consultant**

IPART certainly has a great deal of experience with local government analysis, both in its 2009 sustainability report and for some years in processing applications by Councils for Special Rate Variations (SRVs)

Under those circumstances, it is appropriate that IPART be appointed as the Expert Panel to undertake an assessment of the submissions by councils throughout the State.

However, in addition to the appointment of John Comrie from South Australia to assist the Expert Panel and to provide specialist local government expertise, RAMROC has proposed to both the Minister for Local Government and to IPART that two additional people with significant expertise and high level experience in NSW local government management be co-opted to assist the Panel in its assessment task.

RAMROC’s suggestion to the Minister was that it would be beneficial to co-opt two highly regarded local government professionals, one with extensive experience in large metropolitan Sydney councils and one with that same level of experience with regional and rural councils. This would provide additional knowledge and coal-face expertise and would also assist the enormous task confronting IPART, which has the task of assessing over 140 submissions in a short period of time between July and mid-October



**TOR (f) –the appropriateness of the deadline for “Fit for the Future” proposals**

The deadline of 30<sup>th</sup> June 2015 for Council submissions is a reasonable one, bearing in mind that the OLG Templates for submissions have been available for some months.

The only qualification to be made is that there has only been a matter of weeks since the final IPART methodology was released in early June. This may have presented some difficulties for Councils in refining their submissions and engaging with their communities, so as to take account of the final IPART requirements. Individual councils would be better placed to respond to this aspect.

**TOR (g) - costs and benefits of amalgamations for local residents and businesses**

These costs and benefits will vary from area to area and responses are best left to individual councils

**TOR (h) – evidence of the impact of forced mergers on council rates drawing from the recent Queensland experience and other forced amalgamation episodes**

This TOR is best answered by local government experts who have examined and published various analyses on the impacts of local government mergers in Australia, for example Professor Brian Dollery from the University of New England Business School

**TOR (i) – evidence of the impact of forced mergers on local infrastructure investment and maintenance**

Again this TOR is more appropriate to individual councils and various external local government reform analysts

**TOR (j) – evidence of the impact of forced mergers on municipal employment, including aggregate redundancy costs**

As per TORs (g), (h) and (i) above

**TOR (k) – the known or likely costs and benefits of amalgamations for local communities**

As per TORs (g), (h) and (i) above

**TOR (l) – the role of co-operative models for local government including the Fit for the Future’s own Joint Organisations, Strategic Alliances, Regional Organisations of Councils, and other shared services models, such as the Common Service Model**

The 18 RAMROC Councils have been strongly committed to the regional collaboration model since the early 1990s, initially as two separate ROCs, Murray ROC in the Murray region and RIVROC in the Western Riverina region. The two ROCs began operating with a shared administration in 2005 and formally merged into the one organisation known as RAMROC in July 2008 (refer to attached map)

Across the State, Regional Organisations of Councils have provided an excellent and affordable range of services for their Member Councils, particularly in the area of regional advocacy, engagement with Federal and State Governments, shared services and resources and joint procurement.

RAMROC generally supports the concept of Joint Organisations and in that regard lodged an Expression of interest to become one of the 5 Pilot Joint Organisations under the Fit for the Future package, based on the existing membership of 18 RAMROC councils.

Unfortunately the RAMROC EOI was unsuccessful, most likely because the RAMROC JO proposal embraces a large and diverse geographic area, which is at odds with the recommendations of ILGRP for there to be 3 separate and smaller Joint Organisations spread across the RAMROC region, an Upper Murray JO, a Lower Murray JO and a Murrumbidgee JO.

**TOR (m) – how forced amalgamations will affect the specific needs of regional and rural councils, especially in terms of its impact on local communities**

As per TORs (g), (h) and (i) above

**TOR (n) - protecting and delivering democratic structures of local government that ensure it remains close to the people it serves**

It is very relevant that all Councils in the RAMROC region are strongly focussed on ensuring maximum service levels and strong representation for their communities, ratepayers and residents. This is an absolutely essential feature for strong local government, particularly in regional and rural areas.

The importance of local representation has been reinforced across the RAMROC region throughout the Integrated Planning and Reporting processes and in particular as a result of feedback provided to councils in person and through surveys carried out during the FFTF community engagement processes.

There is a very strong concern that the principal downside of mergers is the potential to impact adversely on the benefits currently enjoyed through strong local representation, especially in large rural shires.

**TOR (o) – the impact of the “Fit for the Future” benchmarks and the subsequent IPART performance criteria on council’s current and future rate increases or levels**

This may vary across the region, so relevant responses are best left to the individual councils

**TOR (p) – any other related matter**

No further comments at this stage.

**Conclusion**

We trust that the brief information contained in this RAMROC submission will be of use in the Standing Committee's deliberations.

Although not included in the specific Terms of Reference, one critical issue of concern is that the State Government has not as yet progressed the development of a new Local Government Act, following on from the comprehensive work carried out by the Local Government Act Taskforce. This is a matter that was referenced by ILGRP as an important component of the FFTF reform processes.

Nor has the Government given any indication as to whether it might, as an alternative to legislating a completely new LG Act at this stage, decide to simply amend the existing Act to accommodate specific FFTF outcomes.

In either case, this is an issue that requires the Government's urgent attention, particularly bearing in mind the timelines associated with FFTF outcomes that will necessitate legislation, for example the establishment of Joint Organisations by September 2016.

Also in relation to the current LG Act, an additional matter that is absolutely critical for sustainable operational efficiency and good governance for "Fit for the Future" councils, is that the existing or a new Local Government Act must put in place appropriate governance mechanisms, which ensure that Councillor performance and behaviour can be effectively managed, without the existing imposts that Councils currently face.

In this regard, it is important that as part of the first tranche of changes to the Act (or as part of a new LG Act), that specific provisions be legislated to provide councils with effective and enforceable powers to implement strong performance management standards and to determine penalties when dealing with breaches of the Code of Conduct and/or other serious behavioural issues.

The RAMROC Executive Committee, which comprises the Chairman Cr Terry Hogan AM (Jerilderie Shire), Deputy Chairman Cr Kevin Mack (Albury City), Secretary/Treasurer Ms Margot Stork (Murray Shire) and Executive Officer Mr Ray Stubbs, would be pleased to meet with the Inquiry Committee at any time, in order to provide further information or to discuss any of the specific aspects in more detail.

In that regard, please do not hesitate to make contact with the Executive Officer at the contact details set out above.

Cr Terry Hogan AM  
Chairman  
RAMROC

Ray Stubbs  
Executive Officer  
RAMROC