

**Submission  
No 181**

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

**Organisation:** City of Sydney council

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THE LORD MAYOR OF SYDNEY  
**CLOVER MOORE**

20 July 2015

Madeleine Foley  
Director  
General Purpose Standing Committee No. 6  
By email [gpscno6@parliament.nsw.gov.au](mailto:gpscno6@parliament.nsw.gov.au)

Dear Ms Foley

**Submission to Inquiry Relating to Local government in New South Wales by Legislative Council inquiry General Purpose Standing Committee No. 6.**

I welcome the resolution of the Legislative Council to conduct an inquiry into the NSW Government's Fit for the Future process.

Over the past four years, local government in NSW has been subject to numerous inquiries and reviews which have involved untested, complex and even contradictory proposals.

The most significant of these was conducted by the Independent Local Government Review Panel (ILGRP), chaired by Professor Graham Sansom. The Panel's final report, Revitalising Local Government contained 65 recommendations, the overwhelming majority of which were endorsed by the City of Sydney, Sydney Metropolitan Mayors and Local Government NSW.

Revitalising Local Government set out a broad package of reforms which covered governance, clarification of state and local government responsibilities and changes to revenue raising, including changes to current rate-pegging arrangements. Rather than working with local government to implement broadly supported reforms, the NSW Government has embarked on the Fit for the Future process with its narrow focus on council amalgamations.

The Legislative Council inquiry provides an opportunity to not only examine the flaws and limitations of the Fit for the Future process but to refocus the reform agenda onto more urgent priorities for local government.

I enclose this submission on behalf of the City of Sydney and would welcome an opportunity to address the Committee.

Clover ~~M~~ Moore  
**Lord Mayor of Sydney**

Encl.

## Legislative Council Inquiry into local government in New South Wales

### Submission by Clover Moore, Lord Mayor of Sydney

#### Response to each Term of Reference

(a) ***the New South Wales Government's 'Fit for the Future' reform agenda***

The City of Sydney endorses the need for a modern 21st century system of local government and planning in New South Wales to secure the environmental, social, cultural and economic sustainability of our city and our state. The State Government's "Fit for the Future" process will not achieve that outcome.

Reform should strengthen the capacity of local government to deliver for our diverse communities and for NSW.

***The fundamental role of a democratically elected local council is to provide leadership and governance for its local area. Local government best serves its communities when it is truly "local" in character, especially in the context of Australia's three-tier system of government. Good local government engages with its communities to establish an integrated vision for its area. It understands the aspirations of its people, leads debate on important issues affecting our future, and delivers results on its vision.***

A reform process must begin with an understanding of the role of local government and its role in local planning, and be based on clear principles. It needs a logical and structured approach that genuinely engages with local government and our communities and should involve reform across all three tiers of government, not just local government.

The Fit for the Future process, with its focus on council amalgamations, will not deliver the reform local government needs. It follows several reviews initiated by the Government which involved untested, complex and even contradictory proposals. These reviews were summarised in my Lord Mayoral Minute to an extraordinary meeting of Council of 13 June 2013. This meeting resolved to request the NSW Government to establish an overarching expert panel, including local government representatives, to provide an interface between the various reviews and help deliver an integrated outcome. (The Minutes of this meeting, including the Lord Mayoral Minute and Council resolution is Attachment A to this submission.) The State Government did not agree to the City's proposal.

The most significant of these reviews was the review conducted by the Independent Local Government Review Panel (ILGRP), chaired by Professor Graham Sansom. The Panel's final report, *Revitalising Local Government* contained 65 recommendations, the overwhelming majority of which were endorsed by the City of Sydney, Sydney Metropolitan Mayors<sup>1</sup> and Local Government NSW.

***Sydney Metropolitan Mayors proposed an implementation strategy*** which involved the establishment of four implementation working groups comprising State Government representatives, elected officials, experienced local professionals and technical experts. Adopting this cooperative strategy would be a practical way of implementing the Panel's strong recommendation for greater collaboration and cooperation between State and local government.

The four proposed working groups would have been responsible for four cohesive priority areas effectively identified in *Revitalising Local Government*:

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<sup>1</sup> An association established in 2013 which brings together the councils of metropolitan Sydney to work together collaboratively.

1. Financial sustainability
2. Collaboration and coordination
3. Governance; and
4. Continuous improvement

More information about this proposal is contained in the City's response to Revitalising Local Government (Attachment B).

The State Government did not take up this sensible and practical proposal for achieving reforms, instead proceeding with its Fit for the Future process.

The ILGRP proposed the creation of a 'global' City council through the amalgamation of Woollahra, Randwick, Waverley, Botany and the City of Sydney Councils. It is important to note that the affected local communities have emphatically rejected such a proposal. The results of independent community consultation in the respective council areas are summarized below:

- Randwick City Council – 90% prefer an Eastern Suburbs Model, 5% prefer larger 'global' city model, 5% undecided;
- Waverley Council – 89% prefer an option other than a 'global city';
- Woollahra Municipal Council – initial survey indicates 81% of residents oppose any form of amalgamation (final survey results not yet released);
- City of Botany Bay - 97% of respondents were opposed to amalgamation (Mayoral Minute - 2013); and
- City of Sydney – 82% of residents oppose an amalgamation, favouring a 'stand-alone' option.

The scope of the Fit for the Future agenda is far narrower than the reform of the local government sector, as envisaged by the Independent Local Government Review Panel.

*Revitalising Local Government* set out a broad package of reforms which covered governance, clarification of state and local government responsibilities and changes to revenue raising, including changes to current rate-pegging arrangements. The Fit for the Future process narrowly focusses on the financial performance of Councils within the existing revenue raising framework. The need for state legislative and policy reform is not addressed. Instead, "Fit for the Future" is based on the unproven premise that council amalgamations will lead to cost efficiencies and ensure financial sustainability.

Professor Graham Sansom, head of the Government's Independent Local Government Review Panel, himself raised concerns with regards to the Fit for the Future agenda. In his submission to IPART, Professor Sansom wrote that the process seemed to be heading toward a "temporary fix":

*"The need for wide-ranging, longer term measures to build sustainability and capacity is often being confused with short medium term 'budget repair', which is not what the ILGRP intended,"* Mr Sansom wrote.

In his submission to IPART on the proposed assessment methodology, Professor Sansom also stated that:

*"... the ILGRP did not base its case for metropolitan mergers on the need to improve financial sustainability or to achieve increased efficiency and cost savings".*

- Professor Brian Dollery from the University of New England has also warned there is no

evidence that a larger council results in better management and lower costs.

(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***

The scale of financial ‘unsustainability’ within the local government sector has been overstated, with claims that local government is “losing \$1m a day”. This is a misrepresentation. It is based on the total deficit of \$355M for all 152 NSW Councils. The claim ignores the fact that \$262M of this deficit has been incurred by 20 Councils. The overwhelming majority of councils have much smaller deficits, and some, such as the City of Sydney have none. The claim completely excludes those councils with operating surpluses.

The “Fit for the Future” process also suggests that Councils without debt may not be “fit” (see response to (c) below).

Local government is subject to a range of benchmarks which do not exist for other levels of government. The City of Sydney has argued against the “one size fits all” approach to performance measurement and benchmarking. State and federal government agencies do not appear to use an equivalent ‘suite’ of financial sustainability measures. If they do, performance, benchmarks and expected outcomes are not publicly disclosed. Such a lack of disclosure is at odds with the demands the State Government places on local government generally, and specifically through the *Fit for the Future* process.

The benchmarks being used by the “Fit for the Future” process do not adequately reflect the characteristics of a sustainable council and do not enable a full and balanced assessment of financial performance now and into the future. This view is widely held within the local government sector.

The mandated benchmarks also make no reference to service standards, community and stakeholder satisfaction, nor quality of outcomes generally. An excessive emphasis on financial results jeopardises the levels of service provided to local government stakeholders, in favour of “quick fix” solutions to a particular set of performance measures.

The City supports the definition of financial sustainability set out in the TCorp assessment and reiterated in the IPART methodology that: “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”.

The City targets above benchmark performance across the “Fit for the Future” mandatory performance indicators as part of our long term financial planning process, within the limitations of the benchmarks (see Section 2.2.2 of the attached submission to IPART).

Our external auditors PWC and the NSW Government’s TCorp have independently verified the City’s strong financial position. The 2013 TCorp Review of local government financial sustainability confirmed the City has “strong operating surpluses, strong levels of liquidity, good financial flexibility and no debt.” It assessed our finances as “strong” with a “positive outlook”— the only NSW council with this rating.

Since the election in 2004, the City’s Annual Operating Result has been a surplus in excess of \$100 million. Our history of sound, prudent financial management has ensured the City has the financial resources to deliver our ten year capital program, ahead of any consideration of using borrowings. Our long term financial plan continues this history of strong financial management, enabling us to undertake routine infrastructure renewal works while delivering major new initiatives such as the City’s \$220 million contribution to the NSW Government’s light rail project and delivery of infrastructure for the Green Square urban renewal project.

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

The benchmarks do not address the diverse situation of local government NSW and assume that all councils are financially unsustainable.

The benchmarks:

- ignore vastly inconsistent treatment of assets and assumptions as to their useful life;
- do not include a consistent definition to determine whether assets are “satisfactory”;
- Provide no opportunity to reflect the most appropriate funding mechanisms for each Council given their economic circumstances and long term financial planning;
- Are too narrow in scope to provide a holistic picture of financial sustainability for a council (e.g. no liquidity measure is included in the performance ratios, ***making it technically possible for an insolvent Council to still be deemed financially ‘fit’***); and
- The relative importance of each of the benchmarks is not clear.

Under the IPART assessment methodology there are seven financial indicators. Two are categorized as *must meet within 5 years*, one as *must demonstrate operational savings* and the remainder *meet or improve within 5 years*. Unlike the 2013 TCorp review of the *Financial Sustainability of the New South Wales Local Government Sector* the benchmarks are not assigned weightings to indicate their relative importance.

John Comrie, a member of the IPART Local Government Review panel, has argued strongly in his 2014 review of TCorp’s Report that the operating ratio (operating surplus divided by operating revenue excluding capital contributions) should be given a weighting of “*at least 50%*”.

The following three examples demonstrate where the “one size fits all approach” fails:

- **Cost of Debt Service:** This ratio assumes that Councils with no debt are not “fit for the future”, based on the principle that public assets (e.g. aquatic centres, libraries) should be financed by borrowings repaid over the life of the asset so that future users contribute to the funding. This ignores financially strong councils that have set aside funds (including developer contributions) for new community assets and infrastructure.

The benchmark ratio should be adjusted to acknowledge that councils with nil debt to 20% are fit for the future.

- **Building and Infrastructure Renewal Ratio:** This ratio measures asset renewal expenditure as a percentage of annual depreciation. Using depreciation as a “proxy” for required asset renewal is an over simplification as a fully depreciated asset can still function effectively for many years. It makes no financial sense to renew a well maintained asset simply because it is old.

The minimum benchmark of 100% creates pressure to over-service assets. In reality, the pattern of renewal expenditure does not inherently reflect the decline of asset condition and service potential. Renewal is typically undertaken periodically, rather than on a consistent annual basis. Alternatively, the benchmark may encourage manipulation of depreciation rates across councils – a lack of sector-wide consensus (or guidance) on appropriate rates of depreciation already gives rise to inconsistent outcomes and a lack of comparability.

- **Infrastructure Backlog Ratio:** While this ratio measures the cost to bring assets to a satisfactory standard divided by asset values, there is no consistent definition of “satisfactory standard”. These figures are displayed in Special Schedule 7, an unaudited attachment to a council’s audited financial statements.

IPART had previously recommended that until these schedules are audited there is little value in using the information as a benchmark.

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

The state government has established “scale and capacity” as threshold criteria for local government with the erroneous assumption that the two are inextricably linked. The scale of a council is not defined by its geographical size or number of residents living in the local government area, yet this is the main narrow focus of the “Fit for the Future” program.

A Council’s scale must be based on the number of people it is required to serve rather than the number of residents living within its boundaries. The City of Sydney, for example, provides services to over 1.2 million people, including business owners, workers, students, tourists and other visitors as well as residents. Other Councils with significant CBDs, such as Parramatta, North Sydney and Willoughby have significant business related populations. Councils such as Waverley, Manly and several regional coastal councils have their populations dramatically increased by tourists.

These populations have significant demands on Council services, including waste and cleansing, high quality public domain and facilities, and in the case of the City, services relating to economic development, tourism and culture. The City moreover must meet the expectations of a population (both residential and non-residential) of a global city.

Scale must take into account the role and responsibilities of councils within the existing local government framework in NSW. *Revitalising Local Government* suggested several ‘key attributes of a global capital city’—physical size, hierarchy, leadership, strategic capacity, global credibility, governability and partnership with the state (*Revitalising Local Government*, p. 100). These attributes are generally reasonable and the City of Sydney is performing well against these criteria.

However, *Revitalising Local Government* assumes a radical transfer of power and authority from the state government to the City Government that is not being considered by the Fit for the Future program. Indeed, the State Government has deferred reforms to devolve responsibility from state to local government and retains a veto over the vast majority of issues within the responsibility of local government.

A practical and long-overdue reform for the City is for the State to return local government authority for the areas excised and transferred to the control of State authorities. As a basic principle, the City must have the capacity to plan holistically for its area without the State excising development areas, such as the Sydney Harbour Foreshore Authority, the Barangaroo Delivery Authority and UrbanGrowth NSW.

While the Independent Review Panel emphasised scale and capacity, it clearly recognised that there was no real link between the two. Implementing its recommendations for metropolitan councils would have resulted in councils with project populations by 2031 ranging from 59,000 to 669,400.



(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's brief is to determine whether Councils are "fit" or "not fit" using narrow and flawed criteria. It does not address the areas where real reform is needed: improved governance arrangements and a more collaborative partnership of state and local government. These reforms require political leadership and legislative action.***

Its limited brief is focused on whether Councils are financially sustainable. The brief does not require it to consider the purpose of financial sustainability, namely to ensure that Councils can fill their many obligations – social, environmental, cultural – to their communities.

Of course IPART has no recognised experience or expertise in dealing with these issues. Nor does it have expertise and experience in understanding and responding to community needs and aspirations. Its responsibilities, as set out on its own website, primarily relate to economic and financial matters, in particular the pricing of goods and services.

Given its limited brief and lack of relevant expertise or experience, it is difficult to see how IPART could make a meaningful contribution to achieving local government reform.

(f) ***the appropriateness of the deadline for 'Fit for the Future' proposals***

The ability of Councils to meet the deadline for submitting "Fit for the Future" proposals was significantly compromised by the delay in the Government announcing that IPART would be the independent panel responsible for assessing these proposals, and IPART's actions following its appointment.

The Government released Release of Fit for the Future Self-Assessment Tool, Templates and Guidance material on 31 October, 2014 and final updated Fit for the Future Templates on 14 November, 2014. IPART's appointment was not publicly announced until 27 April, 2015, more than five months later. On the same day, IPART released its draft methodology for assessing Fit for the Future proposals.

IPART's draft methodology represented a significant departure from the Guidance Material and Fit for the Future templates, particularly in the way it would assess "scale and capacity". This included the requirement that Councils Fit for the Future proposals were "superior" to those recommended in the *Revitalising Local Government* Report, a requirement that was not stipulated in the Guidance Material and Templates. The draft methodology also contained the suggestion that IPART was planning to set a minimum population for councils, even though this was explicitly rejected in *Revitalising Local Government*.

Councils and the community were given until 25 May to submit comments on the draft methodology. **The City's submission on the draft methodology, which sets out our concerns in detail, is Attachment C.**

At a consultation forum on 18 May, IPART repeatedly declined to state whether it would set a minimum population for Councils, and if so what the minimum population for councils would be. Its Chair, Dr Peter Boxall, instead gave a commitment it would address this and all other issues in its final methodology.

IPART released its final methodology on 5 June, which included a retreat from the requirement that Council's proposals should be "superior" and did not provide a mandatory minimum population. Six weeks had elapsed between the release of IPART's draft and final methodologies with councils experiencing uncertainty during this period. ***The late release of this methodology meant council had 25 days (in actual fact 17 working days) to***



**complete their proposals, secure formal council endorsement of their proposals and lodge them by the deadline.**

For these reasons Sydney Metropolitan Mayors sought an extension to the deadline, which was declined. **This correspondence is Attachment D and E.**

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

The City is well placed to understand the impacts of an amalgamation, having been created through a politically motivated forced amalgamation in 2004. The process was disruptive and took three to five years to fully complete, with significant organisational capacity focused on successfully managing the process. Time and resources to align administration, policies and systems of three different councils, even those these areas had historically been together.

The amalgamation proposed by the Independent Local Government Review Panel would be even more disruptive. It would merge the City with Woollahra, Waverley, Randwick and Botany – four councils with very different systems, policies, practices and cultures. The need to create a new Council from these disparate components could absorb our resources, time and energy, threatening the uninterrupted delivery of significant projects such as Green Square public facilities and the City's contribution to key State Government projects like light rail.

Little would be gained from such an amalgamation. Detailed analysis by Randwick City Council, reviewed and supported by the City, points to a potential saving of \$146 million over ten years - around 54 cents per resident per week.

**More information on the disruptive and negative impacts of amalgamation is contained in the City's Fit for the Future proposal submitted to the IPART (Attachment F).** Attachments to this submission are available at <http://bit.ly/1DpE9nb>

- (h) evidence of the impact of forced mergers on council rates drawing from the recent Queensland experience and other forced amalgamation episodes**
- (i) evidence of the impact of forced mergers on local infrastructure investment and maintenance,**
- (j) evidence of the impact of forced mergers on municipal employment, including aggregate redundancy costs,**

As noted in response to (g) above, the City of Sydney experienced a forced merger in February 2004. The harmonization of three different rating structures, planning controls and administrative and management systems was time consuming and resource intensive. Creating a single rating structure which was fair and equitable without creating severe and disproportionate financial burdens was one challenge we met. Ensuring we had coherent planning controls to meet the needs of a 21<sup>st</sup> century city was another. During this process the City also undertook an extensive capital works program.

Eleven years on, the City is in a strong financial position, provides a comprehensive range of services and programs for its residents, ratepayers, businesses and visitors and has developed award winning community facilities, parks, playgrounds and improvements to the public domain.

These achievements are the result of strong visionary political and organizational leadership, not the 2004 amalgamation. An amalgamation, forced or voluntary, cannot in itself deliver such outcomes. An amalgamation, in itself, cannot guarantee that the resulting council will have the capacity, resources or leadership to ensure that it is sustainable or capable of meeting the needs of its community. Amalgamating two poorly performing or two poorly managed councils only creates one larger poorly performing or poorly managed council.

Amalgamating a well-managed council with a poorly performing or poorly managed council risks undermining the well-managed council. If two councils are well-managed and performing, what is the benefit from amalgamating them?

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

This has been addressed in the response to (g) above.

(l) ***the role of co-operative models for local government including the 'Fit for the Futures' own Joint Organisations, Strategic Alliances, Regional Organisations of Councils, and other shared service models, such as the Common Service Model***

The City of Sydney engages with other councils, as well as government agencies and numerous organisations through formally established structures and informal and short term arrangements. (These partnership arrangements are detailed in an annexure to the City's submission to IPART which is included as Attachment G) This collaboration is issue-based rather than based on fixed regional groupings. This collaboration may be based on the City's boundary with a neighbouring council including major high street, or it may be based on a shared interest or concern, such as working together with other councils on climate change or increasing opportunities for live music.

The City also works through organisations such as the Council of Capital City Lord Mayors and Sydney Metropolitan Mayors to achieve action on issues of concern to all councils.

Collaboration must be necessarily fluid rather than tied to a specific, geographically based model.

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

This issue is not directly relevant to City of Sydney.

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

It is a truism that local government is government closest to the people. It is also representative democratic government. If the "local" quality of local government is to be preserved it is essential that diverse viewpoints of local communities are heard, not simply through community engagement proposals, but at the table where decisions are made. In a system of representative democratic government, this means opportunities for people representing various community viewpoints to be elected as councilors.

A diversity of elected representation has long been a feature and strength of democratic local government in NSW. While this has included the involvement of political parties, this has been tempered by strong community sentiment that party politics has no place in local government. This has been matched by a desire to ensure that local government is not exclusively dominated by the major parties with the inevitable polarisation (and at times collusion) that comes with this domination. Even in councils where party politics dominates, the community elects non-party candidates to ensure alternative views are heard.

The large scale amalgamations proposed in *Revitalising Local Government* will seriously threaten this. Candidates who do not have the resources, organizational capacity and access to funding of the major parties will face significant obstacles in seeking election to the proposed new mega councils. Elections for these mega councils may be reduced to being nothing more than major party contests followed by decisions for communities being

determined through adversarial party politics, with the interests of the dominant party, rather than the community interest, being the major influence.

(o) ***the impact of the 'Fit for the Future' benchmarks and the subsequent IPART performance criteria on councils' current and future rate increases or levels***

In the absence of empirical evidence of significant cost efficiencies being achieved under amalgamation scenarios, it is difficult to anticipate that an amalgamation would result in any significant reduction in rates. Substantial variations in rates across an amalgamated area may require inconsistencies to be addressed. However any increase or reform in rates remains controlled by the State Government's rate-pegging policy.

The Office of Local Government has indicated that access to a streamlined process for Special Rate Variation is being developed, in conjunction with the *Fit for the Future* reforms.

At a public forum hosted by IPART in Sydney on 11 May 2015, (Acting) CEO of the Office of Local Government, Steve Orr, stated:

*"In terms of those Councils which are fit for the future, the view is that those Councils will get access to a different way of increasing rates above the rate peg. A streamlined and simplified way, and we've commenced work on that, but the intention is that that will apply to those Councils which are fit for the future."*

Whilst any Special Rate Variation application would presumably still need to be adequately justified, a streamlined process has the potential to encourage the increased utilisation of SRVs in addressing future funding shortfalls identified in a council's Integrated Planning and Reporting documents. The suggestion that the streamlined process would be made available to councils already deemed "fit for the future" seems inconsistent with the notion that in order to be deemed "fit", presumably these councils would not require an increase to rates above the pegged level.