

**Submission
No 99**

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Organisation: Orange City Council

Date received: 3/07/2015



D15/17679

3 July 2015

General Purpose Standing Committee No. 6
Chair The Hon Paul Green MLC
Parliament House
Macquarie St
Sydney NSW 2000

Dear Mr Green

NSW LEGISLATIVE ASSEMBLY INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Orange City Council would like to thank the NSW Legislative Assembly for the opportunity to make a submission to this inquiry.

It is worth noting that Orange City Council has been an active participant at each stage of the local government reform process.

While in support in principle of local government reform Orange City Council is of the view that the process for assessment of Fit for the Future is missing a critical step and further due diligence is required before Council could properly either support or exclude a merger.

The Independent Local Government Review panel recommended Orange was a “*Council in Central West JO or **merge with Cabonne** and/or Blayney.*”

At a meeting on 19 May Orange City Council resolved the following:

- 1 *That Council exhibit for 28 days the stand alone case as detailed in the Fit for the Future self-assessment tool.*
- 2 *That Council exhibit for 28 days a summary of the merger business case assessment as attached to this report.*
- 3 *That Orange City Council offer to Cabonne Council the necessary information regarding a merger to complete the Office of Local Government merger template and seek the necessary reciprocal information from Cabonne so that the completed merger template information is available to both Councils to consider prior to the deadline for the Fit for the Future submissions.*



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- 4 *That Council approach the NSW Government, advising of the need for more detailed analysis and plans to undertake the more thorough assessment and requesting that the State Government preserve a proportionate share of Fit for the Future incentive funding while further analysis takes place.*
- 5 *That Council seek the support of Cabonne Council in approaching the NSW Government as per recommendation 4 above and also in undertaking the outlined further analysis.*

Cabonne Council and Orange City Council commissioned Morrison Low through the Office of Local Government Merger Business Case Panel to undertake a merger business case using a broad range of factors in order for each Council to understand the implications of the merger of the two Councils proposed by the Independent Local Government Review Panel (ILGRP).

Included in the merger business case documentation Morrison Low made to key observations as follows:

- *A more detailed analysis or due diligence of the asset information should be undertaken to validate or test the Councils' published information.*
- *The data available for modelling has some limitations as a result it was not able to standardise the data across the two Councils, given the timing constraints.*

It is a view shared by Orange City Council.

At a meeting in March this year Blayney Shire Council resolved to lodge a standalone template two submission. In May this year, post the release of the Morrison Low report, Cabonne Council also resolved to lodge a standalone template two submission.

Orange City Council will also lodge a standalone template two submission in line with the NSW Government direction that template 1 or the merger case is "*designed for councils that intend to undertake a voluntary merger.*"

More critically however Orange City Council can only lodge a standalone submission as the process has not revealed sufficient diligent information for any other path to be considered.

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At a meeting on 23 June 2015 Orange City Council resolved the following:

That Council endorse the Fit for Future submission outlining:

- 1 A standalone proposal showing that Council satisfies the criteria noting that both Blayney and Cabonne declined to proceed with a merger option as recommended by the Independent Local Government Review Panel and that should a merger not occur, Council identify to the NSW Government a desire to see full consideration of appropriate boundary changes.*
- 2 That should the NSW Government determine a merger is required for Orange City Council, the Council is willing to work with all parties to complete a thorough due diligence assessment which fully assesses levels of service, risks, costs and long term financial sustainability issues and that Council suggest to the NSW Government that the full due diligence be established as a next step in any merger process along with provision of appropriate funding.*
- 3 Council request of the NSW Government that in the event the NSW Government determines that a merger proceed that incentive funding remain on offer given Orange City Council's willingness to consider a merger.*
- 4 That should a merger be determined by the NSW Government, and pending appropriate due diligence assessment, that Council would seek consideration of logical boundary adjustments in consultation with neighbours.*

The development of the merger business case has indicated some savings and potential gains from a merger between Orange and Cabonne, however the business case does not get to a strong conclusion and is a limited assessment in the following areas:

- The model and the Fit for the Future template are basic assessments of scale and capacity and the future landscape of local government, a key area for Orange City Council's consideration of a merger.
- The model and the Fit for the Future template assume historical published data is correct rather than detailed integrity testing of asset data. Special Schedule 7 of the annual statement is unaudited and is relied upon quite extensively in the criteria. This is a key risk in any merger and the model does not provide sufficiently diligent information.

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- The Fit for the Future template is a high level general model only which does not consider detailed full data asset systems and contemporary asset management techniques built around intervention levels and residual asset values, which can build in greater accuracy, efficiencies and savings to asset management.
- It is probable that the asset management approaches of Cabonne and Orange varies considerably. Therefore the current high level model does not give a sufficiently accurate representation of future asset sustainability.
- No consideration of water and sewer functions which is a large part of the operations of some Councils and ought to be assessed.
- The timeframe available for the assessment is very tight, necessitating the high level model and template.

Orange City Council is of the view that there is not sufficient information to either support or exclude a merger.

A more thorough analysis is required before Orange City Council could be properly informed on a decision to merge or not.

Orange City Council has a fiduciary duty to act in the best interests of its constituents. Council cannot fulfil that duty on the evidence detailed in the data revealed by the Fit for the Future process. By comparison the process does not meet the due diligence requirements of private or corporate sectors.

However these shortcomings could be significantly improved if a further assessment phase is added to the process.

If at the end of the IPART assessment process there is still a NSW Government view that mergers should proceed these proposals could be shortlisted for a further body of work.

This work would ensure the helicopter view undertaken by the Independent Local Government Review Panel, the Fit for the Future process and IPART shifts to a ground truthing exercise to address the limitations listed earlier.

As per part 2 of the resolution from 23 June Orange City Council is seeking support from

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the NSW Government of the need for more detailed analysis and plans to undertake a

more thorough assessment. Council is also seeking support from the NSW Government to preserve a proportionate share of Fit for the Future incentive funding while further analysis takes place.

Your inquiry is also seeking feedback regarding the IPART criteria. In finalising the criteria IPART asked NSW Councils five questions. The questions and Orange City Council's responses are as follows:

1 How should the key elements of strategic capacity influence our assessment of scale and capacity? Are there any improvements we can make to how we propose to assess the scale and capacity criterion, consistent with OLG guidance material?

IPART notes the scale and capacity is the ability *"to engage effectively across community, industry and Government"*.

Cabonne Council and Orange City Council commissioned Morrison Low through the Office of Local Government Merger Business Case Panel to undertake a merger business case.

While Orange City Council can comfortably meet this scale and capacity benchmark, Morrison Low noted that it is more likely that Orange will deliver scale and capacity to its neighbours and subsequently the resourcing issues relating to delivering scale and capacity could be transferred to another area.

Council notes that while a population number has been used for scale in Sydney it is ill-defined in regional NSW.

It is noted that in the IPART methodology document it states that if a standalone option is lodged it must demonstrate it is *"superior to the merger option"*. At the Dubbo IPART consultation this was amended to *"as equal to"* or *"as good as"*.

Chairman Dr Peter Boxall AO (as printed in the transcript on the IPART website) stated: *"This shows that we evolve as we consult."*

While there is uncertainty around the data collected as dictated by Fit for the Future (FFTF), Orange City Council can demonstrate it is standalone as a superior option.

Nonetheless the tempering of this benchmark, with greater definition is welcome.

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2 Which of the 'Rural Council Characteristics' are the most relevant, considering a council must satisfy a majority of the characteristics to be considered a rural council?

Not applicable.

3 Are there any improvements we can make to how we propose to assess the sustainability, infrastructure management and efficiency criteria, consistent with OLG guidance? Are there issues that we need to consider when assessing councils' proposals using the measures and benchmarks for these criteria?

Council has engaged its independent auditor Intentus to undertake an assessment of this element, which is attached.

There are significant concerns with the template criteria in the model particularly in relation to asset renewal ratios which are based on a high level model which does not consider full data or calibrated and detailed asset management systems.

It is understood that this high level approach allows comparison between all Councils, including those which do not have full asset management systems.

In this regard some of the indicators ignore Orange City Council's detailed asset system and contemporary industry asset management techniques, particularly around intervention levels and residual asset values.

This approach has been canvassed with Council's Independent Auditor, Intentus, with the following observation:

"The infrastructure asset ratios are based upon the (unaudited) data in Special Schedule 7 that is generally accepted as being highly subjective and subject to significant fluctuation. And the depreciation expense reported from Note 9 which is based on financial reporting requirements that are inconsistent with the realities of asset management.

Primarily the requirement for Note 9 is that infrastructure is required to be valued on depreciated replacement cost i.e. as if the asset had to be built from nothing. The depreciation charge is then based upon that valuation. This is inconsistent with the asset management information which takes the realistic premise, "we have the existing asset in its current condition, what do we need to spend in order to keep it in that condition (or better) into the future?" The answers to the two questions are very different numbers."

It is noted that John Comrie in his FFTF – LGNSW Submission on the assessment criteria raised significant concerns around the model. His submission is attached.

In particular Orange City Council supports his concerns raised around the Building and

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Infrastructure Asset Renewal Ratio.

He stated:

"I do not support use of this indicator. Renewal expenditure relative to depreciation may give a reasonable indicator of a council's asset renewal performance for classes of assets that have numerous items and relatively short lives (for example possibly plant and equipment, road resheeting and road resealing).

Experience elsewhere has shown that it is a poor indicator where assets have long lives, (for example road pavements, stormwater drains, buildings etc). For many councils asset classes with longer lives represent a majority of the total value of their stock of physical assets. (See also Comrie 2014, item 3.(ix).)"

At the IPART consultation in Dubbo (as printed in the transcript on the IPART website) Dr Boxall AO, is quoted in the following:

"I think the point here is that we can make a judgment on the best data available."

The issue here is that while it is agreed it is the best available data as per the requirements and limitations of the Fit for the Future criteria it is not adequate to make such a critical decision on whether to merge or not.

In regards to population data the Office of Local Government has required the use of Planning NSW data while the IPART consultation paper only references the Australian Bureau of Statistics population data.

This discrepancy will impact on the Real Operating Expenditure Per Capita measure of some councils. Council is of the view that the use of the ABS data for historical comparisons is appropriate, whereas the Planning NSW data should be utilised for future projections.

The IPART methodology paper correctly states that the performance of the water utility can be addressed in the template. While this is true water and sewer functions are excluded from the financial data in same template. It is assumed this path was taken to create some sort equalisation for these Council's that operate a water authority role (many in regional NSW) and those that don't (most in the metropolitan area).

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4 How should councils engage with their communities when preparing FFTF proposals? Are there other factors we should consider to inform our assessment of council consultation? Please explain what these other factors are, and why they are important.

Orange City Council's consultation process is broadly consistent with that detailed in the IPART Methodology Consultation Paper in relation to a merger business case and there is a Council resolution to that effect.

Cabonne Council and Orange City Council commissioned Morrison Low through the Office of Local Government Merger Business Case Panel to undertake a merger business case.

The IPART methodology documentation contained the following:

"In particular, OLG requires councils to provide evidence on community consultation regarding any proposed merger or new 'rural council' structures. In addition, evidence should be provided of council resolutions in support of merger proposals. OLG also suggested that councils exhibit proposals for mergers for at least 28 days as part of their community consultation."

There are significant limitations in this approach as it in part presumes a merger business case is the only option to consult on.

The development of the merger business case for Orange City Council and Cabonne Council does not get to a strong conclusion and is a limited assessment.

Given this it was appropriate that Orange City Council also sought community feedback on the standalone option. This was a prudent approach as post commencing consultation Cabonne Council subsequently declined to participate in a merger submission.

The following summarises the range of internal and external processes and outcomes.

- Your Say Orange website, on-line forum, survey, library, Q and A and a feedback portal available for a formal 28 day exhibition period
- Social media engagement
- Public meeting
- The matter of local government reform was also the subject of eight separate reports to Council that were considered at open meetings of Council between

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- November 2011 and June 2015.
- Written updates to staff from the General Manager
- Staff Q and A sessions presented by the General Manager
- Information on the Orange City Council intranet
- Discussions at the Staff Consultative Committee
- Links to online discussion forums provided to staff

Orange City Council also consulted with Blayney and Cabonne councils on the matter and noted the community consultation Cabonne Council undertaken in these neighbouring LGAs.

5 Should council performance against FFTF proposals be monitored? If so, are there any improvements we can make on the approach outlined for councils to monitor and report progress on their performance relative to their proposals?

While Orange City Council is comfortable with further monitoring, there are already significant reporting requirements for local government.

If there is further work to be carried out Orange City Council is of the view that that body of work should proceed before there is decision to merge or not.

The need for further monitoring would be less relevant if there was more robust assessment prior to a final decision.

Yours faithfully

John Davis OAM
MAYOR OF ORANGE