

**Submission
No 124**

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Organisation: United Services Union

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UNITED SERVICES UNION

SUBMISSION:

The NSW Legislative Council's General Purpose Standing Committee No. 6 is inquiring into local government in New South Wales.

Response from:

**New South Wales Local Government,
Clerical, Administrative, Energy, Airlines,
and Utilities Union**

Executive Summary

- The USU is not generally opposed to local government reform and has been actively involved in consultation with the NSW government on its implementation.
- There may be justification for some amalgamations in NSW. Any amalgamations should be voluntary, based on the Act's current prescriptions, subject to a fair consultative process with the community and with no detriment to workers.
- The protection of democratic process and the say of residents and community organisations in their communities' future is absolutely essential.
- Local jobs must be protected, particularly overall job numbers in small rural towns.
- Funding for 'Fit for the Future' is overwhelmingly connected to structural change, this is a misallocation of resources.
- The 'Fit for the Future' policy will expressly result in higher rates and more borrowing by councils. In the absence of better funding from state and federal government, these are probably the best sources for increasing the financial resources of councils. Given the fact that NSW has had the lowest rate increases in the country, the higher rates will in many councils be justifiable.
- The NSW Industrial Relation system and the consultative approach of the industry parties are essential to the sustainability of the sector.

Introduction

The NSW Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (**'the USU'**) is the primary employee organisation in the local government industry in New South Wales. The Union has over 30,000 members, including more than half of all employees of councils and other local government entities.

The USU has been engaged in the local government reform process under the current government and previous governments. In the current 'Fit for the Future' process, our involvement has included membership of the Ministerial Advisory Group (**'MAG'**) which is the peak consultative forum for the reform process.

The NSW Government has been engaged in the broad process of systematic reform in Local Government in New South Wales since 2011. The process began with the Destination 2036 forum in Dubbo and proceeded with two significant Panel Inquiries. The Independent Local Government Review Panel ('**ILGRP**') looked specifically at structural and micro reforms across the local government sector, whilst the Local Government Acts Taskforce investigated potential changes to the two primary legislative instruments which impact upon local government; the *Local Government Act 1993* and the *City of Sydney Act 1988*.

In September of 2014 the government released its response to the recommendations in the form of the 'Fit for the Future' policy.

The USU is committed to engaging positively and openly with the reform process. Our core purpose is to see a strong local government sector which drives, and is characterised by, secure employment for workers and services which are primarily delivered in-house. We seek to support the continued role of local government in providing employment in small rural towns and we support local government in which electors and rate-payers continue to determine the futures of their communities.

The USU has commissioned reports by Professor Brian Dollery in relation to the ILGRP Report, Fit for the Future package and the IPART methodology. Those reports are **annexed** to this submission.

There are elements of the 'Fit for the Future' policy which should be commended, and we embrace the focus on local government and the need to plan for the future. However there are some clear shortcomings of the policy which we suspect could have been addressed through listening to the concerns of the sector more closely.

Amalgamations and Structural Change

The USU does not oppose amalgamations in principle. Instead we contend that structural change is merely one part of a structural reform process and will only be useful in some cases. Amalgamations are a serious change to the identity and function of a local government entity and its constituent communities. Mergers should only occur, therefore, when the council's residents support the merger and that support has been subject to serious quantitative assessment.

The annexed summary of academic research by Professor Brian Dollery notes that in local government contexts with similarities to NSW, there has been no evidence that amalgamations reduce costs. The Lake Macquarie City Council submission adds to this research and demonstrates that amalgamations in NSW in the past have not led to better performance according to the 'Fit for the Future' economic indicators.¹

Amalgamations may, in some circumstances, allow for increased strategic capacity and greater political muscle for local and regional interests. This is often of benefit to rate-payers. The interest of increasing capacity must be balanced against the detriment of the loss of local decision making capability and local focus as councils increase in size.

The current process for government pursuing an amalgamation should be maintained, in that there must be a full investigation of community views and expectations before a merger is pushed onto a community. The reconstitution of the boundaries commission and its utilisation in ensuring fairness and popular input into any merger proposal would be preferable.

Forced Amalgamations

The USU is opposed to forced amalgamations on the following grounds:

- Forced amalgamations are undemocratic and are an example of the state government intervening in an otherwise democratic body politic without the consent of voters.
- In the past forced amalgamations have had a regrettable impact on the relationship between councils and their constituents
- The organisational turmoil created by a forced amalgamation takes years to undo and generally creates an entity which is not fit for purpose. This is because forced amalgamations inherently involve decisions which are made without the benefit of consultation or local planning.
- Forced amalgamations tend to lessen the ability of civic, religious, sporting, recreational, political and community groups to engage with decisions at a local level. Such groups have significant and complex interactions with local government and are amongst the most affected by merger. Forced mergers are done without reference to the needs of these groups.

¹ Lake Macquarie City Council, July 2015, *'Inquiry into Local Government in New South Wales.'*

- The employment and service delivery impacts of forced amalgamations are serious and highly detrimental. Forced mergers push multiple organisational structures together instantaneously. This results in mismatches in resourcing, reductions in the quality of service delivery and the loss of jobs.
- Forced amalgamations are expensive and entities which are forcefully amalgamated tend to perform poorly and inefficiently.
- There has been no indication from the government that, in the event of forced mergers, merged councils will have access to the amalgamation incentives. As such, merged councils will likely have to contend with the immense administrative, legal and operational costs of amalgamation without assistance.

Voluntary Amalgamations – Carrot and Stick approach

The approach which has been taken to encouraging amalgamation by this government is one of enticement through limited and ‘one-time’ offers of funding support and the threat of significant financial punishment for councils which do not choose structure ‘broadly consistent with the panel’s recommendations.’

The funding made available pursuant to Fit for the Future is almost entirely dependent on councils undergoing structural change.

Of the much touted \$1 billion of funding:

- \$600 million relates to notional savings from reduced interest rates through the proposed new state borrowing facility.
- \$258 million is for councils which amalgamate.
- \$13 million is for local transitional committees where structural change is occurring.
- \$5.3 million is to assist with setting up Joint Regional Organisations.

Only the \$4 million set aside for grants to rural councils of under 10,000 people is unconnected to structural change. This compared to the loss of \$287 million in Financial Assistance Grants (‘FAGs’) over the next four years.

Hence the only access to financial relief for Councils apart from raising rates is to pursue a merger. We hold that in many cases these are funds that could be better allocated towards infrastructure projects and service improvements.

Councils which are declared ‘unfit’, which will potentially include financially healthy councils which reject a merger recommendation, will be subject to a range of penalties. The effects of being declared unfit include:

- Higher borrowing rates and exclusion from the state borrowing facility
- Restrictions on rate variations (whilst ‘Fit’ councils will be empowered to raise their rates more easily).
- No access to financial advice assistance from T-Corp
- The council being deprioritised for the purposes of state government grants, potentially including RMS grants for road maintenance.

Given that one of the criteria of being ‘fit for the future’ is demonstrating sufficient scale and capacity, it follows that financially successful councils which choose not to amalgamate may find that they are subject to punishment and forced into economic problems on the arbitrary basis that the council hasn’t merged.

The only councils which are *not required* to meet the harsh ‘economic criteria’ in the Fit for the Future package, are merged councils. This is of course because there is an industry-wide understanding that amalgamated councils will generally be more costly for the average rate-payer and are unlikely to be financially sustainable in the short to medium term. The policy does create a double standard without much policy basis, non-merging councils are subject to strict criteria for sustainability while merging councils are subject to no criteria.

The reality is that the benefits and focus of state government resources should be targeted at councils which are in the most need. The unnecessary focus on amalgamations, and the method the government is using to cajole councils into merging, are likely to result in detriment to councils which are currently healthy and don’t merge as well as further complications for those councils which are in the most need.

Regional Joint Organisations

Regional cooperation has been a significant part of local government for some time and the idea of emphasising and perpetuating regional strategic planning is commendable. The government has determined to do act through new ‘Regional Joint Organisations’ (**RJOs**). The USU suggested that government implement these cooperative arrangements using the

provisions in the Act as it stands. It is unclear whether the government plans to amend the Act to enable RJOs in any way.

Our in-principle support for RJOs is on the basis that:

- Employees and jobs in the local government sector are not transferred to new organisations and that the resources of a council cannot be used by an RJO without that council's consent.
- RJOs should not impact upon the democratic control of councils and the use of money by rate payers and residents.
- RJOs should be local government entities and not corporate entities. If an RJO has its own employees they should be non-national system employees covered by the Local Government (State) Award 2014.

The Far West

We endorse the prospect of having a unique approach to the 8 Far West councils and have appreciated our involvement in the process of developing a plan for these areas.

The USU submits that residents have the right to expect that a certain level of service delivery will be available to them despite their remote location. Further the importance of maintaining local employment in the Far West cannot be overstated. Accordingly we would strongly resist the replacement of local government employees with corporate or FIFO/DIDO workers.

Employment Protections in the Act

There are a number of employment protections in the *Local Government Act 1993* relating to the maintenance of job numbers and conditions for employees after an amalgamation. These elements of the Act are essential both to ensure that mergers are not undertaken at the expense of workers and to enable merging councils to take a bona fide approach to consultation with staff about integration, service improvements and efficiency on the basis that jobs and conditions are secure.

The other employment protection in the Act, in s218CA, requires that merged councils maintain employment numbers in towns of under 5,000 insofar as that is reasonably

practicable. This safeguard is absolutely essential in protecting the sustainability of small towns in NSW, for which local government is often the biggest employer. The USU would like to see the proviso of ‘reasonably practicable’ removed from the Act to strengthen the protection for rural employment.

The USU holds that maintaining employment protections in the Act is an absolute prerequisite for any amalgamations occurring.

Industrial Relations in NSW Local Government

The primary industrial instrument in the local government industry in NSW is the *Local Government (State) Award 2014*. The Award has been negotiated by consent since 1992. In the making of the most recent Award, President Walton J of the NSW Industrial Relations Commission noted:

‘The award represents the latest in a succession of consent awards made in the industry since 1992. This outcome is a reflection of the maturity and sophistication of the industrial parties and their capacity to reach agreement in circumstances involving complex negotiations across an industry which is diverse in nature. Agreement was reached notwithstanding multiple logs of claims (that brought forth 150 separate issues) affecting, as earlier mentioned, a large number of Local Government areas, many of them having differences in make-up and operation.’

Local Government in NSW has almost zero incidence of industrial action and sees the majority of industrial disputes resolved at the local level or through consultative mechanisms and conciliation. This is possible only through the continued commitment of the NSW government to keep the local government sector in the state industrial relations system.

The USU and other employee representatives showed considerable restraint in their wage demands for the most recent Award, noting the importance of the impending reform process and the challenges of reform. The industry parties have recognised the impact of this in the MAG submission to IPART, endorsed by the peak industry bodies who have noted ‘proportionally decreasing labour costs over the past few years’ as the major source of efficiency savings in the sector.²

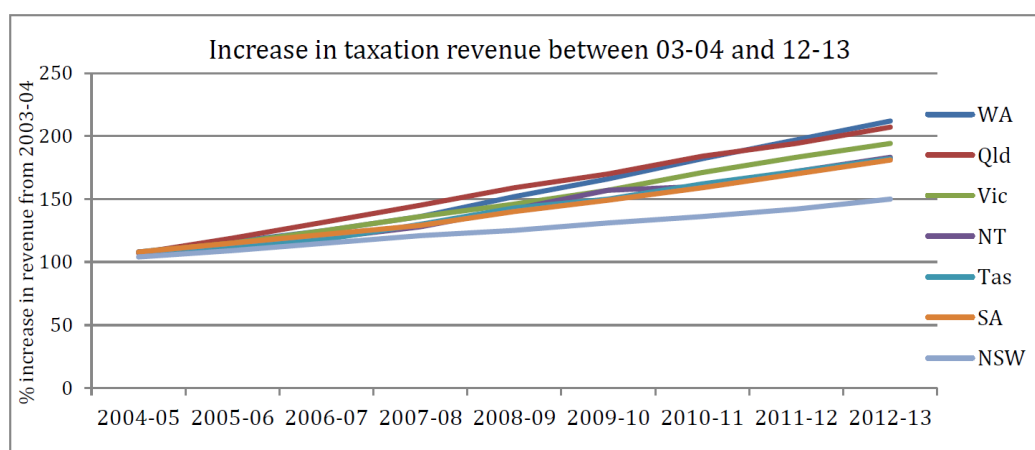
² Ministerial Advisory Group, Submission to IPART dated 22 May 2015.

Rural and Regional Communities

The protection of rural and regional communities, and their ability to determine their own futures and the own local governance is a priority for the USU.

Rates and Funding

NSW Local Government has been hamstrung in comparison to local government in other states as a result of rate pegging and because NSW has not had to bear the increased costs that tend to come from large-scale mergers which have affected other jurisdictions. The chart below shows revenue from taxation, exclusive of fees and charges, by local government across the country over the last decade.



Source: ABS (2014) '5512.0 – Government Finance Statistics, Australia, 2012-13'

NSW income from rate-payers has risen at approximately half the speed of comparable states. Notably, Victorian local government – which saw massive rate rises after the Kennett amalgamations – continued to have an average rate increase of 6.43% between 2008 and 2014, nearly double the NSW average rate peg.

This situation helps justify why the 'Fit for the Future' package, from a funding perspective, is largely based on allowing councils to set higher rates. Apart from one-off amalgamation funding, as detailed above, 'Fit for the Future' is primarily about pushing councils to borrow more money and to fund that borrowing through larger rate increases.

Economic Benchmarks and the IPART Methodology and Process

We rely on the comment of Professor Dollery in the annexed reports in relation to the economic benchmarks.

In relation to the 'efficiency criteria', we note that it doesn't measure efficiency. It arbitrarily measures, instead, changing population and encourages declining service delivery.

The IPART assessment process risks its credibility due to the pace at which it has occurred. There were only weeks between the final announcement of the IPART assessment methodology and the date at which councils put forward proposals.

Stakeholder Engagement

The USU has, in general, been appreciative of the industry engagement by the government, with the exception that announcements have often been made in a way which catches industry members by surprise.

Conclusion

The government's goal of promoting a sustainable local government sector is one which the USU definitely embraces. Amalgamations, on a limited scale, undoubtedly have a part to play, as does the influx of money into local government through streamlined rate increases and increased borrowing capacity.

That said the lack of new state government funding for local infrastructure is disappointing, particularly when coupled with the loss of income for councils through changes to FAG indexation.

Ultimately 'Fit for the Future' cannot be wholly assessed yet because there is still so much that is yet to be announced and explained. Should the government follow through on threats to either forcefully amalgamate or financially punish 'unfit' councils however, the policy could have disastrous long term consequences.

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