

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Organisation: Palerang Council

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Submission

General Purpose Standing
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Inquiry into Local Government
in NSW

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Comments from Palerang Council, July 2015

Introduction

Palerang Council acknowledges a need for local government reform, and that the State's reform process—starting with the Destination 2036 conference in Dubbo in 2011—was a response to requests from the local government sector.

The Independent Local Government Review Panel's broader recommendations were basically sound, but in the end the emphasis in the Government's response has been relatively narrow, as has been noted in comments by the ILGRP Chair, Prof. Sansom (various forums, including SMH, 2 June 2015)

As the reform process has progressed, and in particular since the Fit for the Future program was announced in September 2014, there would appear to be increasing reason to believe that this reform, as with the reform of the NSW planning system, is being driven by the State's desire to simplify the introduction of a comprehensive 'metro-strategy'. This is understandable, and based on the Victorian experience, amalgamations (forced or voluntary) tend to have a positive outcome in metro areas. There is credible evidence in support of the view that cost efficiency in local government is very much driven by population density.

Forced amalgamations mixing rural and urban areas, however, are less likely to be successful unless there is already a very tight integration of the associated communities and services. An example was the ultimate merger of Shire of Benalla and City of Benalla in Victoria, but again this only worked once the former shire of Mansfield was de-amalgamated. There was no real community of interest between Mansfield and Benalla. Similar scenarios followed the amalgamations in Queensland.

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

While there is little debate that reform in NSW local government was needed, the single most critical issue here, particularly in justifying some of the proposed mergers, is that the starting point for the reform process was fundamentally flawed—it assumed that there was something sound about existing structures and that more viable entities could be created by simply combining these existing structures. Starting with a blank sheet of paper, redesigning local government from scratch, both with regard to geographical boundaries and financial structures, would have been a far more genuine and productive reform exercise. Recognising the magnitude of such an exercise, however, there does at least need to be more consideration given to what might constitute a community of interest before deciding that it might be appropriate to merge two adjacent LGAs.

It has been a real struggle in SE NSW to get the various parties involved in the reform process to recognise the importance of the role played by the ACT within the region. At a fundamental level, strengthening local government in SE NSW is as much about strengthening relationships with the ACT government as it is about merging local councils. To this end, the Joint Organisation concept is much more important in the region than individual council mergers.

The Palerang LGA was created in the 2004 amalgamations. That process was very poorly managed at several levels, not least of which because it drew new boundaries across the middle of several communities, and combined others that had little in common beyond their geographical proximity to the ACT. While there is a sound argument in support of boundary adjustments to bring those divided communities wholly within the Palerang LGA, the very problem that caused the original division is not being addressed in the present reform process—there remains a failure to recognise true communities of interest, as distinct from two LGAs that happen to be adjacent to each other.

The FFTF focus on ensuring that councils have “the scale and capacity to meet the needs of local and regional communities and to be a valued partner to State and Federal governments” can only be appropriate if there is a true appreciation of the needs of local communities, or perhaps more precisely, the unique needs of individual communities. While there has been much lip service given to the notion that this is not a one-size-fits-all approach, justifications for mergers in regional areas at least seem to focus more on arbitrarily increasing the ‘size’ of the geographical area surrounding a perceived regional [urban] centre, than on the needs of the communities involved.

There may well be a case, in some instances, for combining smaller rural councils, but the geographically closest ‘urban centre’ is not always that with which a rural area has its closest ties, either social or financial. As a consequence, merging two councils simply because they are geographically adjacent, even if one contains a dominant urban centre, is no guarantee that the broader interests of either community, or the region in general, have been considered.

(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,](#)

While local government funding continues to be dependent on what sometimes seems to be the whim of the NSW and Australian governments, the financial sustainability of local government in NSW is entirely in their hands. Before we can talk realistically about sustainability, councils need some genuine certainty with respect to their responsibilities and associated revenue streams. Well-defined responsibilities with guaranteed revenue streams, be they from Federal, State or local coffers, provide a basis for well formulated strategic planning and sound governance.

In apparent recognition of local government’s lack of financial independence, FFTF encourages Councils to increase their “own source funding” to some seemingly arbitrarily set benchmark.

This, however, reveals one of the major flaws of the reform program—the lack of reform of the other tiers of government. FFTF makes no effort to address the vertical fiscal imbalance, nor does it do anything to fundamentally change the “master-servant” mind-set of NSW state agencies, including OLG.

(c) [The performance criteria and associated benchmark values used to assess local authorities in New South Wales,](#)

Having to justify that a stand-alone proposal was as good as or better than a merger proposal, without any assessment whatsoever of the critical threshold criterion of scale and capacity for the merged entity was problematic. There was very little guidance in

relation to what a Council need to demonstrate in this regard, beyond having a ‘more robust argument’ if trying to justify a stand-alone case over a merger case.

While easier in one sense, trying to compare the theoretical financial status of a non-existent entity with that of two or more individual, existing entities, was equally unrealistic. The problem was all the more difficult because the benchmarks being employed were immature in that the existing entities had often not yet established a common foundation for reporting the same financial benchmark.

(d) [The scale of local councils in New South Wales,](#)

All the focus on scale within the context of the reform process has been on being ‘big enough’ to work with other levels of government. There has been little or no consideration given to whether or not a Council might be small enough to deliver appropriate services to its community. Clearly, there’s more to the whole issue of scale than ‘size’, because geographically dispersed populations, potentially comprising distinct and dispersed demographic groups, will not necessarily be serviced better by a single, ‘big’ Council. Quite clearly, smaller, distinct demographic groups will often be better served by individual, necessarily smaller, ‘service providers’.

It was recognised very early in the review process that rural councils in the far west were entirely different to a council in metropolitan Sydney. The status of regional and ‘smaller’ rural councils was not as obvious. There would, nonetheless, now appear to be recognition that the demographics of rural communities are far more diverse than had previously been assumed, and that merely combining rural councils, either through mergers or Rural Council collectives, does not generally provide a better outcome for rural communities.

In our own region, the existence of the ACT appears to have added a dimension to the issue that has been entirely beyond the capacity of both the ILGRP and the FFTF program. Canberra has a dominant impact on the economy of SE NSW and the ability of councils in the region to support their local communities, significantly enhancing the level and range of services that are available. There does not, however, appear to have been any effort to accommodate this critical fact in the reform agenda as it applies in SE NSW.

(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.](#)

One of the key concerns of the local government sector leading up to the appointment of IPART was just who the State would appoint to the review panel. While there was some relief that a known entity—supplemented by an additional person—was appointed as the review panel there remain two areas of concern.

Firstly, the appointment of IPART tends to confirm the narrowing of the focus of the evaluation of submissions to primarily financial factors. While local government finances are important, the legislated and assumed roles of local government, particularly in rural and regional areas, are not easily reflected in seven financial benchmarks.

Secondly, if IPART determines that a council is ‘fit for the future’ based on an improvement proposal that includes a special rate variation, does that bind IPART to approving the SRV when lodged? While the submitting Council would no doubt prefer this, it could be seen as a perversion of the independence of IPART that was the reason for transferring SRV responsibility to them some years ago.

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

Deadlines are not bad in themselves. The main problem in the present case was that it was never really clear where the goal posts were, even when the final assessment methodology was confirmed just two weeks from the submission date. This was perhaps more problematic for some Councils that had a requirement to consider a merger scenario than others. There was a fundamental assumption that every merger that had been recommended by the ILGRP was appropriate. This left Councils that were genuinely committed to exploring the option, but who came to the conclusion that a merger would not be beneficial, with very little direction or time to explore alternatives.

More certainty from the outset about the process would have been helpful in identifying and giving genuine consideration to viable alternatives.

The fact that the definition of the threshold criterion of 'scale and capacity' remains rather vague to this day is much more of a problem than having a deadline by which to present a submission.

(g) Costs and benefits of amalgamations for local residents and businesses,

The 2004 Palerang merger brought together several different demographic groups, primarily from two of the merger partners—farmers and their local town support community from Tallaganda, and Canberra commuters, who lived either in a town or predominantly rural residential environment from Yarrowlunla. There was not a great deal of commonality between these demographic groups and it would be fair to say that after 11 years, there are still tensions in some areas.

In this case, it would be difficult to identify any overall benefit to local residents. Some in the smaller communities have benefitted from Council's combining the finances for water and sewer utilities, but they are being subsidised by more populated areas and there has been no overall reduction in costs—the same number of utilities have to be maintained regardless. For the most part, people get on with their lives, but few would claim that this has been made easier by the amalgamation.

The amalgamation may have brought benefits within the higher levels of government, but these are not obvious. While the present Council would maintain that it has addressed a number of problems that existed within the individual councils at the time of the amalgamation, this has more to do with the current Council's policies than its size.

Considering the proposed merger with Queanbeyan, Palerang has even less in common with the essentially urban Queanbeyan population, providing no imperative for amalgamation at a social level. Due to the way in which the 2004 amalgamation was effected, there are split communities at the boundary between the two Council areas, but these are the only communities between the two LGAs that have anything much in common and there is a logical argument that would have those rural residential communities moved wholly within Palerang. Were that the case, there would be essentially nothing at a social level in common between the two Council areas—one essentially rural, the other essentially urban.

There were no obvious benefits in the 2004 amalgamation to business, and there do not appear to be any were Palerang to merge with Queanbeyan. Canberra is the dominant economic influence in the area and amalgamation would not change that fact.

Palerang's experience of 2004 suggests that the financial costs of amalgamation are underestimated. The adaptation to a new Council is a lengthy process, and not one that a Council should be forced to do again after only 11 years. The democratic deficit also needs to be given far more consideration than it appears to have been in the present process.

This is very clearly not a one-size-fits-all exercise and while much has been made of this adage during the present reform process, we seem not to be dealing with much more than two-sizes-fit-all (metro, and urban-centred rural councils), which is not much of a step forward.

(h) Evidence of the impact of forced mergers on council rates drawing from the recent Queensland experience and other forced amalgamation episodes,

In the case of the Palerang amalgamation, there was a redistribution of rates—they increased significantly in some parts of the new shire, and decreased significantly in other parts. Perhaps not surprisingly, those who experienced rate increases were not as pleased with the arrangement as those who experienced decreases. There were no increases in services level associated with the rate increases, because all increases were offset by decreases elsewhere. In general, there were concurrent increases in water, sewer and waste charges to deal with the inherited backlog of renewal inherited from the predecessor Councils. For the most part, however, these changes were more about the policies of the new Council than they were about amalgamation.

Perhaps one anomaly that is not generally given due consideration when proposing amalgamations in rural areas is the impact of Section 218CA of the Local Government Act, that being the protection of staff numbers in smaller rural towns. In Palerang's case, this meant that the staffing budget of the new Council was simply the sum of the budgets of the two predecessor Councils.

(i) Evidence of the impact of forced mergers on local infrastructure investment and maintenance,

Palerang's experience would suggest that this, again, is more a policy issue than anything else. In Palerang's case, the new Council adopted a different approach to infrastructure maintenance, and that had more to do with any practical changes after the merger than anything else. Broadly speaking, the same could have been achieved if the two individual Councils had adopted similar policies.

The reality in rural areas is that mergers just create a larger area to manage, they don't reduce the amount of infrastructure that needs to be maintained, and they don't provide any more revenue to maintain existing infrastructure.

Perhaps the one benefit that Palerang has realised is that, as a result of the number of water and sewer plants that are maintained, and the extent of the LGA's road network, we present a unique opportunity for engineering staff. The Council is small enough for engineering staff to be involved in all of these activities, but large enough to take on additional, skilled roadworks projects. This is an often overlooked advantage that small rural councils with responsibility for water and sewer utilities hold in attracting engineering staff. This leads to the slightly paradoxical situation where reduced scale actually provides greater flexibility and hence capacity—the environment provides a breadth of experience that, for purely practical reasons, is not available in larger Councils.

- (j) Evidence of the impact of forced mergers on municipal employment, including aggregate redundancy costs.

- (k) The known and or likely costs and benefits of amalgamations for local communities.

The loss of representation and the potential for that to translate into reduced funding for smaller communities that are merged with larger population centres is the single greatest cost when a smaller (in population) Council is merged with a larger one. In cases where the major population centre is not located centrally, the problem can be exacerbated by the practical aspects of maintaining contact with outlying communities.

In the case of the Palerang amalgamation, some smaller communities would have seen a decrease in their rates, and an increase in the standard of services delivered, road maintenance in particular, but this was at the expense of increases in rates elsewhere, for no improvement in service delivery. The improvements are, nonetheless, entirely dependent on the fact that those services that were improved were services that were both needed and already being supplied elsewhere in the shire.

In rural areas, there is limited benefit if amalgamation (with, for example, an urban centre) leads to an increased range of available services, but these services are either not particularly relevant within a rural community (e.g. public transport), or they can only be delivered in a central location that is not frequented by the residents in question (e.g. entertainment, urban business development).

- (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.

In Palerang's experience, co-operative models such as the current ROCs and proposed JOs provide a good balance between retaining local democratic representation and improving the capacity of smaller councils, particularly in rural areas where merging already geographically large LGAs is impractical.

Palerang is a member of the Canberra Region Joint Organisation and its submission where it deals with the role of regional co-operation.

- (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.

While the employee protection sections of the Local Government Act 1993 remain in place, there is a degree of security about the number of jobs, although it is noted:

1. While absolute job numbers may be protected, the smaller centres of an amalgamated council will tend to lose the better remunerated positions such as those of the General Manager and Directors.
2. The level of protection that applies has proven to be variable. Section 218CA (2) of the Act includes the clause "as far as is reasonably practicable". The effectiveness of the protection generally offered by s.218CA is entirely determined by a Council's interpretation of this clause. While Palerang has striven to maintain job numbers, other Councils have reduced numbers, in some cases close to zero.

Some Councils argue that provided the appropriate number of staff employed at, say, the main office live in the smaller town then they have met the spirit of the legislation. This, however, ignores the reality of small towns whose retail sector suffers when staff are no longer working in the area.

(n) [Protecting and delivering democratic structures for local government that ensure it remains close to the people it serves](#)

It is important not to trivialise the importance of the issue of local representation when considering the boundaries of LGAs or merger scenarios. There has been a view expressed that, if a Council is elected from a single area (as distinct from within individual Wards) all councillors will consider the interests of all residents in making their deliberations. This is an idealised view of democratic representation that is simply not borne out in practice. The reality, and this is perfectly natural behaviour, is that when push comes to shove most elected representatives will consider the interests of their immediate constituency above those of the broader community. This becomes particularly problematic when one demographic sector of the community dominates a Local Government Area, as might be the case for an urban centre in a rural environment where there is no genuine mutual dependency.

Of specific interest to Palerang Council is the recommended merger with Queanbeyan City Council. The voting population of Queanbeyan is around three times that of Palerang, meaning that any merged Council would be dominated by Queanbeyan interests. This might not be a problem if there were some mutual dependency between Palerang and Queanbeyan communities, but the reality in this case is that Palerang's primary community of interest is Canberra. As a result, there is no loss to Queanbeyan if Palerang residents are essentially ignored, because there is no mutual dependency.

There has been some discussion about the use of 'local boards' to provide better representation for individual communities. At one level, this is similar to the role played by individual community associations in the current Palerang environment. The reality remains, however, that any decisions are made by individuals who represent the majority interest, regardless of how many (small) 'boards' may support an alternative point of view.

(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.](#)

Palerang has not overly focussed on the benchmarks except to understand them enough to enable to "pass" the assignment that had been set by its "masters". It has noted the controversy about the appropriateness of some of the benchmarks.

From Palerang's perspective, the benchmarks have led to a re-appraisal of a number of aspects of its asset and financial reporting.

One example is special schedule 7 of the annual statements. Council has reviewed this in light of current thinking about what is backlog and what is upgrade or renewal. As a consequence, Council has updated its Long Term Financial Plan, and consequently will now meet the asset benchmarks it wasn't previously able to do.

Contrary to recent press reports, this isn't a case of "hiding" problems, but simply separating out, say, asset renewals and subjecting them to the consultation and approval process of any new capital project. An example is the upgrade of the Bungendore pool. By and large it's meeting the service level for which it was designed - a town of 1000 or less. So there is little to no back-log, but Bungendore is now 3000 with a rural residential

catchment of 8000 and the pool is clearly inadequate. The construction of a new pool is not backlog but is a significant new capital project and should be included in the forward capital works program as such.

Council was considering a special rate variation prior to the announcement of “Fit for the Future” and has included one in its LTFP used in its submission. The additional revenue will be used to address the same issues that were identified as part of Council’s earlier work. The only change as a consequence of the FFTF benchmarks is the way the proposal will be presented to the community and to IPART when the SRV application is finalised over the coming months.

(p) **Other related matters**

The whole local government reform program has led to huge expenditure of (primarily local government) resources—time and money—and to date the primary beneficiaries appear to be various consultancy groups.

In Palerang’s case the program has focussed Council’s attention on a number of issues that, while not significantly altering current service levels, will better enable Council to communicate with its community.

It is highly probable that such changes could have occurred without such an expensive program.