

**Submission
No 125**

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Organisation: The Greens NSW

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Greens NSW

Submission to the NSW Upper House *Inquiry into local government in New South Wales*

The Greens NSW would like to thank the committee for this opportunity to make a contribution to this Inquiry into the future of local government.

Local government is the level of government most closely connected to the community and is best positioned to identify and respond to community needs. It is an essential component of democracy. Any changes to local government in NSW should strengthen, rather than weaken, the bonds and connections between local councils and residents.

One of the core principles of the Greens NSW is participatory and grassroots democracy. This means we have been long time supporters of local government in Australia and in particular the *Local Government Act 1993 NSW (LG Act)*.

The NSW LG Act has set the standard for open and participatory local government across Australia. Local government in NSW is more open and accountable than in any other State. The LG Act requires that Councillors are more accountable than State or Federal Members of Parliament.

The Greens NSW believe that it is local residents who must have the right to determine what occurs in their local community and that an amalgamation should occur by way of a community referendum. Any amalgamations undertaken in NSW should only be considered if they are voluntary.

Our policy reflects our genuine commitment to local democracy and each community's right to determine their own future.

Our submissions will focus on the following issues;

- Wrong focus of Fit For the Future
- Lack of justification for amalgamations
- Inappropriate NSW Government tactics to induce Councils to amalgamate
- The skewed criteria of Fit For the Future
- The lack of transparency around Joint Organisations
- Potential Government motivation for removing local democracy from NSW

1) Wrong focus of Fit For the Future

The Greens believe that the most important issue for local government in NSW is its effectiveness in providing a forum for community participation and democratic decision making by residents of local communities. In fulfilling that function local councils can play an essential role in supporting the wellbeing and sense of identity of local communities and in protecting local environments.

The Greens are supportive of reform measures aimed at improving the financial sustainability of local councils but do not believe this should be used as a threshold to impose forced amalgamations on financially struggling councils.

The core consideration of any review of local government should be to ensure that local councils are effective in providing an open, accessible and accountable forum for local democracy.

The arbitrary target of having Councils with 250,000 constituents would see Councillors representing approximately 20,000 people each instead of the more common 5000 to 10,000 as currently exists.

The average population size of councils within NSW and the metropolitan area of Sydney is already well above the global standard, with an average of 48,940 people per local government area in NSW and an average of 104,196 people per local government area in Sydney.

By way of comparison in OECD nations the average population size per local government in metropolitan areas is 27,224 with Finland, Sweden, the Netherlands, Norway, Greece, Canada, Poland, Denmark, the United States, Belgium, Italy, Spain, Korea, Slovenia, Estonia, Germany, Hungary, Portugal, Australia, France, Switzerland, Slovak Republic and the Czech Republic all falling below the average population size of metropolitan councils in Sydney¹.

Against the global benchmarks in the OECD, NSW councils are well above average in size. It is notable that the two OECD countries with local governments of a size anywhere near the 250,000 level discussed in the Fit for the Future material are Ireland and the United Kingdom. Neither of these countries have a developed federal structure like Australia and therefore do not have the division of roles at a local, state and federal level. An increase in the size of councils would only result in local communities who feel less represented with a lesser voice because of reduced political representation with the reduction of local government councillors. The Greens believe that local government must be kept genuinely local.

Local government is a crucial voice for local communities, particularly in rural and regional areas. It deserves real sovereignty and independence

The key indicators of successful local government in NSW should be:

- a) Is the ratio of constituents to elected councillors small enough to truly warrant the title local government? The test for this criteria is that Councillors will be generally known in their local community and accessible to their constituents.
- b) Does the Council comprise people who are active in their local community and include councillors from a diverse political background to ensure the scrutiny and accountability that a real opposition provides.
- c) Are elections competitively contested by candidates who are from a diverse range of political parties or genuinely Independent?
- d) Are decisions made openly and transparently during public meetings?
- e) Is all relevant information available to all Councillors (and generally to the public)?
- f) Does the Council respond quickly and effectively to local residents inquiries?

¹ OECD (2013), Average population size per local government in metropolitan areas, 2012, in OECD Regions at a Glance 2013

g) Does the Council regularly survey its constituents and respond to the results?

A Council which meets the above criteria will be proportionally representative, effective, and and will successfully function as a democratic local government.

Case Study

The two smallest Council in Sydney are Hunters Hill and Mosman. Each of these Councils is proportionally representative with a majority makeup of independents. Each of these Councils is financially sustainable.

In contrast the largest Council in NSW, Blacktown with 15 Councillors serving 300,000 people (20,000 people per Councillor) is dominated by the two major parties, made up of 7 ALP Councillors, 7 Liberal Councillors and just a single independent Councillor.

Australia's largest Council, Brisbane City Council, has 26 Councillors and a population of 1,130,000, or just over 23,000 constituents per Councillor. Of the 26 Councillors 25 belong to either the Liberal or Labor parties. There is a single independent.

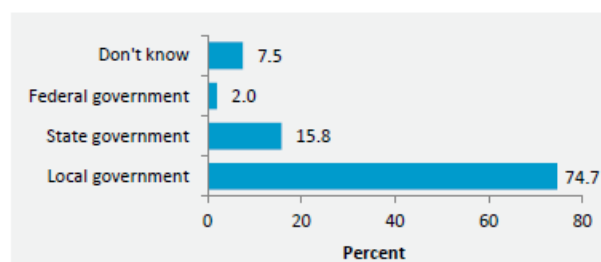
The Greens do not object to members of political parties being elected as local Councillors. However we do object to a system of local government which does not foster diversity, proportional representation and which is not genuinely local.

Survey of attitudes to local government and amalgamations

Recently the Australian Centre for Excellence in Local Government published a landmark report on attitudes to local government² and amalgamations.

The results show that Australians overwhelmingly believe local government is the level of government best placed to make local decisions:

FIGURE 19: THINKING ABOUT WHERE YOU LIVE, WHICH LEVEL OF GOVERNMENT IS BEST ABLE TO MAKE DECISIONS ABOUT YOUR LOCAL AREA? (N=2006)

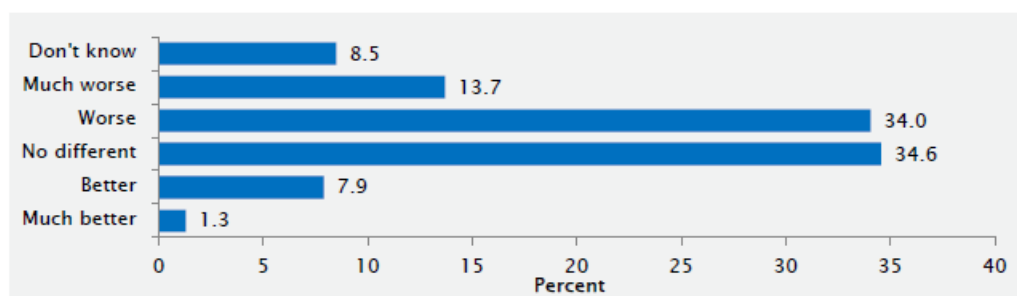


When asked what affect amalgamations would have on their representation by Councillors a great number (43.7%) thought their representation would be worse or much worse than those (9.2%) who thought their representation would be better or much better.

² Ryan, R., Hastings, C., Woods, R., Lawrie, A., Grant, B. 2015 Why Local Government Matters: Summary Report 2015 Australian Centre of Excellence for Local Government, University of Technology Sydney Australia

How my interests are represented by councillors

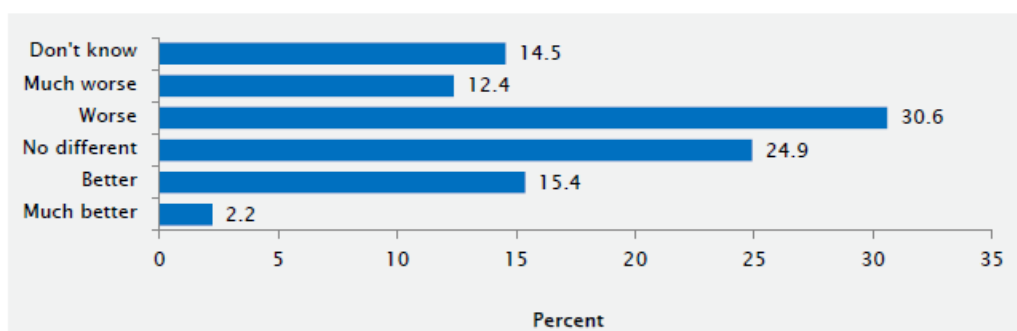
Figure 96: Q15_1 How my interests are represented by councillors (n=2006)



There was a similar result when asked about the effect of amalgamations on their rates. 43% of respondents said the costs of rates would be worse or much worse, while only 17.6% of respondents thought rates would be better or much better.

The cost of council rates

Figure 100: Q15_5 The cost of council rates (n=2006)



2) Lack of justification for amalgamations

The NSW Government has not provided any credible evidence to justify amalgamations or larger Councils. In contrast to the criteria listed above regarding healthy, open and transparent local Councils, the Fit For the Future (**FFF**) program focuses only on financial measures and simply makes an assumption that bigger is better. The paper by Abelson and Joyeux³ clearly demonstrates that the 'fiscal capacity' of a Council is best defined by the after tax income of its residents.

The evidence presented by Dollery⁴ suggests that the NSW Council amalgamations of 2004 produced no greater sustainability than already existed. Further the amalgamations undertaken in Queensland have proved to be less sustainable than the Councils they replaced. Merging two (or three) financially struggling councils only makes the problem bigger.

³ Abelson and Joyeux, *Smoke and Mirrors: Fallacies in the NSW Government's Views on Local Government Financial Capacity* 2015

⁴ Dollery, April 2015, UNITED SERVICES UNION: SUBMISSION TO IPART

Much has been made of Local Councils' financial position as an issue that needs to be addressed. The Greens join with other bodies such as Local Government NSW in strongly opposing the current rate pegging regime, which restricts the ability of Councils to raise revenue to deliver essential services and places reliance on the complex and expensive Special Rate Variation application process.

In addition to restrictions placed on Local Councils by the State Government on what revenue they can raise through rates, and the Federal Government's decision to freeze Financial Assistance Grants amounting to a billion dollar cut to Local Councils in NSW, Local Councils have also been placed under increasing financial pressure with the withdrawal of vital funding by the State Government.

The State Government in recent years has imposed cuts to an increasing number of community services including funding for Meals on Wheels, cuts to grants for aged care and disability workers and introducing new charges such as charging Councils for the use of public schools for low cost after school care programs.

Councils have also had to step in to provide supports to some local community services where NSW Government cuts have threatened to close these services, for example by beginning to charge commercial rents to not for profits which previously were provided NSW Government buildings in kind or at a low rent.

Despite all these cost impositions, Local Councils have continued to offer a high level of service, and have found innovative ways to continue to offer key services. Many Councils have a good or strong financial position, and have found ways to absorb these successive rounds of cuts.

Financial pressures are a real and significant problem for local councils but suggesting that Local Councils are to blame for financial pressures when those pressures have in fact been imposed by State and Federal Governments again points to the fundamental flaws in the Fit for the Future process.

In the absence of real evidence that supports larger Councils we are left with the conclusion that it is simply an ideological conviction of the NSW Government that is driving the agenda.

If there was a genuine willingness to provide financial assistance to local councils, a panel would be best placed to examine ways in which the state government currently hinders the ability of local councils to deliver quality services and infrastructure in their local communities. This includes rate capping and cost-shifting on local councils.

3) Inappropriate NSW Government tactics to induce Councils to amalgamate

The Government has alienated a large part of the local government community in NSW by abandoning the commitment that there would be no forced amalgamations prior to the March 2015 NSW Election.

In doing so the Government has engaged in deceit. FFF began as a program which was voluntary and encouraged Councils to work together to explore possibilities of amalgamations, boundary adjustments and stronger regional co-operation via Joint Organisations. Since late December 2014 however FFF has been driven by fear. There is no

single example of two Councils freely agreeing to amalgamate or work more closely together for the betterment of their residents.

Instead Councils are steadfastly declaring their ability to stand alone and are preparing to do battle with the NSW Government. A small number have indicated they would amalgamate only on the premise that they would prefer to choose their partner than have a forced marriage decided for them.

What began as a positive program has now lost all spirit of renewal and all hope of succeeding.

The NSW Government should abandon FFF and engage in genuine council and community consultation on the way forward.

4) The skewed criteria of Fit For the Future

The focus on financial performance in determining whether a Council is 'fit for the future' will lead to less stability for Councils in the future.

In particular the requirement to have debt service ratio of greater than 0% is a requirement for Council to borrow. In contrast many Councils currently exercise extremely good financial management, do not have any debt, and do not spend ratepayers money on the interest of loan repayments.

The pressure to increase revenues is also leading Councils to reclassify and sell land. While some may claim superficially that this is an efficient use of resources the alternate view is that precious public land is being sold off to the detriment of the public interest and the future amenity of residents.

5) The lack of transparency around Joint Organisations and 'last minute' process changes

Joint Organisations (**JOs**) were initially proposed as an essential ingredient of the FFF program. Most Councils are already engaging in pro-active regional co-operation with their neighbour Councils and therefore have no difficulty supporting the concept of JOs.

For example a number of Councils already work constructively in regional cooperation to secure high value, best price services. Examples of this voluntary regional models include the Southern Sydney Regional Organisation of Councils which includes 16 Councils covering a total population 1.5 million residents, and the Western Sydney Regional Organisation of Councils Ltd (WSROC) which includes 11 Councils.

These regional cooperation models allow Councils to pool resources and work on joint projects where appropriate, at the same time as Councils implementing their own local, specialist or innovative services - specifically to tailor for residents and communities within their individual LGAs.

This model has led to a high level of success and innovation in service delivery in NSW Councils, with innovative projects runs by individual Local Councils regularly recognised as best practice.

However it now appears from IPART advice that JOs will not be applied in the Sydney Metropolitan area but will be in rural and regional NSW⁵. This appears to be part of a pattern of last minute changes. Of more concern is the idea that two standards of local government will exist in NSW. The first being Councils in the Sydney basin which voluntarily co-operate with each other on their own terms and the second being JO's which apply to regional council and which subsume a large part of the functions of local councils particularly in land use planning and infrastructure provision.

It is also not clear how JOs will operate and how accountable they will be to their constituent Councils. The Greens believe that both JOs and ROCs have to operate in a way which is open, transparent and accountable to their local communities.

JOs which are not accountable to local Councils are just another way of reducing local democracy and relegating Councils to a token role.

The confusion surrounding the status of JOs is part of a moving feast that Councils have had to deal with in responding to the NSW Government. The late appointment of the Independent Pricing and Regulatory Tribunal as the assessor of Council submissions, followed by an amended criteria issued by the IPART in mid June 2015 left just 15 days for Councils to make a submission.

The Greens believe this is symptomatic of the NSW Government acting hastily and unreasonably in prosecuting its FFF agenda. We also believe it is one of the issue which have caused Councils to lose faith in the program and in the Government's commitment to seek a fair outcome.

6) Potential Government motivation for removing local democracy from NSW

In our view there is a distinct lack of evidence to support council amalgamations. It is also evident to all who are involved in local government that Councils are very good at co-operating with each other in terms of sharing resources. From entrenching business voting to forced amalgamations to opening up local tendering and now legislation that would see council elections on the chopping block, local government has faced sustained attacks from the current government

The question remains as to why the NSW Government is now threatening NSW Councils with forced amalgamations.

The Greens believe there are at least three motivations behind the Government agenda to force unpopular amalgamations on unwilling councils.

⁵ IPART, *Local Government Assessment Methodology*, June 2015, p.32

Planning

Super-sized councils combined with a Greater Sydney Commission will allow the NSW Government a mechanism to introduce the planning regime which former planning Minister Brad Hazzard tried and failed to put through the Upper House in October and November 2013.

That legislation would have seen residents stripped of their right to have a say on 80% of all developments and local Councils effectively replaced by 'Sub Regional Planning Boards' which would make the real decisions.

The Government proposed super-sized Sydney councils would effectively become the previously proposed 'Sub Regional Planning Boards' and the scale of local representation would move away from the neighbourhood level and many of the local champions of local character would be lost. It is easy to see how this model suits the property development industry and larger businesses.

The suggestion that an entire arm of government in the form of local government should be radically reshaped in the name of "reducing red tape" for developers is a great concern.

Reduced democracy

The second possible motivation for the NSW Government's agenda is the removal of independents and minor parties from local government. The evidence of large Councils (Blacktown in NSW and Brisbane in Queensland) shows clearly that bigger is definitely not better when it comes to diversity and proportional representation.

The Greens believe that our political systems should provide a fair representation of the diversity of the whole community. We acknowledge the difference between our views and policies to those of other minor parties, however we ardently support their right to participate in the political system as we do.

Cost shifting

Years of cost shifting from state and federal governments and decades of rate pegging have left local councils struggling to provide basic infrastructure and improved services. If the state government was genuinely interested in assisting local councils they would increase the financial autonomy of local councils and put an end to rate pegging rather than turn them into regional super-councils run like corporations and far removed from the community.

7) Conclusion

The people of NSW are unlikely to be swayed by marketing efforts telling them that bigger local government is better. They know from experience that when they access services from ever larger organisations, whether it is their bank or their government,

they get less personal service, higher costs and less of a say. When it comes to local government, these anecdotal concerns are exactly matched by the available evidence.

At the heart of local government should be strong vibrant councils, led by elected representatives of their local community, whose prime focus is delivering community leadership, democratic decisions, quality services and long term infrastructure for their local areas.

To that end residents, working closely with their local councillors, must have the right to determine what occurs in their community, especially in terms of planning, development and service delivery.

As a party, the Greens NSW is deeply concerned that unwanted amalgamations producing super-sized local councils will militate against each of the essential features addressed above.

Local government is an essential component of democracy as it is closest to the community and is in the best position to identify and respond to their needs. It must remain a truly local institution and one which represents the diversity of its constituents.

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Inquiry into local government in New South Wales Terms of Reference

1. That General Purpose Standing Committee No. 6 inquire into and report on local government in New South Wales and in particular:

- (a) the New South Wales Government's 'Fit for the Future' reform agenda,*
- (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,*
- (c) the performance criteria and associated benchmark values used to assess local authorities in New South Wales,*
- (d) the scale of local councils in New South Wales,*
- (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,*
- (f) the appropriateness of the deadline for 'Fit for the Future' proposals,*
- (g) costs and benefits of amalgamations for local residents and businesses,*
- (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,*
- (k) the known and or likely costs and benefits of amalgamations for local communities,*
- (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,*
- (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, LEGISLATIVE COUNCIL GENERAL PURPOSE STANDING COMMITTEE NO. 6 Follow us on Twitter: @nsw_upperhouse*
- (n) protecting and delivering democratic structures for local government that ensure it remains close to the people it serves,*
- (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, and*
- (p) any other related matter.*