

**INQUIRY INTO ABILITY OF LOCAL GOVERNMENTS TO
FUND INFRASTRUCTURE AND SERVICES**

Name: Mr Stephen Bali MP

Date Received: 27 May 2024



Stephen Bali MP

Member for Blacktown



27 May 2024

To: The Hon. Emily Suvaal MLC
Chair of the Committee

Re: Ability for local government to fund infrastructure and services

I thank the Parliamentary Committee's work into the very important topic of the ability for Local Government to fund infrastructure and services.

Local Government is often referred to as being closest to the people. Local Government has a myriad of functions including (and not limited to) building and maintaining roads, bridges, footpaths, pools, parks & reserves, drainage, bus shelters, planting trees, shading as well as providing services such as waste collection, early childhood learning and various community support services and forums and many, many other aspects of building community life. Councils can choose what they believe is required for their local community and therefore presents problems in attempting to do direct comparisons between councils.

Expectations of service delivery and infrastructure is also increasing as the modern generation of constituents have higher expectations than previous generations.

This inquiry has been inundated with many submissions from councils and other lobby groups that councils require abolishing rate pegging as it is not allowing councils to set higher rates to deliver the infrastructure and services to meet the expectations of their ratepayers.

I believe this inquiry ought to expand its focus on accountability, transparency, efficiency and effectiveness of council spending. Reduction in cost blowouts and inefficiencies would generate hundreds of millions of dollars back into the local community to undertake vital infrastructure and services.

My submission focuses on:

- 1. Changing financial environment and the need for improved efficiency and transparency.**
- 2. Review Process of Contracts by the Internal Audit Committee**
- 3. Efficiency and market demands – private sector versus council**
- 4. Time constraints and appropriate remuneration of councillors**

I thank the Committee for receiving this report and the additional time allowed for the submission. Please feel free to contact me for further information.

Yours sincerely,

Stephen Bali MP

Submission to parliamentary Inquiry into Ability of local government to fund infrastructure and services.

My appreciation to the NSW Parliamentary Committee in examining the financial sustainability of Councils. This submission is based on my local government experience of 15 years as a councillor including 5 years as Mayor of Blacktown City (2014-19) and as Chair of WSROC (Western Sydney Regional Organisation of Councils) from 2016-2019.

My experience over my 4 terms as a councillor allowed me to witness various approaches from different mayors, general managers (sometimes the position descriptor changes to CEO), many councillors including fundamental political differences of councillors as I moved between majority to minority in various council administrations.

Various factors impact on a councillor's ability to hold management to account in an appropriate and effective manner. This submission focuses not only on the administration but also responsibilities councillors ought to hold themselves to.

1. Changing financial environment and the need for improved efficiency and transparency.

Councils have put forward submissions to this inquiry council funding is falling to inappropriate levels as a result of IPART rate pegging; inter-government cost shifting; reduction in government grants (from both State and Federal Governments); coupled with rising expectations in the community for better service delivery.

Unfortunately, I personally do not have the time for the purpose of this submission to focus on examining in detail the financial income of councils. However, accountability of councils financial spending through improved accountability, transparency, efficiency and effectiveness would free up additional council funds.

• Transparency in the Decision making process

Councils undertake many of the important financial decisions in awarding contracts or the sale of land during a confidential session of the council meeting. The public are informed via a limited word resolution passed by council and sometimes the resolution would be referring to paragraphs in a report that is never published.

The Local Government Act, Regulations and Premier's Directives for Local Government clearly state that both the decision-making process and the reasoning of the decisions must be made public except where commercial-in-confidence decisions are made that could impact on the immediate financial transaction (such as auction reserve prices).

Councils argue that releasing details of tender summaries and details of the final contract issued will somehow have a negative impact. The market ought to operate

in a transparent way to limit any claims of impropriety as well providing information to the market to set the standard and encourage competition for future contracts. Council contracts generally have unique requirements for each project and by having transparent decision-making processes. This will allow for increased competition and innovation in future offerings as suppliers are aware of expectations and pricing.

Allowing improved visibility of contracts also allows the local council constituency a better understanding when project costs do not match the initial contract projections.

There are no avenues to appeal council decisions in making subject matter in confidential – public. There is no independent mediator to review these issues in a timely manner. The Office of Local Government does not have the resources to undertake this function.

State and Federal Governments cabinet papers are released after a specified time. Local Government confidential papers are never released. It is difficult to understand why there is little transparency in major council financial decisions and why all these papers are sealed forever.

Transparency and accountability is only delivered when available information is provided to the public. For example, the NSW Premier has announced that the toll contracts will be made publicly available to allow appropriate scrutiny and public confidence in the decision making of major contracts. Why are councils exempt from the same public scrutiny?

Recommendation

1.1 Unless otherwise approved by the Office of Local Government or the Minister, that all confidential reports presented at council meetings are to be released 2 years from date of the council meeting determination.

1.2 Allow the public an avenue to call for a review of confidential information to be made public. The Inquiry can determine whether this can be done through either through NCAT or Office of Local Government or the Local Government Ombudsman.

2. Review Process of Contracts by the Internal Audit Committee

Consultants and cost of services or delivering infrastructure is a major financial component in the operation of council. On the completion of the contract, there is rarely a review to consider whether the contract:

- Was successful beyond expectations and what led to the better outcomes.
- Costs were higher than original anticipated in the initial contract and what were the reasons for the escalation of costs.
- Could have been done differently to provide a better result.
- Learnings which could improve the processes and understanding of requirements for future contracts.

Regardless of whether it is private commercial enterprises or public institutions, things may go wrong or circumstances may change midway through the contract requiring adjustments that may have substantial cost implications.

It is not a sign of weakness to review major contracts but unfortunately, rarely does a council undertake effective performance audits of contracts.

Internal audit committees have been set up by councils but unfortunately there are **no** councillors allowed to sit on these committees. Companies, particularly all listed companies, have an internal audit committee usually chaired by an independent board member with other independent board members also being members. Independent board members are those that do not have full-time executive roles within the company. Arguably, all councillors except for the mayor and deputy mayor that earn additional remuneration to the other councillors and have executive functions, can be seen to be the equivalent of independent directors. Some of these councillors ought to be permitted to participate in the Internal Audit Committee which would allow for direct feedback to the remaining councillors at a council meeting.

Currently, the work schedule of the Internal Audit Committee is heavily influenced by senior management and may take guidance from councillors based on a council resolution.

Most councillors rarely have contact with the internal audit committee apart from a council resolution to appoint members or reports back to council. This is also true for the internal audit committee members, many of whom are there for their expertise and probably do not live in the area. Hence their understanding of local issues may be limited and therefore may not be aware of projects that have had cost blowouts.

Internal audit committee ought to be focused on performance audit review of contracts and projects undertaken by council. Performance audits analyse the operations to evaluate performance of stated programs to determine their effectiveness and make suggested changes or feedback on the outcomes and propose new ways of undertaking business into the future.

Recommendation:

2.1 That Internal Audit Committees have up to two councillors appointed with the majority of members being external to the Council.

Recommendation:

2.2 That Internal Audit Committees undertake an annual workshop with councillors covering the efficiency and effectiveness of council operations.

Recommendation:

2.3 That Internal Audit Committees work schedule to include the top 5 expenditure project contracts be reviewed as well as discussions with the elected councillors and senior management as to other projects to be undertaken by Internal Audit Committee.

3. Efficiency and market demands – private sector versus council

The private sector is facing increasing pressures on profit margins due to various factors including competition; inflation; supply chain issues; and selling price competition. Disruptors have appeared in many industries including hotel accommodation (eg Airbnb etc) and transport (with Uber) to only list 2 examples.

The Reserve Bank of Australia published a report *Competition and Profit Margins in the Retail Trade Sector* in 2019¹ stating that profit margins have declined for both food and non-food retailers. The sector has undergone significant structural change with the rise of online shopping and the entrance of new competitors including international firms.

It is clear that the private sector must constantly adapt whether it is changing business models to include vertical integration or reducing operating expenses such as rent, labour or other operational aspects.

Failure to address competitive pressures will result in business failure. Across Australia 60% of small businesses in Australia will fail within the first three years of operations and 20% within their first year. During 2022-2023, there has been 406,365 business entries and 386,392 business exits². Countless large businesses have failed to adapt to changing market or competitive circumstances or lack of internal controls which can result in financial mismanagement.

Businesses that fail have their owners or directors potentially exposed to personal liabilities. Councillors are not exposed to the same scrutiny as business owners or directors. However, there may be an ICAC inquiry or a parliamentary inquiry to examine the circumstances.

Councils are in a unique position where the worst-case scenario to address substantial adverse financial consequences that would result in private organisations being liquidated with creditors lining up to gain some share of any remaining money; councillors face being dismissed with an appointment of an administrator. Outstanding financial bills paid would generally be covered by either major rate increases or in the worst case scenario, underwritten by the State Government. Once the problems have been resolved then new councillors are elected.

This is demonstrated within Central Coast Council Financial Recovery Plan:³

- Staff reductions.
- Sale of property assets \$150 million.
- Bank loans of \$150 million.
- 13% temporary special rate variation.

¹ Matthew Carter (2019), *Competition and Profit Margins in the Retail Trade Sector*, <https://www.rba.gov.au/publications/bulletin/2019/jun/competition-and-profit-margins-in-the-retail-trade-sector.html>

² Abbas, R. (2024), *Statistics on Small Business in Australia: 2024 Update*, <https://lawpath.com.au/blog/small-businesses-statistics#:~:text=60%25%20of%20businesses%20in%20Australia,assist%20in%20minimising%20financial%20detriments>.

³ <https://www.centralcoast.nsw.gov.au/council/council-news/financial-recovery-plan>

Given councils operate in a unique, somewhat protected status, it is even more imperative that councils ensure that past bad decisions do not impact on future decisions to increase council rates under the guise of meeting future service expectations of residents.

There is always room for improvement, no one can say that Councils (or State, Federal Governments or private enterprises) always operate efficiently and effectively without any cost blow outs.

There are many examples of councils undertaking projects that resulted in alleged unforeseen cost blowouts including (but not limited to):

- Hawkesbury City Council undertaking sewer repairs that were originally costed to be \$2.7 million resulted in expenditure of \$18.5 million.⁴
- North Sydney Council pool redevelopment was approved by council in July 2020 at \$48 million; by December 2020 (before the pool even closed) had risen to \$64 million; by May 2023 had ballooned to \$89 million and by February 2024 is expected to cost \$110 million.⁵
- Newcastle City Council to move its administrative headquarters at a cost of \$7m in 2017. The final cost was \$17.6 million.⁶
- Blacktown City Council animal rehoming centre was anticipated to have construction costs of \$15 million⁷ in 2017 with 200 dogs and 180 cats⁸ (380 animals). In 2020 a media announcement stated that plans were progressing for 360 kennels and cats cages at a cost of \$27 million.⁹ Blacktown Council website currently states that the state of the art \$30 million new BARC (Blacktown Animal Rehoming Facility).¹⁰ Council website state \$30 million despite Council reports at the council meeting identifying actual costs in excess of \$39 million with the most recent Council report¹¹ identified a new mix of animals – 135 dogs and 230 cats (365 animals) and changed:
 - Annual operation budget subsidy from \$1.92 million to \$3.57 million (85% increase in the annual subsidy).
 - Additional funding \$1.67 million to the project works, bringing the total costs over \$40 million.
- Blacktown Council sold their Administrative Council Centre in March 2023 located on approximately 25,000 square metres of prime central CBD land for \$42 million, then signed a 10 year lease for approximately \$30 million as well as administrative expenses leaving ratepayers with approximately \$9 million for a new administrative centre. This is despite the Council Long term Strategic Plan indicated that the sale of the property would substantially

⁴ Hawkesbury Post (27 November 2023)

⁵ Gorrey M, Sydney Morning Herald – numerous articles.

⁶ Page, D. Newcastle herald, 23rd March 2021.

⁷ Hunn, P. (2017) ArchitectureAU <https://architectureau.com/articles/pet-relieve-ambitious-plan-for-36m-animal-re-homing-megacentre-revealed/>

⁸ Blacktown BCity Council Spring Bulletin 2017

⁹ Blacktown Advocate – online *Plans progress on \$27m Blacktown Animal Shelter* 8th January 2020.

¹⁰ Current Blacktown Council website: <https://www.blacktown.nsw.gov.au/About-Council/What-we-do/Transformational-Projects/Blacktown-Animal-Rehoming-Centre>

¹¹ Council meeting Policy & Strategy committee meeting 8th May 2024 – Quarterly Review

contribute to the new office premises, which currently is estimated to be north of \$250 million. The council also purchased (late 2023) a block next door to the Council administration centre for \$7 million with the block approximately 1,100 square metres.

BARC facility by Blacktown Council cost over \$40 million which is the equivalent of the capital cost per animal of over \$110,000.

An **Allworth Home** Esperance double storey home consisting of 5 bedroom; 3.5 bathrooms; double lock up garage; media room; additional family room; walk-in-pantry; 25sqm upstairs activity room; fully airconditioned; with the size of the home approximately 406sqm home can be built for \$550,000¹² (including site costs). According to Blacktown Council capital costings for BARC, \$550,000 can hold 2 dogs and 3 cats.

Whilst Council can win architectural awards and boast that the animal holding facility is the best in the southern hemisphere, it seems that there is no evidence that any councillor asked how the project blew out by \$25 million more than anticipated initial costs and hold 15 less animals. The ratepayers were initially consulted in 2017 on having a fit-for-purpose replacement of an old, outdated facility. However no follow up consultation took place since to gain the public's acceptance for a substantially more costly facility compared to other items the money could have been spent on. Instead of transparent discussion regarding the cost blowout, council presented the public with glowing media commentary and press releases that it is "transformational", best practice and one of the best facilities.

Blacktown Council's submission to the current parliamentary inquiry states that rate capping and s7(11) developer contribution is not sufficient to cover the estimated shortfall of approximately \$630 million for the new assets required, particularly in the new growth areas. Conversely, the \$250 million shortfall of the new council office facility and cost blowout of \$25 million for the animal holding facility coupled with the failure to adequately prepare the operational budget for BARC resulting in an \$3.57 million per year increased subsidy by ratepayers which could have substantially gone towards the new assets that are required by ratepayers. Also note, that the WestInvest Government program of over \$300 million was not allocated to any north-west projects within the council's boundary.

The above examples are just a limited number that can be applied across the local government community. The key research question for the parliamentary committee is how to balance the need for councils claiming that they need additional financial resources with the challenge that the additional rate increases will be effectively and efficiently spent whilst meeting the real needs of the community.

Local Government Minister Ron Hoenig MP stated in NSW Parliament on 30th May 2023 that *"the 2021-22 audit report discovered errors worth \$1.3 billion. Ninety-four out of the 128 councils reported high-risk audit findings, indicating weaknesses in their processes."*

¹² <https://allworthhomes.com.au/project/esperance-design/>

The Minister also stated that “Mayors from a variety of councils have been coming to see me and writing to me, talking about the financial sustainability of local government. I point out to them that financial sustainability is not about rate increases; it is about getting their own finances in order. It is about monitoring their own finances and making sure that they are accountable for their own expenses. They are democratically elected to do so.”

These issues are complicated. Revenue streams are changing with Government grants moving from untied to specific projects (for example the Federal Government Assistance Grants) to competitive purpose orientated grants that bring improved transparency and accountability to local government spending. Numerous investments are undertaken by the State Government directly into various council owned facilities through various different grant schemes – including Legacy Grant Program; Multi-Sport Community Facility Funding; Accelerated Infrastructure funding; Parks For People grants; Night-time Economy grants; Community Building Partnerships; WestInvest; there are literally hundreds of grant programs across numerous state and federal government portfolios available for councils.

Government supported funding and grants ought to be based on where there is population growth and to be balanced with the financial constraints faced by council.

Improved accountability and transparency is required to support council operations and service delivery. In 2021/22, Councils across NSW generated \$13.7 billion in total operating income with rates totalling approximately \$5.2 billion raised. If councils were to provide only .003 (or .3 of 1%) to the New South Wales Government, this would provide an additional \$41 million to the Office of Local Government to provide improved oversight and advice to the sector in dealing with issues.

Code of Conduct complaints ought to be centralised within the Office of Local Government and be provided on fee for service charge rather than allowing councils the option of contracting private investigators to assess complaints. By enabling the Office of Local Government to conduct Code of Conduct complaints would provide consistency and transparency and allow for any appeals to NCAT.

Recommendation:

3.1 That prior to the removal of rate capping or allowing a different financial revenue model to be adopted for councils, that a further inquiry be held into the efficiency, effectiveness of council spending; fit-for-purpose programs and what accountability and responsibility measures ought to be placed on councils and councillors.

Recommendation:

3.2 That the State and Federal Governments to improve transparency with a publicly available central registration of grants awarded, including purpose, amount; proposed key outcomes and this listing be updated on completion of the grant as to the final costs and whether the outcomes were achieved.

Recommendation:

3.3 That .003 of local councils revenues to be provided as a fee to the Office of Local Government to provide effective and timely responses to local councils and the public on managing issues confronting the local government sector.

Recommendation:

3.4 That on a fee for service basis, all Code of Conduct complaints be handled by the Office of Local Government to provide consistency of application in the decision making process and allow for any right of appeal/review through NCAT.

4. Time constraints and appropriate remuneration of councillors

Councillors enter local government to improve the lives and well being of the community. The difficulties they face, beyond dealing with council administration and understanding council's financial budgetary challenges include:

- A common concern raised by councillors is receiving detailed extensive business papers generally only a few days prior to the meeting. They have limited time to fully digest the readings due to their personal time constraints of juggling community, home and work commitments.
- Additional time is consumed in the essential component of their representative duties by attending numerous public and council events. This also impacts on the ability to thoroughly examine council reports.
- Councillors receive a large volume number of emails requesting assistance to constituents feel their inquiries with the administration has been exhausted and they still do not have appropriate answers. Councillors follow up by either personal site visits, telephone or email inquiries as well as the numerous follow ups between council staff and constituents. As councillors don't have the personal resources or time available to handle some of these requests, many people then solicit further information from State and Federal members of parliament who receive numerous requests for support by constituents regarding council matters.
- Councils are required in the first year of the new term to set the upcoming year's financial budget, provide a strategic plan for the next 4 and 10 years, as well determine as an overall strategic long-term plan. Councils undertake community consultation and engagement that most councillors would not be at (due to their time constraints or much of this would have started near the end of the previous council term). Detailed reports would be presented to councillors generally nearing the submission date to the Office of Local Government and therefore, apart from a workshop to superficially hear from councillors, it would be difficult for councillors to provide substantial feedback on these very important reports.
- Councillors are elected from the public and come with a broad range of life, work and educational experiences that may be different to council processes and may require some time to adjust to understanding the council systems. Often key expertise such as financial, engineering, and other important

council related areas is not amongst the mix of knowledge from the councillors, thereby reducing the accountability and appropriate critique of the council reports.

- Regional councillors deal with the tyranny of geographic size of their council area by travelling large distances to attend council meetings. Given many have other work commitments supplementing their council allowance, this may also impact on the time devoted to gaining a full understanding of council matters.
- Council remuneration doesn't effectively enable a councillor to balance the time to meet the requirements of comprehensively reading the detailed business papers required by their role as councillors. Most councils have financial budgets of few hundred million dollars up to \$800 million which is larger than many small national government budgets.

Ratepayers would be more receptive to council rate increases if they had the confidence that councillors had the time and capability to deal with constituent inquiries and properly hold accountable the council administration.

Full-time councillors would also have the opportunity to undertake professional development to ensure they are gaining the skills required to be able to appropriately deal with the myriad of issues and challenges that face council.

Recommendation:

4.1 That NSW Parliament examine the appropriateness of the remuneration of councillors to allow them to be undertake their duties in a full-time capacity but within the framework of substantially reducing the number of councillors and create specific constituent areas, similar to State and Federal parliamentarians.

Recommendation:

4.2 To improve the ability for councillors to access professional development particularly in relation to financial management, transparency and accountability issues.

I thank the Committee for their time in addressing the issues facing local government.

Please feel free to contact me if you have any questions.

Yours sincerely,

Stephen Bali