

Local Government
Association of NSW



Shires Association
of NSW

SUBMISSION ON THE FINAL REPORT OF THE INQUIRY INTO LOCAL WATER UTILITIES	
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1. Introduction

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government. Together, the Associations represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community and the media.

The Associations welcome the opportunity to make a submission on the final report of the independent panel of the *Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-Metropolitan NSW* (the “inquiry report”). The Associations have welcomed the inquiry report and support in principle the concept of regional alliances of councils.

According to comments made by the Minister for Water, the Hon Phillip Costa MP, the NSW Government is in the process of drafting legislation in relation to the binding alliance model recommended in the inquiry report. This legislation is intended to provide the framework for councils to establish alliances in their regions and is expected to be put to the NSW Parliament this year. Furthermore, the NSW Government is in the process of reviewing the current regulatory environment for councils’ local water utilities with a view to strengthening and/or making mandatory regulation dealing with the protection of public health and safety, the environment, and consumers.

This submission intends to inform the process of drafting legislation on the alliance models and reviewing the regulatory framework. The Associations’ support for an alliance model does not suggest that the Associations consider the binding alliance as the only appropriate model. The Associations believe that councils should be able to choose from a range of organisational models for regional co-operation and resource sharing, including the alliance model supported in this submission, county councils or regional water corporations.

The Associations believe that, in terms of introducing and managing improvements in the provision of water supply and sewerage services in regional NSW, an alliance model is a better model to start with. An alliance model will be more flexible and can better address identified weaknesses. It involves less risk and is more readily implemented. The alliance model will thus be a more resilient model during the process of change.

The first section of the submission outlines the alliance model supported by the Associations. The second section deals with the recommendation to strengthen the regulatory framework. Subsequent sections comment on the regional groupings recommended in the inquiry report, call for seed funding to implement alliances or other structures as well as for an ongoing funding program, particularly for disadvantaged areas and comment on the proposal for local water utilities to participate in the Energy and Water Ombudsman NSW scheme. General principles for the provision of water supply and sewerage services by Local Government in regional NSW have been outlined in the Associations’ previous submission. Most importantly, the Associations support arrangements that maintain Local Government responsibility for the operation and management of water supply and sewerage services and Local Government ownership of water supply and sewerage infrastructure

The Associations call on the NSW Government to consult again with Local Government once the draft legislation for the alliance model has been prepared.

2. The alliance model supported by the Associations

The Associations principally support the concept of regional alliances of councils.

The Associations believe that to ensure effective, efficient and sustainable provision of water supply and sewerage services in regional NSW, it is important to facilitate the sharing of resources and technical capacity among councils' local water utilities and to ensure best practice management and regulatory requirements are met. Strengthening arrangements for regional co-operation and resource sharing will also help enable councils to address challenges including:

- Implementing regional water resource planning and integrated water cycle management;
- Responding to uncertain (reduced) water availability;
- Responding to demand variations; and
- Building professional capacity to implement ever-increasing technical, environmental and water quality standards.

The alliance's main function should be to guide, coordinate and facilitate strategic business planning by member councils of both their water supply¹ and sewerage service provision² as follows:

- In its guidance and coordination role, the alliance would develop high level strategic direction for the alliance region and coordinate member's strategic business planning to achieve effective regional water resource planning and integrated water cycle management. Where appropriate, the alliance would identify and manage regional/shared infrastructure.
- In its facilitation role, the alliance would provide technical support to member councils and assist with the sharing of knowledge and professional staff to ensure member councils can meet best practice and other regulatory requirements. The alliance should facilitate best practice, compliance with regulatory requirements and reporting on performance of the region to the relevant regulator(s).

Strategic business planning by member councils includes:

- The determination of levels of service³ and infrastructure required to provide them;
- Long term financial planning and asset management to ascertain the full cost of providing services and supporting infrastructure; and
- The determination of water supply and sewerage charges to ensure services and supporting infrastructure can be funded over the long term and costs are fully recovered.⁴

The alliance model supported by the Associations is distinct from the alliance model proposed in the inquiry report (appendix 2) in that it does not remove from member councils the essential function of strategic business planning, including the determination of water supply and sewerage charges. Member councils, not the alliance, would actually implement and be accountable for the

¹ Including both reticulation and bulk supply where applicable.

² Stormwater management should be included where there is a direct association with integrated water cycle management (e.g. stormwater as a water supply source).

³ This determination would be based on mandatory standards and community needs and priorities. It would cover issues such as water quality, level and reliability of water supply, or sewerage treatment.

⁴ For regulatory oversight of price determination, see below under comments on the regulatory framework.

strategic business planning for their area of operation.⁵ Furthermore, it is important to note that under the Associations' model, the alliance would provide guidance on and coordinate member's strategic business planning but would not be able to compel member councils to implement strategic directions. However, the Associations believe that the alliance model should have the potential to evolve. Member councils should be able to assign, by mutual agreement, additional functions to the alliance.

The Associations oppose giving the alliance any authority to impose cross-subsidisation between alliance members or introduce postage stamp pricing. However, this could occur by mutual agreement of alliance members.

The Associations support an alliance model that is binding in terms of membership; i.e. member councils, once they voluntarily entered into an alliance, are generally precluded from withdrawing from it. However, the Associations object to any attempt to force councils to enter into alliances or any other organisational structure. To ensure genuine support from Local Government, any form of regional cooperation should be established voluntarily.

The alliance should be fully owned by member councils. Its decision making body should comprise elected members from member councils elected by resolution of member councils. The decision making body should be supported by a technical body containing council professionals and external experts where appropriate. Potentially, those two bodies could be merged. However, the Associations would not support any governance structure where the decision making body is controlled by non-Local Government members.

The Associations believe that the governance model for the alliance should be based on section 355 of the *Local Government Act (NSW) 1993* with modifications to reflect the functions of the alliance outlined in this submission. Alternatively, special provisions for an alliance model could be developed within the *Local Government Act (NSW) 1993*.

3. Comments on the regulatory framework

The inquiry report recommends strengthening the regulatory framework including audit and enforcement of strategic business and financial plans and independent pricing oversight to ensure business plan objectives can be funded and all cost are recovered. The inquiry report also recommends strengthening of water quality and environmental regulatory requirements including mandating of compliance with and establishment of risk management frameworks required under the *Australian Drinking Water Guidelines*.

The Associations recognise the need to meet current and future standards and best practice in the provision of water supply and sewerage services and generally support a strengthening of the regulatory framework. However, this support is conditional on the NSW Government agreeing to the alliance model proposed in this submission.

In terms of pricing regulation, the Associations support a regime of external audit of price determination by councils. Under this regime, water supply and sewerage charges are set by councils according to their strategic business plan and pricing principles established by regulation (e.g. full cost recovery). Appropriateness and accuracy of strategic business plans, cost allocations, and price determinations are evaluated by councils' independent external auditor. This audit would

⁵ As recommended in the inquiry report, asset ownership and day to day operations would remain with councils apart from potential regional/shared infrastructure where the alliance should have the option to identify and implement other management structures.

form the basis for regulatory oversight by and performance reporting to the economic regulator (e.g. Department of Water and Energy). A similar external audit process exists and is already applied when local water utilities want to pay a dividend to council's general fund.

Finally, as pointed out in the Associations' previous submission, current regulatory arrangements need to be improved to avoid regulatory duplication, inconsistency and conflict. Improved regulatory arrangements should streamline data reporting to and among agencies, facilitate integrated water cycle management, and encourage regional solutions/models to facilitate catchment based-planning and water resource sharing arrangements among utilities.

The Associations therefore support the recommendation that the reporting and regulatory roles undertaken by NSW Government agencies be reviewed with a view to streamlining these requirements and to ensure a consistent approach across these agencies (recommendation 5). The Associations request that the NSW Government establish a working party to address this issue and that the Associations and the Water Directorate NSW be a member of this working group.

4. Comments on the regional groupings proposed in the inquiry report

The Associations generally support the regional groupings including stand alone utilities recommended in the inquiry report as a guide for future local water utilities aggregations. However, councils should have the option to join different groups if that better suits their economic, social and hydrological circumstances. The Associations do not support the model of 15 regional groupings discussed in the inquiry report.

The Associations note that a significant number of councils raised concerns about the timeframe provided by the NSW Government to respond to the inquiry's recommendations. Many councils require more time to investigate the regional groupings proposed and the organisational model suitable for their area and negotiate and formalise arrangements. The Associations call on the NSW Government to allow more time for those councils to respond and provide for a trial period during which council can test their models. The Associations suggest that the NSW Government confirm that the current round of submissions is not the final step the process of reform and that there will be further opportunity for councils to consult with the NSW Government.

5. Seed funding for the implementation of alliances

The Associations believe it is essential to make funds available for the implementation of new institutional arrangements and assist councils with the detailed analysis of functions and operations of any particular model and the preparation of appropriate business cases. A number of groups of councils have outlined in their submissions the cost involved in setting up a new model. This submission refers to these submissions.

6. Funding to bring alliance members up to equal footing

The Associations also call on the State Government to provide funding, including capital funding, to bring all member councils of a regional alliance up to the desired common standards. Such funding was promised by the then Minister for Water, the Hon Nathan Rees MP and is a key element in the reform process. To ensure alliances are successful, member councils should be brought up to an equal footing before the alliance becomes fully operational (e.g. existing infrastructure renewal or upgrade requirements identified under the Country Town Water Supply and Sewerage Program or under council studies such as the CENTROC water study).

7. Ongoing State Government funding program for disadvantaged areas

To ensure councils have the financial capacity to provide the level of water supply availability and security and sewerage treatment that is required by the community, a permanent State Government infrastructure funding program should accompany efforts to facilitate resource sharing and regional water resource planning.

In light of the challenges posed by drought, demographic shifts, climate change and skills shortages, some smaller local water utilities in rural and remote regions might not have the capacity to renew or modernise existing or construct new water supply and sewerage infrastructure. Regional alliances could help address these financial challenges through resource sharing and coordination of regionally appropriate water supply and sewerage solutions. However, regional circumstances would dictate what is achievable and in some regions, particularly in rural and remote regions, councils might not be able to afford the desired level of water supply and sewerage service even from a regional perspective.

It is also questionable whether water utilities should be required to solely depend on internal financial resources to achieve horizontal equalisation objectives such as equality in supply security, demand restrictions and achievement of comprehensive health and environmental standards. These objectives are more appropriately achieved through subsidies funded from a broader base such as general taxation revenue.

The NSW Government Rural and Regional Task Force recommended that the NSW Government consider further long term funding augmentation for the Country Town Water Supply and Sewerage Program.⁶

8. Ombudsman scheme

The Associations generally have no objections to local water utilities participating in the Energy and Water Ombudsman NSW scheme subject to, as recommended in the inquiry report, the demonstration of net benefits in doing so. The Associations are yet to see an analysis of whether the benefits of participating are outweighed by the potential cost involved. The Associations note that many councils already have in place comprehensive complaint management arrangement and might not require an additional scheme.

9. Other comments

The Associations would like to comment on the remarks in the inquiry report on pensioner rate rebates.⁷ It is the Associations firm policy position that addressing social impact issues through welfare and income support is the responsibility of central governments who are able to spread the cost of such assistance more equitably and efficiently over a broader revenue base. Therefore, welfare and income support such as pensioner rate concessions should be fully funded by the higher levels of government.⁸ If councils were required to provide rebates, they should be fully reimbursed by the NSW Government to achieve full cost recovery.

⁶ Rural and Regional Taskforce, New South Wales Government, Report to the Premier, (March 2008), recommendation 11f, page 21.

⁷ Final Report of the Inquiry into Local Water Utilities, page 86.

⁸ NSW is the only jurisdiction that requires councils to fund nearly half the cost of these rebates.