

# **Submission to the Legislative Council Select Committee on the Leasing of Electricity Infrastructure**

May 2015

## Introduction

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all the 152 NSW general-purpose councils, the special-purpose county councils and the NSW Aboriginal Land Council. In essence LGNSW is the 'sword and shield' of the NSW Local Government sector.

LGNSW is a credible, professional organisation facilitating the development of an effective community-based system of Local Government in NSW. LGNSW represents the views of councils to NSW and Australian Governments; provides industrial relations and specialist services to councils; and promotes NSW councils to the community.

## General

LGNSW welcomes the opportunity to provide brief and quick input into the inquiry into the proposed leasing of electricity transmission and distribution businesses and associated infrastructure investment through the *Rebuilding NSW* plan. Given the deadline LGNSW has not had the opportunity to consult its member councils extensively or commission its own work on some of the more complex matters relating to the electricity market and lease arrangements.

As has been stressed in other submissions on this and related subjects, in principle, LGNSW does not support the privatisation of strategic public infrastructure (e.g. electricity, water, transport). In summary, it is sufficient to say that the chequered history of privatisation does not provide compelling evidence that privatisation maximises benefits to consumers and taxpayers in the long run.

LGNSW understands that the NSW Government has confirmed its \$20 billion infrastructure investment plan, *Rebuilding NSW*, which is to be funded by the proceeds from the long term partial lease of NSW electricity transmission and distribution businesses; i.e. lease of 100% of Transgrid, 50.4% of Ausgrid, and 50.4% of Endeavour Energy; with Essential Energy remaining 100% government owned.

The fact that the proposal involves a partial lease, with the NSW Government retaining 51% ownership overall, has helped mollify some concerns about privatisation of essential infrastructure. Councils in the regional areas serviced by Essential Energy have welcomed its retention as a fully state owned and operated entity. There had been widespread concern, that any "privatisation" of Essential Energy would lead to reduced employment opportunities, higher electricity costs, and even lower service levels in regional areas.

LGNSW is of the strong view that, where public assets are sold or leased, the funds released must be fully reinvested in other priority public infrastructure. The new investment enabled by the lease of the electricity networks and the sale or lease of other public assets, should be over and above the projected infrastructure investment that would have occurred without the benefit of any sales. Privatisation should not be merely a budget balancing or debt reduction exercise.

## Investment in infrastructure

LGNSW recognises the need for major infrastructure investment in NSW and is a strong advocate for it. Councils are at the coalface when it comes to infrastructure. They are acutely

aware of their own infrastructure backlogs and they are equally aware of the state infrastructure deficiencies in their communities.

LGNSW cautiously welcomes the NSW Government's *Rebuilding NSW* program to invest the proceeds from the partial lease of NSW electricity networks, estimated at \$20 billion, in infrastructure.

However, LGNSW is concerned that *Rebuilding NSW* could fall far short of its game changing promise of fully reinvesting proceeds into priority public infrastructure. Current and forward budget estimates to 2017/18 show that the NSW Government's infrastructure investment would average \$8.8 billion per annum. This is only \$1.4 billion per annum above the average annual investment of \$7.4 billion over the previous three years (NSW Budget Papers 2014/15). If this were correct, it would appear that the expenditure would not be significantly over and above what would have been normally invested.

Furthermore, it is vitally important that the NSW Government meaningfully involves Local Government in the determination of infrastructure investment priorities both at the local and regional level. Local and regional knowledge resource available from councils should not be overlooked. Local Government should be seen as a key partner in implementing *Rebuilding NSW*.

LGNSW commends the NSW Government for establishing a consultation process through the Department of Premier and Cabinet to gather community views on the implementation of *Rebuilding NSW*. However, consultation does not end with promoting the plan, it must provide for real input into the further development and implementation of the plan.

It will also be necessary for the NSW Government to understand financial impacts on councils often associated with large scale state infrastructure projects. Growth generated by such projects often creates additional demand for local infrastructure and facilities (e.g. parks, roads, sporting facilities, community facilities). *Rebuilding NSW* needs to recognise this and ensure financial assistance is provided to councils where required.

LGNSW recognises the funding priorities identified by the NSW Government, i.e.:

- WestConnex extensions and Western Harbour Tunnel (\$1.1 billion);
- Sydney Rapid Transit to fully fund a second Harbour Rail Crossing (\$7 billion);
- Sports and Cultural Infrastructure Fund (additional \$700 million);
- Regional transport (\$4.1 billion);
- Regional and metropolitan schools (\$1 billion);
- Regional and metropolitan hospitals (\$1 billion);
- Water security for regional communities (\$1 billion); and
- Regional tourism and the environment (\$300 million).

While these priorities are generally supported in principle, they are not unanimously supported by LGNSW's membership. As would be expected, there is a diversity of views as to the relative merits of the particular priorities and the allocations proposed for them.

The Regional Transport Fund and the Regional Water Security Fund are particularly supported by regional and rural councils.

Finally, it is vital that investment priorities address disadvantage and recognise the importance of social infrastructure. It is well understood that investment in economic growth and development is strongest in locations that are well serviced with quality social infrastructure. In this respect, LGNSW welcomes the NSW Government's prioritisation of a Schools and Hospitals Building Fund and a Sporting and Cultural Infrastructure Fund.

However, LGNSW is concerned that *Rebuilding NSW* does not seem to include a criterion targeting areas of chronic high unemployment and socio-economic disadvantage. It is in NSW's social and economic interest to address crippling disadvantage and it should be specifically factored into the plan. This would make it consistent with the Australian Government's recently activated *National Stronger Regions Fund*.

## **Investment in Local Government infrastructure**

While it is clear much of the focus of *Rebuilding NSW* is on state infrastructure, LGNSW is of the firm view that a significant proportion of overall funding should be allocated to Local Government infrastructure. Ideally, this would be identified as a separate fund, although it would be acceptable as specified components of the identified funds.

It is also important to LGNSW that the anticipated benefits are equitably shared across metropolitan and regional NSW. Therefore, LGNSW endorses the proposed allocation of \$6 billion of the estimated proceeds of \$20 billion to regional NSW.

LGNSW has set out Local Government's infrastructure funding priorities in its submission on the NSW Budget for 2015/16. Importantly, LGNSW has called for continued focus on infrastructure investment in the areas of roads, water supply and sewerage, and community infrastructure.

## **Improvements in the regulatory regime**

LGNSW has identified a number of concerns over the regulatory regime applied to electricity network service providers that need to be addressed before any leases proceed.

### ***Street lighting***

The provision of public street lighting services by electricity distribution network providers in NSW has been unsatisfactory and causing significant concern to Local Government for a number of years. Without regulatory reform, unresolved challenges are likely to come to a head with the proposed partial leasing of Ausgrid and Endeavour Energy.

On the other hand, reform of the current approach to street lighting could make a positive contribution to the "privatisation" process. There is significant potential to deliver street lighting that is at least 45% more energy efficient, provides safer white light for the community, and does so at lower cost.

Street lighting is an essential public service which councils are legally responsible for providing to the community under the *Roads Act (NSW) 1993* and *Local Government Act (NSW) 1993*. However, with very limited exceptions, street lighting infrastructure (i.e. luminaires, lamps etc.) is provided as a non-contestable monopoly service by the three, currently NSW government-owned electricity distribution network providers Ausgrid, Endeavour Energy and Essential

Energy. Street lighting is unlike other aspects of the electricity distributors' businesses because the utility owns the end-user's electrical appliance, the street light.

Street lighting in NSW is without a clear governance framework at present. There are no service-level contracts, no binding service regulation, and only a voluntary and limited NSW Public Lighting Code. Councils have little control over key aspects of service delivery, service improvement, technology choice, or maintenance programs. Yet, more than \$110 million a year is changing hands between 152 NSW councils and the three electricity distributors.

In the absence of an effective governance framework, the separation of ownership and responsibility has led to a fundamental misalignment of interests with financial and non-financial costs to the community.

Electricity distributors are incentivised to maximise the returns from their street lighting businesses and minimise liability exposures but little else. In contrast, councils have a much wider set of street lighting priorities for which there are no drivers on the electricity distributor to incorporate including:

- Minimising total long-term costs to the community including moving to more energy efficient and/or lower maintenance lighting infrastructure;
- Reducing greenhouse gas emissions; and
- Improving lighting quality for the community with consideration to public safety, public amenity and light pollution.

This misalignment of interests is being highlighted by the dramatic lighting technology revolution underway as LED lighting brings greatly improved performance and renders much of the legacy lights obsolete.

LED technology is now widely accepted as the lowest total cost lighting option. Councils' position is that LED technology can save broadly 30%-70% of the energy compared to current road lighting and do so with much lower failure rates and at a lower overall cost. There are also potential safety gains from deploying high quality white light on main roads in place of high pressure sodium lighting that current dominates in NSW.

However, current regulation and high claimed residual values of old street lighting assets represent a significant barrier to investment in energy efficient lighting. Under the regulatory framework, if an upgrade occurred, councils would be exposed to the full cost of the upgrade including the unrecovered cost of the old streetlights. Inflated values assigned to old street lights would significantly affect the residual cost to be borne by councils. This is of significant concern considering the large legacy of aged, obsolete and highly overvalued public lighting assets, particularly at Ausgrid.

All stakeholders including councils, electricity distributors and regulators have struggled to deal with the current absence of a clear governance framework for street lighting and the resulting misalignment of interests, particularly with regards to improvements in energy efficiency. Recent Australian street lighting pricing reviews have been highly contentious as a consequence.

LGNSW calls on the inquiry to make recommendations to address these issues before the leases go ahead.

“Privatisation” without further reform would expose NSW councils to a monopoly service provider without a clear basis of service and would crystallise the high claimed residual values of the old street lighting assets without future scope for political intervention to revise values in line with age and obsolescence.

### ***Activities of electricity network service providers in council road corridors***

More effective regulation is required to ensure electricity network service providers take into account road safety and public amenity objectives when maintaining electricity network infrastructure in council road corridors.

Electricity network service providers have comprehensive network maintenance and upgrade programs that affect councils’ road corridors including replacement of timber poles with concrete poles and vegetation clearance maintenance around power lines.

However, councils have raised concerns about these activities not taking account of road safety and public amenity objectives.

For many years, local streetscapes in rural and urban areas, many with historical significance, have been spoilt by severe pruning of trees and below-standard restoration of road corridors and footpaths.

LGNSW understands the need to protect overhead power lines from vegetation for purposes of network safety and reliability. However, quite often pruning of trees has been excessive, unprofessional, and has left some trees in such a poor state that their structural integrity and long term viability is compromised. Works were also carried out in an unsafe manner, with extensive off cuts being stacked on the nature strips without appropriate delineation. Councils and their communities are left to manage the remnants of the remaining trees, a burden which they should not have to carry.

It appears these activities are often undertaken without appropriate notice of or consultation with councils. As a consequence, councils have no opportunity to review proposed pruning activities to achieve more suitable outcomes and are unable to respond to ratepayer questions or complaints in an informed manner.

Furthermore, maintenance works often do not comply with necessary road safety standards. For example, concrete poles are erected too close to rural road verges constituting major safety and traffic hazards, and in many instances completely fail modern standards for safe set back on roads.

As a minimum, the regulatory regime should require electricity network service providers to comply with relevant standards and consult with councils on any activity prior to undertaking it. Regulation should also require electricity network service providers to consider less invasive tree management options, such as insulation of power lines near trees rather than excessive pruning.

## **Conclusion**

LGNSW is a strong advocate of increased infrastructure investment by all spheres of government and recognises that the *Rebuilding NSW* plan will potentially deliver major improvements to NSW’s infrastructure backlogs and deficiencies. It is important that the NSW

Government embrace Local Government as a partner in and ensure that local infrastructure needs are also addressed under the plan. LGNSW would be pleased to work with the NSW Government in developing and delivering the plan.

Furthermore, it is critical to improve the regulatory regime for electricity distribution network service providers before long term leases are entered into.

Reform of the current approach to street lighting is required to address the absence of a clear governance framework and service regulation and the resulting misalignment of interests, particularly with regards to improvements in energy efficiency and public safety. There is significant potential to deliver street lighting that is at least 45% more energy efficient, provides safer white light for the community, and does so at lower cost. “Privatisation” without further reform would expose NSW councils to a monopoly service provider without a clear basis of service and would crystallise the high claimed residual values of the old street lighting assets without future scope for political intervention to revise values in line with age and obsolescence.

More effective regulation is also required to ensure electricity network service providers take into account road safety and public amenity objectives when maintaining electricity network infrastructure in council road corridors.