

LGNSW SUBMISSION

**Draft
Parliamentary Inquiry
on Protecting Local
Water Utilities from
Privatisation**

November 2023



Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs **55,000 people**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



Local government in NSW looks after more than **\$177 billion** of community assets



NSW councils manage an estimated **4 million tonnes of waste** each year



Local government in NSW spends more than **\$2.2 billion** each year on caring for the environment



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**



NSW has more than **350 council-run libraries** that attract tens of millions of visits each year



NSW has more than **400 public swimming and ocean pools**

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Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils, County Councils, and related entities. LGNSW facilitates the development of an effective community-based system of local government in the state.

NSW councils are responsible for providing water and sewerage services to more than 1.85 million people in NSW outside the areas serviced by the Sydney and Hunter Water Corporations. These services are provided by 92 Local Water Utilities (LWUs).

LGNSW provides support and advice to councils on water policy and industry best practice, as well as representing the views of local government to the state and federal governments and other key stakeholders. LGNSW appreciates the opportunity to provide a submission to the Parliamentary Inquiry on protecting LWUs from privatisation.

In preparing this submission, LGNSW has conducted consultations with a diverse array of stakeholders, including councils, LWUs, County Councils, Joint Organisations (JOs), and the NSW Water Directorate. The NSW Water Directorate is a partnership between LWUs and LGNSW. Please note this a draft submission awaiting review by the LGNSW Board. Any revisions made by the Board will be forwarded to the Committee in the form of an updated submission.

Background

LGNSW strongly advocates for local government ownership and control of LWUs and has resisted threats by successive NSW Governments to privatise, amalgamate or corporatise LWUs in the past. LGNSW commends the NSW Government for initiating the **Parliamentary Inquiry into Protecting Local Water Utilities from Privatisation** as a positive step towards providing essential legislative protection.

Legislating to protect Sydney Water and Hunter Water from privatisation was a state election commitment of the NSW Government. The passage of the Constitutional Amendment (Sydney Water and Hunter Water) Act 2023¹ delivered the commitment, ensuring the continued public ownership of these two corporations and their primary undertakings into the future.

While this legislative development was welcomed, LGNSW pressed the NSW Government to extend the same protections to LWUs. The Minister for Water, the Hon Rose Jackson MLC, advised that this had not been an election commitment of the NSW Government therefore it had no mandate to amend the Sydney Water and Hunter Water

¹ [Constitution Amendment \(Sydney Water and Hunter Water\) Bill 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/legislation/bills/constitution-amendment-sydney-water-and-hunter-water-bill-2023)

Bill to include the protection of LWUs. However, the Minister undertook to look at the issue in future. LGNSW considers this Inquiry to be a step towards protection of LWUs.

The NSW Government rejected proposed amendments that sought to include LWUs alongside Sydney and Hunter Water as assets that cannot be privatised.

The Shadow Minister for Water Steph Cooke MP introduced the amendments, aiming to secure LWUs' protection against privatisation. LGNSW supported these amendments in principle, while expressing concerns about potential unintended consequences, especially regarding engagement with private contractors and service providers.

LGNSW asserts that the scope of the Inquiry should encompass not only protection from privatisation but also the broader threats of forced amalgamation, corporatisation into state entities, or the potential absorption of certain LWUs into Sydney or Hunter Water. There have been instances where these threats were evident, as Sydney Water once considered taking over the former Gosford and Wyong LWUs in the mid-2000s, and in 2021, Central Coast Council was under pressure to sell its water utility in an attempt to improve the council's financial situation.

Current structure and performance of LWUs

NSW LWUs have proven to be effective entities capable of delivering water services safely, securely, and efficiently. Moreover, they have demonstrated their ability to identify challenges and implement necessary reforms, ensuring an integrated and locally appropriate approach to water supply and sewerage management. This approach optimises outcomes for the entire community.

The Department of Planning and Environment - Water (DPE Water) oversees and monitors water utilities and is the primary policymaker for all water utilities and regulator for the 92 regional LWUs. The performance of LWUs in regional NSW compares favourably with utilities in other Australian jurisdictions in terms of water pricing, water quality, sewage effluent quality and residential bills, performing equal to or better than comparable regional areas. To illustrate its performance, the following performance indicators for the reporting year 2021-22 can be used as examples (this data below has been extracted from DPE's performance monitoring database):²

- **Residential bill:** The weighted median typical residential bill for the average volume of water supplied per residential property in NSW is \$603.27 compared to the national median of \$687.
- **Greenhouse gas emissions:** The weighted median of total net greenhouse gas emissions generated by NSW utilities from all operations relating to water supply is 12,589 CO₂-e (carbon dioxide equivalent). The national median is 13,014 CO₂-e.

² [Local water utility performance | Water\(nsw.gov.au\)](https://www.water.nsw.gov.au/local-water-utility-performance)

- **Infrastructure performance:** In terms of the number of breaks, bursts, leaks in transfer mains and reticulation, the weighted median in NSW is 11.08 main breaks per 100km. In comparison, the national median is 12.15 main breaks per 100km.
- **Health:** 100% E. coli compliance rate seen in NSW LWUs (in accordance with Australian Drinking Water Guidelines).

Under section 61 of the Local Government Act, DPE conducts regular inspections of LWU treatment works and provides feedback and mentoring to the LWU operators. As such there are strong regulatory and assurance frameworks and policy measures in place to ensure that all LWUs performance are monitored and benchmarked against the other LWUs in NSW.

Relationship between LWUs and NSW Government

The provision of water supply and sewerage services in regional NSW has been a collaborative effort between local government owned LWUs and the NSW Government, demonstrated through successful programs like the Country Towns Water Supply and Sewerage Program and the Town Water Risk Reduction Program.

Safeguarding local government ownership and management of LWUs is a key advocacy priority for LGNSW. Strong working relationships have been established through our advocacy efforts with DPE Water, WaterNSW, and Ministerial offices over the years. LWUs also have developed close relationships with these agencies. Any policies that may lead to the privatisation, corporatisation, or forced amalgamation of LWUs could jeopardise these collaborative relationships including between LWUs and NSW Government agencies.

Regional alliance of LWUs

LGNSW opposes any form of forced amalgamations or regional corporatisation. Instead, we support collaborative models at a regional level between councils to retain local community involvement and control over water services. Regional water alliances between LWUs established through local government Joint Organisation model or a County Council model enables improvements and efficiencies by capturing economies of scales, resource sharing and coordinated service planning.

Water utility alliances such as the Central NSW JO and Orana Water Utilities Alliance enable LWUs to plan, fund, share resources and deliver joint infrastructure necessary to provide safe, secure, and efficient regional water supply over the long term. These models harness the advantages of regional solutions without the disadvantages associated with institutional settings where water supply and sewerage functions are detached from councils. State-owned corporations and private entities are typically unable to achieve this level of regional coordination.

Financial and economic impacts

Water supply and sewerage services are integral to regional councils in NSW, constituting a significant portion of their operational capacity helping provide critical mass and economies of scale for both the normal and LWU functions of councils. In many cases, especially within smaller rural councils, these services represent a substantial portion of engineers' and senior officers' responsibilities. Employees often hold multifaceted roles, contributing to the efficient flexibility of the workforce. Privatisation could disrupt these synergies, resulting in the centralisation of activities, loss of staff resulting from the loss of critical mass within and financial challenges. The consequences would be most acute in small communities, particularly in rural areas where councils are often the largest employer. Any form of privatisation could lead to direct conflicts between the profit-oriented objectives of private entities and the community-focused obligations, demand management, and water conservation efforts of LWUs.

Community Service Obligations (CSO) Model

LGNSW supports the development of an alternative government funding model for council-owned LWUs in NSW, including the potential implementation of a needs-based Community Service Obligation (CSO) model. This approach is driven by the understanding of the high stakes involved when water and sewerage services fail, posing severe risks to public health, the environment, and local economies. The cost of service and the absence of economies of scale in remote LWUs make a CSO model essential.

Considering recent natural disasters, many LWUs are required to make significant investments in capital infrastructure and assets to safeguard and improve drinking water quality, water security, and environmental protection for their communities. This has demonstrated the need for a CSO funding model and increased funding in existing programs such as the Safe and Secure Water Program from the NSW Government.

Legislative changes to protect LWUs against privatisation

There is no current legislation to protect LWUs from privatisation. Some protection is provided by the fact the NSW Local Government Act 1993 and the NSW Water Management Act 2000 do not specifically enable privatisation of LWUs at present. However, this would not prevent a determined government from making enabling amendments in the future and therefore does not provide the level of protection provided through the Constitutional Amendment (Sydney Water and Hunter Water) Act 2023.

Legislative change through the Constitutional Amendment (Sydney Water and Hunter Water) Act 2023 ensured the continued public ownership of Sydney and Hunter Water³. The Bill amended the Constitution Act 1902 by inserting a new part 10 dealing specifically with continuing public ownership of Sydney Water and Hunter Water. Under new section 57(1), neither the corporations themselves, nor a main undertaking of the corporation or any subsidiary, can be sold—or otherwise disposed of—without a new Act of Parliament to approve.

LGNSW strongly urges the NSW Government to extend these legislative safeguards to LWUs through similar amendments to the Constitution Act. Such an inclusion will provide the necessary legal framework to protect LWUs from privatisation as amendments made to the Constitution Act will bind current, and more critically, future governments from selling off LWUs and secure their continued public ownership.

Other related matters

It is important to note that many LWUs already outsource activities to the private sector to deliver certain water-related functions, especially when faced with capacity and operational challenges. We acknowledge the need for legal protections, but we advocate for a balanced approach that preserves the flexibility for LWUs to engage private sector service suppliers when such outsourcing is deemed necessary.

Further, some LWUs have more complex arrangements for their water supply functions, including partnerships, joint ventures, and arrangements with non-government entities for water supply functions. These non-government entities include mines, private power stations, Local Aboriginal Land Councils, and involve arrangements for the LWU to use the water supply assets owned either wholly, or jointly, by these non-government entities.

Some LWU agreements may require periodic renegotiation of these agreements with private entities.

It is important in drafting protective legislation that it does not inadvertently exclude engagement of private contractors or impede the flexibility of councils and their LWUs to make decisions in the best interests of their communities.

Conclusion

LGNSW appreciates the opportunity to contribute to the Parliamentary Inquiry on Protecting Local Water Utilities from Privatisation. Our strong advocacy for local government ownership and control of LWUs reflects our commitment to maintaining the high standards of service, financial sustainability, and local community involvement in the water supply and sewerage sector.

³ [Constitution Amendment \(Sydney Water and Hunter Water\) Bill 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/legislation/bills/constitution-amendment-sydney-water-and-hunter-water-bill-2023)

We remain optimistic that the insights presented in this submission will assist in protecting LWUs and ensuring that they remain under local government ownership and are pleased to see the cross-parliamentary support for the protection of LWUs. LGNSW eagerly anticipates the opportunity to engage further with the Inquiry and other stakeholders to secure a promising future for regional water utilities in New South Wales.

If you have any questions regarding this submission, please contact:

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Terms of Reference⁴

The Committee will inquire into and report on how the Government can prevent and stop privatisation of local water utilities with reference to:

- a) How local water utilities and their assets can be best protected against privatisation, forced amalgamations and sell-offs;
- b) Reviewing governance and other legislation relating to the potential privatisation of local water utilities; and
- c) Any other related matters

⁴ [2023-09-21 Terms of reference - Protecting Local Water Utilities from Privatisation.pdf \(nsw.gov.au\)](#)