

LGNSW Response to IPART Draft Report – Review of Reporting and Compliance Burdens on Local Government

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1. Introduction

Local Government NSW (LGNSW) is the peak body for councils in NSW. LGNSW represents all 152 NSW general-purpose councils, and associate members including 12 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.

LGNSW welcomes the Independent Pricing and Regulatory Tribunal of NSW (IPART) Review of Reporting and Compliance Burdens on Local Government as an important initiative in its own right and as key element of the NSW Local Government Reform process. LGNSW was pleased to make a submission in response to the review’s issues paper and to participate in roundtables and the recent public hearing.

LGNSW commends IPART on the draft report. The draft report is more than a simple list of unrelated recommendations that would marginally reduce regulatory burdens and achieve piecemeal efficiency gains. It has the potential to contribute to fundamental reform of the relationship between the NSW Government and Local Government in NSW.

LGNSW is pleased that IPART has acknowledged that there is direct cost shifting onto Local Government by the NSW Government as well as the imposition of large and unnecessary administrative burdens. These are impositions that have been repeatedly denied or played down by successive NSW Governments. LGNSW supports the objectives of addressing systematic issues to reduce cost shifting onto Local Government and of streamlining reporting requirements.

LGNSW also supports the majority of IPART’s recommendations and findings in the draft report. There are a few exceptions, most notably in relation to the recommendations on the regulation of local water utilities. LGNSW has presented its positions in relation to each recommendation and finding in a table for ease of reference. This is followed by more detailed discussion on the contentious recommendations 10 and 11 on local water utilities.

2. LGNSW response to draft recommendations and findings

Draft recommendations and findings	LGNSW comment	Supported or unsupported
Systemic issues – Draft recommendations		
<p>1. <i>That the Department of Premier and Cabinet (DPC) revise the NSW Guide to Better Regulation to include requirements for State agencies developing regulations involving regulatory or other responsibilities for local government, as part of the regulation-making process, to:</i></p> <ul style="list-style-type: none"> – <i>consider whether a regulatory proposal involves responsibilities for local government</i> – <i>clearly identify and delineate State and local government responsibilities</i> – <i>consider the costs and benefits of regulatory options on local government</i> – <i>assess the capacity and capability of local government to administer and implement the proposed responsibilities, including consideration of adequate cost recovery mechanisms for local government</i> – <i>take a coordinated, whole-of-government approach to developing the regulatory proposal</i> – <i>collaborate with local government to inform development of the regulatory proposal</i> – <i>if establishing a jointly provided service or function, reach agreement with local government as to the objectives, design, standards and shared funding arrangements, and</i> – <i>develop an implementation and compliance plan.</i> 	<p>LGNSW strongly supports this recommendation.</p> <p>LGNSW also recommends that it be strengthened by inclusion of a requirement to consult with Local Government at the commencement of the regulation-making process. The current wording that State agencies “<i>collaborate with local government to inform development of the regulatory proposal</i>” allows for Local Government engagement not to be sought until after the commitment to regulate is made.</p> <p>The recommendation is consistent with LGNSW’s initial submission to the <i>IPART – Review of Reporting and Compliance Burdens on Local Government</i>.</p>	Supported
<p>2. <i>That the NSW Government maintain a Register of local government reporting, planning and compliance obligations that should be used by State agencies in the regulation-making process to manage the volume of regulatory requirements imposed on councils and to avoid creating unnecessary or duplicative requirements.</i></p>	<p>LGNSW strongly supports this recommendation.</p> <p>The recommendation is consistent with LGNSW’s initial submission to the <i>IPART – Review of Reporting and Compliance Burdens on Local Government</i>.</p>	Supported

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>3. <i>That the NSW Government remove restrictions on fees for statutory approvals and inspections to allow for the recovery of efficient costs, subject to monitoring and benchmarking.</i></p>	<p>LGNSW strongly supports this recommendation.</p> <p>LGNSW has long advocated for the deregulation of council fees and charges to allow for full cost recovery.</p> <p>LGNSW would support monitoring and benchmarking at the expense of the relevant State agency and providing the framework for same was developed with and agreed by Local Government.</p>	<p>Supported</p>
<p>4. <i>Where fees continue to be set by statute, that the relevant NSW Government agency reviews the level of the fees every 3-5 years and amends the relevant legislation to allow these fees to increase annually in line with CPI or an index of fee-related costs.</i></p>	<p>LGNSW strongly supports this recommendation.</p> <p>LGNSW advocates regular review and indexed adjustment of regulated fees. Ideally, this should be done annually. If not reviewed annually, the period between reviews should not exceed three years. Indexation should apply between reviews. If indexation is not applied between reviews, the review should provide for recovery of cumulative cost movements in that period.</p>	<p>Supported</p>
<p>5. <i>That if statutory fees are capped below cost recovery to ensure affordability or for other policy reasons, then the NSW Government should reimburse councils for the shortfall in efficient costs.</i></p>	<p>LGNSW strongly supports the recommendation.</p> <p>The NSW Government should not arbitrarily force councils to provide services at less than efficient cost.</p>	<p>Supported</p>
<p>6. <i>That the Department of Premier and Cabinet amend the Good Practice Guide to Grant Administration, to:</i></p> <ul style="list-style-type: none"> <i>– recognise Local Government as separate from non-government organisations</i> <i>– remove acquittal requirements for untied grants</i> <i>– explicitly address ongoing maintenance and renewal costs when funding new capital projects</i> <i>– require Agencies to rely on existing council reporting to assess financial stability and management performance of councils</i> 	<p>LGNSW fully supports the recommendation.</p> <p>Local Government should be recognised as a sphere of government and dealt with accordingly.</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<ul style="list-style-type: none"> – <i>lengthen acquittal periods for ongoing grant programs to four years, and use Memorandum of Understanding (MOU) arrangements, rather than requiring councils to reapply annually, and</i> – <i>provide for a streamlined acquittal process for grants of less than \$20,000 in total, examples of streamlining include:</i> <ul style="list-style-type: none"> ○ <i>not requiring further external financial audit</i> ○ <i>using risk-based controls and requirements, and</i> ○ <i>confining performance measurement to outcomes consistent with the purpose of the grant.</i> 		
<p>7. <i>That the Department of Finance, Services and Innovation use the NSW ICT Strategy and Information Asset Registers to:</i></p> <ul style="list-style-type: none"> – <i>provide a central website to consolidate Local Government reporting portals, searchable data sets, reports and publications</i> – <i>facilitate council use of the central website, and</i> – <i>facilitate sharing of Local Government data and information between State Government agencies.</i> 	<p>LGNSW supports the intent of the recommendation and would support the formation of an expert group to further review the proposal.</p>	<p>Supported in principle</p>
<p>8. <i>That the Office of Local Government introduce a “gateway” framework, using a cost-benefit methodology, to assess new State agency proposals for reporting and data collection from Local Government.</i></p>	<p>LGNSW strongly supports the recommendation on the proviso that the framework be developed with and agreed by Local Government.</p> <p>The recommendation is consistent with LGNSW’s initial submission to the <i>IPART – Review of Reporting and Compliance Burdens on Local Government</i>.</p>	<p>Supported</p>
<p>9. <i>That the Department of Planning and Environment, including through the Office of Local Government, review public notice print media requirements in the Local Government Act 1993, the Local Government (General) Regulation 2005, the Environmental Planning and Assessment Act 1979, and the Environmental Planning</i></p>	<p>LGNSW supports the recommendation with qualifications.</p> <p>The advertising requirements for development applications (DAs) under the Environmental Planning and Assessment Act (NSW) 1979 and the Environmental Planning and Assessment Regulation (NSW) 2000 apply to:</p>	<p>Qualified support</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p><i>and Assessment Regulation 2000 and, where the cost to councils of using print media exceeds the benefit to the community, remove print media requirements and allow online advertising, mail-outs and other forms of communication as alternatives.</i></p>	<ul style="list-style-type: none"> • State significant development (large projects over \$100m); • Designated development (e.g. sand mining); and • Integrated development (development that requires state agency input, including state heritage listed properties, development that impacts on road works, and developments with other environmental impacts of substance). <p>All these developments are usually significant and warrant wide exposure to public scrutiny and robust advertising requirements. There is considerable benefit in retaining advertising requirements in print media for these DAs.</p> <p>However, councils develop their own advertising policies for local development, usually within a Development Control Plan. Common methods of communicating a proposed DA are placing it on the website, listing it in the local paper, placing a notice on the property, and directly writing to adjoining neighbours. Councils must comply with this policy or the DA can be null and void. Larger local development is more broadly advertised than smaller alterations and additions to a dwelling. Council can change these policies to adjust to modern communication methods and several have done so. It would be appropriate for councils to consider the application of a cost-benefit analysis in this context.</p> <p>With respect to advertising of senior staff positions, LGNSW is of the view that in order to ensure transparency and for suitably qualified persons to be able to apply for roles such as general manager and director, the positions should be advertised in newspapers with a state wide circulation. This should not prevent councils from utilising additional recruitment strategies that they may consider to be of benefit.</p>	

Draft recommendations and findings	LGNSW comment	Supported or unsupported
Water and sewerage – Draft recommendations		
<p><i>10. That the Department of Primary Industries Water (DPI Water) undertake central water planning for Local Water Utilities (LWUs) to ensure that water supply and demand options are considered in the context of catchments, replacing the water planning LWUs currently undertake individually through Integrated Water Cycle Management Strategies.</i></p>	<p>LGNSW partly objects to the recommendation and suggests an alternative solution.</p> <p>Local and regional integrated water cycle management and integrated water supply and demand planning should remain functionally with councils' local water utilities. Regional planning can be, and is already, implemented by way of coordination among local water utilities. This function should not be transferred to DPI Water.</p> <p>The detailed LGNSW response is provided in section 3 below.</p>	<p>Partly object and suggest alternative</p>
<p><i>11. That the NSW Government enable LWUs with sufficient capacity to be regulated under the Water Industry Competition Act 2006 as an alternative to their current regulation under the Best-Practice Management of Water Supply and Sewerage Framework and section 60 of the Local Government Act 1993.</i></p>	<p>LGNSW acknowledges the intention of the recommendation to implement a risk based and outcomes focused regulatory framework but does not see merits in the recommended solution.</p> <p>LGNSW does not support a move to regulation under the Water Industry Competition Act (NSW) 2006 for more mature local water utilities. Regulation under the Water Industry Competition Act (NSW) 2006 does not appear fit-for-purpose for an essential service provider, seems at least as prescriptive and onerous as the Best Practice Management Framework, and the resultant pricing determination by IPART would definitely not reduce the regulatory burden.</p> <p>LGNSW supports the improvement of the current regulatory framework applying to local water utilities with the aim of establishing modern, risk based and outcomes focused regulation. This should be based on the conceptually sound DPI Water Best Practice Management Framework and the Local Government Act (NSW) 1993.</p> <p>The detailed LGNSW response is provided in section 3 below.</p>	<p>Acknowledge intention but question merit of recommended solution</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>12. That DPI Water amend the Best-Practice Management of Water Supply and Sewerage Guidelines to:</p> <ul style="list-style-type: none"> – streamline the NSW Performance Monitoring System to ensure each performance measure reported is: <ul style="list-style-type: none"> ○ linked to a clear regulatory objective ○ used by either most Local Water Utilities (LWUs) or DPI Water for compliance or meaningful comparative purposes ○ not in excess of the performance measures required under the National Water Initiative, and ○ not duplicating information reported to other State agencies. – reduce the number of performance measures and/or the frequency of reporting for small LWUs with fewer than 10,000 connections – align trade waste reporting with other performance reporting, on a financial year basis, subject to consultation with LWUs, LGNSW and the Water Directorate, and – implement a risk-based auditing regime for LWU wanting to pay a dividend to their council's general fund. 	<p>LGNSW is generally supportive of the recommendation.</p> <p>LGNSW notes that the recommendation is mainly concerned with performance reporting under the Best Practice Management Framework. LGNSW supports a detailed review of reporting requirements.</p> <p>In general, the existing performance reporting has served the sector well and is meaningful to local water utilities. It enables the sector to monitor improvement and drive performance by comparative benchmarking. It provides comprehensive information enabling robust research and policy development and transparency to customers. Also, it is beneficial for individual local water utilities as they receive comprehensive feedback from DPI Water on their performance.</p> <p>It also should be noted that many performance indicators are required under the National Water Initiative and from the Bureau of Meteorology.</p> <p>LGNSW suggests that the performance reporting data set of the Best Practice Management Framework becomes the central data base for all users including other government agencies.</p> <p>LGNSW suggests that IPART's findings and recommendation are currently not detailed enough and that a working group look into this and undertake a more comprehensive review.</p>	<p>Supported or unsupported</p> <p>General support but needs to be more comprehensive</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>13. That NSW Health determine a standardised service report template to be used by technicians undertaking quarterly servicing of aerated wastewater treatment systems, in consultation with councils.</p>	<p>LGNSW supports the recommendation.</p> <p>LGNSW suggests that a template be developed with relevant stakeholders including the Office of Local Government, NSW Health, the Environment Protection Authority and LGNSW. Currency of the template should be maintained by the NSW Government agency responsible for administering the Local Government Act (NSW) 1993, the Office of Local Government.</p>	<p>Supported</p>
<p>14. That the Local Government (General) Regulation 2005 be amended to require service reports to be provided to councils using the template determined by NSW Health as a standard condition of approval to operate an aerated wastewater treatment system.</p>	<p>LGNSW supports the recommendation.</p>	<p>Supported</p>
<p>Planning – Draft recommendations</p>		
<p>15. That the Department of Planning and Environment (DPE):</p> <ul style="list-style-type: none"> – Implement a data sharing model with the Australian Bureau of Statistics in relation to building approvals in NSW. – Introduce a consolidated data request of councils for the purposes of the Local Development Performance Monitoring (LDPM), Housing Monitor, State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Rental Housing) and State Environmental Planning Policy No 1 – Development Standards (SEPP 1 variations). – Fund an upgrade of councils’ software systems to automate the collection of data from councils for the purposes of the LDPM, Housing Monitor, Affordable Rental Housing and SEPP 1 variations. – Publish the data collected from councils on Affordable Rental Housing and SEPP 1 variations data. – Seek agreement with the Land & Environment Court to 	<p>LGNSW supports the recommendation.</p> <p>With respect to the recommendation to implement a data sharing model, LGNSW notes that there are already electronic processes in place for the collection of planning data by the Department of Planning and Environment (DPE). Changes to the collection of data need to be subject to consultation with councils as these processes have to be adequately resourced and software changed.</p> <p>LGNSW supports the consolidation of data collection measures with the objective of reducing duplication and helping to ensure data consistency.</p> <p>With respect to the recommendation for DPE to seek agreement with the Land & Environment Court to obtain appeal data directly from the court, LGNSW notes that applicants are required to disclose this information when lodging a DA to</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p><i>obtain appeal data directly from the Court.</i></p> <p>– <i>Remove the administrative requirement for councils to report to DPE on political donations or gifts under section 147 of the Environmental Planning & Assessment Act 1979.</i></p>	<p>council. This needs to be acknowledged when determining the DA. It is an unnecessary administrative burden to require this information to be collated and referred to DPE.</p> <p>With respect to the recommendation to remove the administrative requirement for councils to report to DPE on political donations or gifts, LGNSW agrees that it should be placed on councils' websites but not be duplicated as a separate report to DPE.</p>	
<p>16. <i>That the Environmental Planning and Assessment Act 1979 be amended to enable zoning and development standards information under section 149(2) of the Environmental Planning and Assessment Act 1979 to be provided through the NSW Planning Portal.</i></p>	<p>LGNSW strongly supports the recommendation.</p> <p>DPE has established the NSW Planning Portal that requires councils to provide relevant and up to date data. This Portal is being progressively expanded to achieve this purpose. The Environmental Planning and Assessment Act (NSW) 1979 has been amended in 2014 to achieve this purpose (see section 158E).</p> <p>LGNSW has been partnering with DPE in the development and roll out of ePlanning in NSW for several years and has strongly supported the development of the NSW Planning Portal.</p>	<p>Strongly supported</p>
<p>17. <i>That the Environmental Planning and Assessment Regulation 2000 be amended to specify the information that can be provided by councils in accordance with section 149(5) of the Environmental Planning & Assessment Act 1979.</i></p>	<p>LGNSW supports the recommendation in principle.</p> <p>LGNSW recognises that there is considerable debate and confusion about the appropriate content of section 149(5) certificates. Currently, there is some discretion on what is provided in section 149(5) taking into account what information is considered to be ready to be released. Planning circulars are issued by DPE that direct councils on what to include in s 149(5) certificates.</p> <p>LGNSW recommends further consideration of this matter by an expert working group.</p>	<p>Supported in principle</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>18. That DPE amend the NSW Planning Portal to provide for online:</p> <ul style="list-style-type: none"> – payment of fees and charges by applicants and for the Planning Reform Fund fee to then be automatically directed to DPE – zoning and development standards information under section 149(2) of the Environmental Planning & Assessment Act 1979 – joint applications for development approvals and construction certificates, and – information under section 149(5) of the Environmental Planning & Assessment Act 1979 to be accessible via a link to council websites. 	<p>LGNSW supports the recommendation.</p> <p>LGNSW is pleased to note that DPE is progressively expanding the scope of the NSW Planning Portal to include these matters. The expansion of the information needs to be implemented in a timely manner so that data is accurate and able to be readily updated.</p> <p>Furthermore, LGNSW advocates improving the fiscal transparency of the Planning Reform Fund and putting in place processes to ensure funds paid into the fund are exclusively used to support planning reform in or for councils, including grants to councils and funding of ePlanning.</p> <p>The Planning Reform Fund was established to support Local Government in the implementation of land use planning reforms. It is entirely funded by fees paid by councils to the DPE. LGNSW is concerned about the lack of transparency with respect to income and expenditure of the fund. This needs to be improved to ensure the fund is used for its intended purpose.</p>	<p>Supported or unsupported</p> <p>Supported</p>
<p>19. That DPE manage referrals to State agencies through a ‘one-stop shop’ in relation to:</p> <ul style="list-style-type: none"> – planning proposals (LEPs) – development applications (DAs), and – integrated development assessments (IDAs). 	<p>LGNSW supports the intent of the recommendation.</p> <p>However, while there is merit in having a “one-stop-shop” to manage referrals it will depend on whether this process has the authority to obtain responses from agencies in a timely manner and the capacity to manage the efficient flow of information between agencies and councils.</p> <p>Also, given that councils often need to negotiate with the applicant on issues arising from information obtained from agencies through the referral process, it is essential that the “one-stop-shop” manages information delivery and remains neutral in the assessment of that information.</p>	<p>Supported in principle</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>20. <i>That DPE develop suites of standardised development consent conditions and streamline conditions that require consultant reports or subsequent approvals, in consultation with councils, State government agencies and other key stakeholders.</i></p>	<p>LGNSW supports the intent of the recommendation.</p> <p>However, there is concern that the level of variation needed to address the wide range of types of DAs will make it difficult to achieve a high degree of standardisation.</p> <p>LGNSW recommends that this recommendation be given further consideration by an expert working group.</p>	<p>Supported in principle</p>
<p>Administration and governance – Draft recommendations</p>		
<p>21. <i>That the NSW Government streamline the reporting requirements for the Integrated Planning and Reporting (IP&R) framework in the revised Local Government Act.</i></p>	<p>LGNSW supports the recommendation.</p> <p>LGNSW supports a review of the reporting requirements for the Integrated Planning and Reporting Framework with a view to streamlining reporting requirements where opportunities are identified. The consideration of such streamlining opportunities is provided for in Phase 1 of the current Local Government Act Review.</p>	<p>Supported</p>
<p>22. <i>Ahead of the next IP&R cycle (2016), that the Office of Local Government:</i></p> <ul style="list-style-type: none"> – <i>provide councils with a common set of performance indicators to measure performance within the IP&R framework</i> – <i>conduct state-wide community satisfaction surveys and release the results to allow comparisons between councils and benchmarking</i> – <i>provide guidance to councils on the form and content of the End of Term Report and its relationship to local councils' Annual Reports</i> – <i>clarify for councils the purpose, form and content of the State of the Environment report and clarify its relationship to the End of Term Report</i> – <i>work with the Office of Environment and Heritage, the</i> 	<p>LGNSW supports the recommendation in principle.</p> <p>LGNSW supports the adoption of a limited set of common performance indicators providing the indicators are:</p> <ul style="list-style-type: none"> • Primarily based on a council's performance against the Community Strategic Plan; • Easily understandable by the community; • Relevant and do not add to the reporting burden; • High level and not designed for the micro management of councils by the Office of Local Government; • Trend indicators used for comparative purposes; and • Developed in partnership with and endorsed by Local Government. 	<p>Supported in principle</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p><i>NSW Environment Protection Authority and other relevant agencies to develop performance indicators for councils to use, and</i></p> <p>– <i>where relevant, amend the IP&R Guidelines and Manual to incorporate this material.</i></p>	<p>LGNSW accepts that community satisfaction surveys are a useful mechanism for councils to measure their own performance over time. LGNSW has concerns about using them for comparison of councils across the state. At most, they would only be meaningful for comparisons of similar councils with similar socio-economic profiles.</p> <p>LGNSW would like to co-chair a working party with the Office of Local Government to progress this recommendation.</p>	
<p><i>23. That the Office of Local Government remove requirements for councils to report more in the General Purpose Financial Statements than is required by the Australian accounting standards, issued by the Australian Accounting Standards Board, except for requirements which are unique and high value to local government such as Note 21 and Special Schedule 7.</i></p>	<p>LGNSW supports the recommendation in principle.</p> <p>LGNSW would welcome the removal of any unnecessary reporting requirements.</p>	Supported in principle
<p><i>24. That clause 163(2) of the Local Government (General) Regulation 2005 be amended to allow the Office of Local Government to determine the councils for which the threshold for formal tendering would be increased to \$250,000, with this threshold to be reviewed every five years.</i></p>	<p>LGNSW supports the recommendation in principle.</p> <p>The threshold for formal tendering should adjust to reflect both real cost movements and improvements in practice.</p> <p>LGNSW notes that it is important that councils have appropriate systems in place and council staff have appropriate training in order to be able to administer procurements of this value and identify and mitigate associated risks. Councils should also be encouraged to consider publicly advertising tenders based on risk as well as their legislative requirements. Often procurements may be of low value (below threshold) but of high risk and therefore may be best handled by way of publicly advertised tender to ensure the council can withstand any scrutiny.</p>	Supported in principle

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>25. <i>That section 377(1)(i) of the Local Government Act 1993 be amended to allow the Council to delegate the acceptance of tenders.</i></p>	<p>LGNSW supports the recommendation with qualifications.</p> <p>Measures to help councils avoid or minimise corruption would need to be put in place before this recommendation were implemented. Further, there would be a need to ensure, including by way of appropriate procedures prior to delegation and limits on delegations, that delegates are suitable for the purpose of accepting tenders and have appropriate legal status and skills.</p>	<p>Qualified support</p>
<p>26. <i>That the Department of Planning and Environment, through the Office of Local Government, review the requirements in the Local Government Act 1993 for Ministerial approvals; those that are not justified on the basis of corruption prevention, probity or protecting the interests of the State be removed.</i></p>	<p>LGNSW supports the recommendation.</p> <p>LGNSW has advocated that all approvals provisions in the Local Government Act (NSW) 1993 be subject to review.</p>	<p>Supported</p>
<p>27. <i>That the Office of Local Government introduce guidelines that specify maximum response times for different categories of approvals.</i></p>	<p>LGNSW supports the recommendation with qualifications.</p> <p>LGNSW accepts that applicants should have an indication of the expected response times for standard approvals. However, it needs to be recognised that circumstances vary and some approvals become more complicated than others. This may be the result of various factors including the applicant's own failure to meet requirements.</p> <p>LGNSW would support development of indicative benchmarks for different types of approvals but is opposed to mandated maximum timeframes.</p>	<p>Qualified support</p>
<p>28. <i>That the Department of Planning and Environment, through the Office of Local Government, review all approvals required under section 68 of the Local Government Act 1993 in order to:</i> – <i>determine the activities for which a separate local</i></p>	<p>LGNSW supports the recommendation.</p> <p>LGNSW has advocated that all approvals provisions in the Local Government Act (NSW) 1993 be subject to review.</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p><i>council approval under section 68 is necessary</i></p> <ul style="list-style-type: none"> – <i>revise the regulatory frameworks within NSW legislation to remove duplication</i> – <i>place as many approval requirements as possible in specialist legislation, and</i> – <i>where appropriate, enable mutual recognition of approvals issued by another council.</i> 		
<p>29. <i>That the Local Government Act 1993 be amended to transfer current requirements relating to the length of time for temporary appointments under section 351(2) to the Local Government (General) Regulation 2005 or the relevant awards.</i></p>	<p>LGNSW supports the recommendation in principle.</p> <p>The temporary employment provisions in the Local Government Act (NSW) 1993 should not be reviewed in isolation of section 348(3)(b) of the Act (selecting on merit where an employee is appointed for a term of no more than 12 months).</p> <p>LGNSW has proposed amendments to sections 348 to 351 of the Act to minimise confusion experienced by councils when appointing and transferring staff. LGNSW expects to continue to press for such amendments in its response to Phase 1 of the Local Government Act Review.</p> <p>Discussions are underway between the parties of the Local Government (State) Award 2014 and other stakeholders with respect to s 351 of the Act to identify how the provision should reflect contemporary and emerging workplace flexibilities and whether such provisions should be expressed in legislation, industrial instruments or guidelines.</p> <p>It should be noted that the Local Government (State) Award 2014 expires in July 2017 and negotiations for a new award are expected to commence around mid-2016.</p>	<p>Supported in principle</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>30. <i>Extend the maximum periods of temporary employment from 12 months to four years within any continuous period of five years, similar to Rule 10 of the Government Sector Employment Rules 2014.</i></p>	<p>LGNSW supports the recommendation.</p> <p>The current restriction on the term of temporary employees is too short and does not take into account the range of factors that influence why a position may be filled by way of temporary employment. Such vacancies may arise where, for example, employees are scheduling leave to cover parental and other personal responsibilities; absence to undertake study, sabbaticals and secondment; staged return to work and rehabilitation programs. Often, the nature and length of such absences and the resulting vacancies cannot be determined in advance; i.e. they may vary depending on an employee's entitlement and the council's circumstances.</p> <p>Therefore, LGNSW supports extending the term of temporary employment. On the face of it, setting a limiting period such as 4 years to ensure review and management of temporary employment may be warranted. However, rule 10 of the Government Sector Employment Rules 2014 is neither relevant nor appropriate to NSW Local Government employment arrangements and as such should not be mirrored in the new Local Government Act or its regulations.</p>	<p>Supported</p>
<p>31. <i>That section 31 of the Public Interest Disclosures Act 1994 be amended to require councils to report on public interest disclosures in their annual reports and remove the requirement for an annual public interest disclosures report to be provided to the Minister for Local Government.</i></p>	<p>LGNSW supports the recommendation.</p> <p>Councils are currently required to provide 6-monthly reports to the NSW Ombudsman as well as an annual report to the NSW Ombudsman and the Minister for Local Government (i.e. three reports a year). These duplicative requirements should be removed.</p> <p>The proposed amendment removes the need for councils to prepare a separate annual report.</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
32. <i>That section 125 of the Government Information (Public Access) Act 2009 be amended to allow councils to lodge annual reports of their obligations under the Act within five months after the end of each reporting year.</i>	LGNSW supports the recommendation. The proposed amendment will align the reporting period with councils' existing annual reporting period.	Supported
33. <i>That the Office of Local Government assist the Information and Privacy Commission to circulate to councils information related to the Government Information (Public Access) Act 2009.</i>	LGNSW supports the recommendation.	Supported
Administration and governance – Draft findings		
1. <i>That the principles and processes outlined in ICAC's Guidelines for managing risk in direct negotiations are best practice standards which can be applied where a lack of competition exists in a Local Government Area.</i>	LGNSW supports the finding.	Supported
Building and construction – Draft recommendations		
34. <i>That the Building Professionals Board include information on travel charges for certification services in regional areas when developing an indicative fee schedule.</i>	LGNSW supports the recommendation. The recommendation confirms that it is acceptable for councils to include travel costs in their fees for certification services and proposes the provision of a helpful guide as to how and what to charge for this travel time.	Supported
35. <i>That the Building Professionals Board or the proposed Office of Building Regulation (in consultation with Department of Planning and Environment, Fire & Rescue NSW and local government) design the new online system for submitting annual fire safety statements (AFSS) to allow councils to identify buildings in their area that require an AFSS, and where follow up or enforcement action is required.</i>	LGNSW supports the recommendation. An online system has the potential to reduce the administrative burden on councils associated with annual fire safety statements. Consultation with the key players (i.e. including councils) will be critical when designing any new online system.	Supported

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>36. <i>That the Environmental Planning and Assessment Regulation 2000 be amended to clarify what constitutes a 'significant fire safety issue'.</i></p>	<p>LGNSW supports the recommendation.</p> <p>However, LGNSW notes that it may be challenging to agree on a definition of "significant" for the purpose of clarity in practical application. This concern was raised in 2014 by the Association of Accredited Certifiers. DPE sought to broker a solution at the time but was not keen to change legislation.</p>	<p>Supported</p>
<p>37. <i>That section 121ZD of the Environmental Planning and Assessment Act 1979 be amended to allow councils to delegate authority to the General Manager to consider a report by the Fire Brigade, make a determination and issue an order, rather than having the report considered at the next council meeting.</i></p>	<p>LGNSW supports the recommendation.</p> <p>LGNSW considers it appropriate to delegate what really is an operational matter to the General Manager. The decision by the General Manager should be reported to the next council meeting. This would reduce time delays among other things.</p>	<p>Supported</p>
<p>Building and construction – Draft findings</p>		
<p>2. <i>The draft recommendations of the Independent Review of the Building Professionals Act 2005 (Lambert Building Review), if supported by the NSW Government, would:</i></p> <ul style="list-style-type: none"> – <i>Substantially improve the funding and ability of councils to effectively undertake their compliance functions in relation to unauthorised building work and refer certifier complaints to the Building Professionals Board.</i> – <i>Introduce more effective disincentives (for example, penalties) for unauthorised building work.</i> – <i>Institute a system of electronic lodgement of certificates and documentation from private certifiers to councils in a standardised form. This should reduce current record management burdens on councils, which would allow the information to be used to inform building regulation policy development and better targeting of council and state resources in building regulation.</i> 	<p>LGNSW strongly supports the finding.</p> <p>This finding supports the recommendations of the Review of the Building Professionals Act (Lambert Review). LGNSW welcomed this important review largely because of its wider brief to look at the building regulation and certification system in its entirety.</p> <p>Relevant key points from LGNSW's submission to the Lambert Review are as follows:</p> <ul style="list-style-type: none"> • Building certification has been a constant and continuing concern to LGNSW for many years. LGNSW is hopeful that this latest comprehensive review process will lead to some much needed and lasting improvements. • Local Government's key issues with the building regulation and certification system in NSW have been well documented and all sectors involved in the planning and building regulation process agree that change is needed. 	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<ul style="list-style-type: none"> – <i>Reduce the frequency of accreditation renewals from annually to every three to five years.</i> – <i>Create a new category of regional certifier to reduce the accreditation burden on councils and increase the number of certifiers in the regions.</i> 	<ul style="list-style-type: none"> • All those players are focused ultimately on achieving the same outcome; i.e. better quality buildings and a trusted and reliable building sector. • LGNSW has been disappointed by the lack of any meaningful action to date following recommendations of numerous reviews of the building regulation system that date back more than a decade. LGNSW urges the NSW Government to move quickly to commit to and prioritise actions to progress these important recommendations. • The importance of committing much needed resources and urgent attention to tighten regulation and enforcement of builders and certifiers and to move towards a best practice system overall cannot be overstated. • NSW’s economy is reliant on the building sector for growth and, as highlighted in the Lambert Review, “...The consequences of inaction will not necessarily be apparent for some time but there is a significant level of risk in the system that will, at some time, manifest itself in a major negative event. In such circumstances the worst of all worlds is to have a regulatory system that is ineffective and has been acknowledged as such.” • LGNSW concurs with the broad findings drawn together in the Lambert Review’s draft report. 	

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>3. <i>That under the Local Government Act 1993 councils can set their fees for certification services to allow for full cost recovery. These fees can include travel costs.</i></p>	<p>LGNSW supports the finding.</p> <p>Some councils may be unaware that they can include travel costs in their fees to allow full cost recovery. Additionally, they may find the process of setting fees and charges, which involves councils including them in their draft operational plan and providing 28 days public notice, quite onerous compared with the ease with which private certifiers can set their fees. Some regional councils might also be cautious about imposing what might be perceived as excessive additional fees on their local customers to cover travel costs.</p>	<p>Supported</p>
<p>4. <i>That the online Building Manual, proposed in the e-building initiative draft recommendation of the Lambert Building Review, would remove the current burden on councils of collecting and maintaining records of annual fire safety statements.</i></p>	<p>LGNSW supports the finding.</p> <p>LGNSW in its submission to the Lambert Review supported the proposal for the creation and maintenance of a building manual. Along with other proposals to improve electronic information, this would be an advancement that will make information more accessible for the key players (namely councils and NSW Fire & Rescue). The requirement will need to have regulatory backing, be mandatory for certain buildings and include provisions that ensure it is kept updated over time as the building and its use changes.</p>	<p>Supported</p>
<p>Public land and infrastructure – Draft recommendations</p>		
<p>38. <i>That the NSW Government transfer Crown reserves with local interests to councils, as recommended by the NSW Crown Lands Management Review and piloted through the Local Land Program Pilot.</i></p>	<p>LGNSW supports this recommendation in principle.</p> <p>The recommendation is consistent with LGNSW's submissions to the Crown Lands for the Future - Crown Lands Management Review and the Crown Lands Legislation - White Paper. However, transfers of Crown Land should only take place with council agreement. The forced transfer of Crown Lands would add to the burden on councils and be a form of cost shifting.</p>	<p>Supported in principle</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>39. <i>Consistent with its response to the Crown Lands Legislation White Paper, that the NSW Government ensure that Crown reserves managed by councils are subject to Local Government Act 1993 requirements in relation to:</i></p> <ul style="list-style-type: none"> – <i>Ministerial approval of licences and leases, and</i> – <i>reporting.</i> 	<p>LGNSW supports the recommendation.</p> <p>As stated in LGNSW's submission to the Crown Lands Legislation - White Paper, at the most general level, LGNSW supports the move to allow councils to manage reserves under the Local Government Act (NSW) 1993.</p> <p>It does need to be noted that LGNSW has argued, and will continue to argue, that managing land under the Local Government Act (NSW) 1993, especially under Chapter 6 Part 2, needs reform to reduce the technicalities and enhance council autonomy and flexibility.</p>	<p>Supported</p>
<p>40. <i>That the NSW Government streamline the statutory process for closing Crown roads, including the arrangements for advertising road closure applications.</i></p>	<p>LGNSW supports this recommendation</p> <p>LGNSW has made numerous representations on this issue including in its submissions to the Crown Lands for the Future - Crown Lands Management Review and the Crown Lands Legislation - White Paper.</p>	<p>Supported</p>
<p>41. <i>That the NSW Government reduce the backlog of Crown road closure applications to eliminate the current waiting period for applications to be processed.</i></p>	<p>LGNSW supports the recommendation.</p> <p>The recommendation is consistent with recommendation 40.</p>	<p>Supported</p>
<p>42. <i>That the NSW Government streamline the provisions of the Local Government Act 1993 relating to plans of management for community land to align public notice and consultation with councils' community engagement for Integrated Planning and Reporting purposes. 149</i></p>	<p>LGNSW strongly supports this recommendation.</p> <p>It is logical to integrate the consultation processes. LGNSW will be recommending that the changes be made as part of the Phase 1 of the Local Government Act Review.</p>	<p>Supported</p>
<p>43. <i>That Roads and Maritime Services provide greater support for councils to develop the competency to conduct route access assessments and process heavy vehicle applications. This support should be focused on developing the competency and skills within councils to perform these regulatory functions.</i></p>	<p>LGNSW supports the recommendation.</p> <p>The recommendation is consistent with previous representations to the National Heavy Vehicle Regulator, RMS and Transport for NSW.</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>44. <i>That the Impounding Act 1993 be amended to treat caravans and advertising trailers in the same way as boat trailers when considering whether they are unattended for the purposes of the Act.</i></p>	<p>LGNSW supports the recommendation in principle.</p> <p>LGNSW is broadly supportive of this recommendation but would need to explore the full implications of expanding the current arrangements, including any increase or shift in regulatory burden to Local Government.</p>	<p>Supported in principle</p>
<p>Animal control – Draft recommendations</p>		
<p>45. <i>That the Office of Local Government’s redesign and modernisation of the central Register of Companion Animals includes the following functionality:</i></p> <ul style="list-style-type: none"> – <i>online registration, accessible via mobile devices anywhere</i> – <i>a one-step registration process, undertaken at the time of microchipping and identifying an animal</i> – <i>the ability for owners to update change of ownership, change of address and other personal details online</i> – <i>unique identification information in relation to the pet owner (i.e. owner’s date of birth, driver licence number or Medicare number)</i> – <i>the ability to search by owner details</i> – <i>the ability for data to be analysed by Local Government Area (not just by regions)</i> – <i>the ability for data to be directly uploaded from pound systems, and</i> – <i>centralised collection of registration fees so funding can be directly allocated to council</i> 	<p>LGNSW supports the recommendation.</p> <p>Councils currently maintain their own registers because the Office of Local Government’s central register is not readily available to council staff and does not contain adequate information to determine ownership of animals.</p> <p>The central register needs to be user friendly and easily accessible by council staff for it to be useful as an enforcement tool. Registered users such as vets/microchippers/pounds should be able to input information directly into the system rather than filling out paper forms which creates additional administrative burdens on councils.</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>46. <i>That the Companion Animals Act 1998 and Companion Animals Regulation 2008 be amended to require unique identification information in relation to the pet owner (i.e. owner's date of birth, drivers licence number or Medicare number), to be entered in the register at the time of entering animal identification information and when there is a change of ownership.</i></p>	<p>LGNSW supports the recommendation in principle.</p> <p>LGNSW supports an amendment requiring unique identification. However, the type of identification should include a photograph and identification documents such as passports, health care cards, student IDs, or professional licences.</p>	<p>Support in principle</p>
<p>Community order – Draft recommendations</p>		
<p>47. <i>That the NSW Government review how councils are currently applying Alcohol Free Zone (AFZ) and Alcohol Prohibited Area (APA) provisions in response to alcohol related anti-social behaviour and clarify the rationale and processes for declaring AFZs and APAs in the Local Government Act 1993 and Ministerial Guidelines on Alcohol-Free Zones.</i></p>	<p>LGNSW supports the recommendation.</p> <p>Local Government supports the approach of alcohol harm minimisation including Alcohol Free Zones (AFZ) and Liquor Accords. AFZ and Alcohol Prohibited Areas (APA) are key tools used by councils to control the presence of alcohol in public open spaces including on footpaths, in parks and on beaches. They are implemented to promote and ensure community safety as part of crime prevention strategies by way of eliminating alcohol affected behaviours.</p> <p>The identification by council of priority areas for AFZ and APA often occurs through community consultation along with knowledge of the local areas where people gather. Hotspots include malls, CBDs, and areas near licenced premises. However, councils often experience difficulties in applying short term AFZ and APA restrictions in holiday periods or during events.</p> <p>Clarifying, simplifying and rationalising the processes of determining and declaring AFZ and APA in the Local Government Act (NSW) 1993 and updating the ministerial guidelines should address this issue.</p>	<p>Supported</p>

Draft recommendations and findings	LGNSW comment	Supported or unsupported
<p>48. <i>That the NSW Government provide an efficient process for consultation and decision making on temporary and events-based alcohol restrictions.</i></p>	<p>LGNSW supports the recommendation.</p> <p>The review of AFZ and APA need to include extensive consultation with Local Government to address councils' concerns with respect to various processes, particularly with respect to applying short term restrictions. Furthermore the review could also address councils' issues with respect to signage and enforcement.</p>	<p>Supported</p>
<p>49. <i>That the Graffiti Control Act 2008 be amended to allow councils to prosecute individuals and organisations that commission or produce bill posters that are visible from a public place within their local government area.</i></p>	<p>LGNSW supports the recommendation.</p> <p>Since 2007, LGNSW has been advocating for legislative amendments to address issues associated with bill posters. Councils regularly have to deal with illegally advertised bill posters on public land, including on roadside power poles. However, prosecution is difficult. To obtain a successful prosecution the person fixing the advertising must be caught in the process. A better and more effective option would be to allow councils to prosecute event promoters as they have some responsibility for the type of advertising that is used for their events.</p> <p>The review of the Graffiti Control Act (NSW) 2008 needs to include extensive consultation with Local Government to address the issues of bill posters on public land and visible from a public space. Additionally, the review needs to consider who would be the most appropriate person to receive the infringement - the promoter, the venue operator, the performer, the advertising agency etc.</p>	<p>Supported</p>

3. Comments on recommendations 10 and 11 (regulation of local water utilities)

General comments

LGNSW commends IPART on its attempt to address issues raised during the review with respect to this complex regulatory area and make proposals to reduce regulatory burdens on councils.

LGNSW supports improvement of the current regulatory framework applying to council owned and operated local water utilities with the aim of establishing modern, risk based and outcomes focused regulation. This should be based on the conceptually sound DPI Water Best Practice Management Framework and the Local Government Act (NSW) 1993.

Therefore, LGNSW has concerns about the policy solutions suggested in recommendations 10 and 11 and does not support the transfer of responsibility for integrated water cycle management and water supply and demand planning from councils to DPI Water and the proposed alternative regulation of local water utilities under the Water Industry Competition Act (NSW) 2006.

LGNSW is of the view that the review's findings do not support these recommended policy solutions which would represent a broad conceptual change. Rather, the findings point to the need to improve the current system, for example with respect to flexibility and authority of integrated water cycle management undertaken by local water utilities.

Furthermore, the section in IPART's draft report on water and sewerage lacks clarity in parts and the necessary in depth discussion of various planning and regulatory regimes including:

- The discussion on "water planning" does not clearly distinguish the hierarchy and varying scope of planning instruments and at what level planning should be undertaken.
- The criticisms of the Best Practice Management Framework are cursory, do not clearly distinguish between management components and the performance reporting framework, and do not outline in detail which management components and which parts of the performance reporting framework might be unnecessary.
- The report does not include the necessary comparison of regulation under the Best Practice Management Framework and the Local Government Act (NSW) 1993 and the proposed alternative regulation under the Water Industry Competition Act (NSW) 2006, particularly with respect to design approvals and price regulation.

The Local Government sector has already addressed a number of reform priorities with respect to the regulation of local water utilities.

The Water Directorate, a membership body for councils' local water utilities, has developed a blueprint of what needs to be improved in the current framework of the DPI Water Best-Practice Management Guidelines and the Local Government Act (NSW) 1993. This includes changes to how the Best Practice Management Framework operates and, importantly, how it interacts with other regulatory regimes (e.g. environmental regulation by the Environment Protection Authority, the Office of Local Government's integrated planning and reporting requirements, drinking water quality regulation by NSW Health, the pricing regime under the Local Government Act (NSW) 1993).

LGNSW has been advocating for these improvements to the regulatory regime for a number of years and to various inquiries including the NSW Government's Urban Water Regulation Review, the Local Government Acts Taskforce and the Independent Local Government Review Panel.

The sector has developed and put into practice its own model of regional (catchment based) water planning and regional cooperation by way of regional alliances of local water utilities.

LGNSW recommends establishing a working group with relevant stakeholder to review this complex regulatory environment in detail taking account of the substantive work already undertaken by the sector.

IPART recommendation 10

That the Department of Primary Industries Water (DPI Water) undertake central water planning for Local Water Utilities (LWUs) to ensure that water supply and demand options are considered in the context of catchments, replacing the water planning LWUs currently undertake individually through Integrated Water Cycle Management Strategies.

LGNSW response

Firstly, it needs to be noted that recommendation 10 lacks clarity with respect to what elements of "water planning" are covered. Possibilities range from regional water sharing planning (e.g. comments in the report on better coordinating local water utilities' water entitlements and allocations) to regional and local water supply and demand planning and integrated water cycle management on an operational level. This needs to be clarified.

LGNSW does not support a transfer of responsibility for water supply and demand planning and integrated water cycle management from councils' local water utilities to DPI Water. This should remain with local water utilities for the following reasons:

- Local water utilities are best placed to undertake water supply and demand planning. They have the necessary local/regional knowledge of all relevant factors with respect to supply and demand and the ability to identify community priorities and willingness to pay.
- It is the core business of local water utilities to make decisions about prudent service levels, corresponding capital and operational needs and efficient pricing. This requires them to be able to plan future supply and demand considering all supply side options (including stormwater harvesting, sewage effluent reuse, irrigation scheme tailwater, new groundwater bores, pipeline connection to other nearby systems, and projections of associated future water availability) and demand side options (including projections of future demand, water restrictions, other demand measures). The level of detail required for this cannot be adequately considered by high level centralised planning.
- Local water utilities are best placed to put the concept of integrated water cycle management into practice.

Integrated water cycle management combines all aspects of the urban water cycle, such as water supply, sewerage, stormwater, recycling, conservation, pollution prevention and flood control, many of which are very local in nature. Integrated water cycle management aims to ensure water is used optimally for urban development and within the natural water catchment and to achieve broader water cycle objectives such as improved environmental, health and amenity outcomes.

Councils and their local water utilities are not only responsible for drinking water supply and sewerage but also for stormwater and drainage management, strategic urban planning, land development control, and environmental management. Because of this broad range of responsibilities as well as their ability to balance community priorities, councils with local water utilities are best placed to undertake integrated water cycle management. Recommendation 10 fails to contemplate these broader aspects of integrated water cycle management.

- Regional water supply and demand planning (including regional aspects of integrated water cycle management) can be, and is already, successfully undertaken by way of regional coordination among local water utilities; e.g. by way of regional alliances of local water utilities according to the model developed by LGNSW and the Water Directorate in 2009 for the Inquiry into Secure and Sustainable Urban Water Supply and Sewerage Services for Non-Metropolitan NSW.

LGNSW agrees with the concept that, where relevant, water supply and demand options be considered in the context of hydrological catchments (e.g. where there may be several local water utilities in a catchment or accessing the same groundwater resource). However, this does not require transferring water supply and demand planning and integrated water cycle management functions from local water utilities to DPI Water.

Regional alliances enable local water utilities to undertake catchment based water supply and demand planning and potentially plan, fund and deliver infrastructure necessary to provide secure, safe and efficient regional water supply and sewerage services over the long term. In future, regional coordination and planning could also be facilitated under the auspices of Joint Organisations as proposed as part of the NSW Government's current Local Government Reform. Membership in Joint Organisations is to be mandatory for councils in regional NSW and Joint Organisations are to have inbuilt processes for collaboration with state government agencies.

Regional coordination and water planning is already and successfully put into practice by local water utilities, for example:

- *Centroc Water Utilities Alliance*
In the Central West of NSW under the auspices of the Central NSW Regional Organisation of Councils (Centroc), 16 local water utilities have formed the Centroc Water Utilities Alliance. This alliance's purpose is based on a water security study finalised in 2010 that provides a strategy for sustainable water security across the region of 16 member councils over the next 50 years. Among other things, the study provides advice on infrastructure augmentation and demand management across Central NSW to improve water security for the communities served by member councils.
- *Lower Macquarie Water Utilities Alliance*
The Lower Macquarie Water Utilities Alliance includes 12 local water utilities based in and around the lower Macquarie River catchment. The alliance is implementing a regional business plan (incorporating existing members' strategic business plans), a regional water quality management plan, and regional water cycle management. The alliance is also looking into developing a joint management of members' water licences and allocation.

- *Coffs Harbour City Council and Clarence Valley Council Regional Water Strategy*
To improve supply security to meet the future needs of the area and to achieve improvements in water quality and environmental flow protection, Coffs Harbour City Council and Clarence Valley Council adopted a joint Regional Water Supply Strategy in July 1997 which includes joint management of water supply dams and networks and joint water efficiency and demand management strategies.
- Various county councils that provide water supply and/or sewerage service have been established under the Local Government Act (NSW) 1993 representing a regional approach to planning and service delivery. Many coastal local water utilities already operate on a catchment scale.

Strengthening arrangements for regional coordination and resource sharing will also help enable councils to share resources and technical capacity and build professional capacity to implement ever-increasing technical, environmental and water quality standards and to ensure best practice management and regulatory requirements are met.

Finally, it should be noted that broader catchment scale water use planning is already undertaken by DPI Water through water sharing plans which are to balance the competing needs of the environment and all other water users (town supply, rural domestic supply, stock watering, industry and irrigation). This form of centralised planning is a very small component of integrated water cycle management, and local water utilities have little input into the centralised planning for water sharing plans.

IPART recommendation 11

That the NSW Government enable LWUs with sufficient capacity to be regulated under the Water Industry Competition Act 2006 as an alternative to their current regulation under the Best-Practice Management of Water Supply and Sewerage Framework and section 60 of the Local Government Act 1993.

LGNSW response

LGNSW acknowledges the intention of IPART's draft report to implement outcomes focussed and risk-based regulation. However, it is not evident, and appears unlikely, that regulation under the Water Industry Competition Act (NSW) 2006 could achieve this.

LGNSW does not see the merits of a move to regulation under the Water Industry Competition Act (NSW) 2006 for more mature local water utilities. Regulation under the Water Industry Competition Act (NSW) 2006 does not appear fit-for-purpose for an essential service provider, seems at least as prescriptive and onerous as the Best Practice Management Framework, and resultant price determination by IPART would definitely not reduce the regulatory burden. LGNSW supports improvement and reform of the current Best Practice Management Framework and the Local Government Act (NSW) 1993 (see below for further detail).

LGNSW has the following concerns with the recommended solution:

- Regulation of local water utilities under the Water Industry Competition Act (NSW) 2006 does not appear fit for purpose. The regime has been established for private entities to enter the water sector. Its main regulatory objectives are to protect public health and consumers by ensuring private entrants have the necessary experience and technical, financial, and organisational capacity and by regulating private entrants' relationship with essential service providers in terms of network access and last resort provisions.

- IPART recommends a risk based approach to minimise prescription and regulatory oversight. However, the draft report does not demonstrate how regulation under the Water Industry Competition Act (NSW) 2006 would be less prescriptive and more outcomes focused and risk based than the current and/or an improved Best Practice Management Framework.
- The draft report does not provide information on what a risk based approach to regulation would entail and what type of risks would be considered in such an approach, e.g. health, public safety, work health and safety, environmental, technical, financial, governance, etc.
- The draft report is silent on price regulation and whether moving from current price regulation under the Best Practice Management Framework to, what could be assumed, IPART price determination under section 51 of the Water Industry Competition Act (NSW) 2006 would reduce the regulatory burden on councils and improve regulatory outcomes. Price regulation under the Best Practice Management Framework and the Local Government Act (NSW) 1993 has been contributing to prudent and efficient pricing and full cost recovery. It represents light-handed regulation and appears far less complex than price determination by IPART.
- Regulation of mature local water utilities under the Water Industry Competition Act (NSW) 2006 would create a two-tier system with some utilities regulated under the Water Industry Competition Act (NSW) 2006 and others, more likely smaller, less well-resourced ones, under the Best Practice Management Framework. This might create regulatory confusion for customers, both residential and commercial/industrial. It is also likely to discourage regional cooperation among local water utilities where the larger councils in a catchment would fall under a different regulatory regime than the smaller ones.
- It is not clear from the draft report how approval processes would be streamlined and how coordination among relevant government agencies and between agencies and local water utilities would improve under regulation under the Water Industry Competition Act (NSW) 2006.
- It is not clear how regulation under the Water Industry Competition Act (NSW) 2006 would impact on, or improve, current performance reporting.

If IPART intends to pursue this recommendation, LGNSW requests that it provides a comprehensive comparison of regulatory regimes and a cost-benefit analysis on regulation under the Water Industry Competition Act 2006 compared to regulation under the current regime.

LGNSW's views on regulatory framework for local water utilities

LGNSW's position is to implement a modern regulatory framework for local water utilities including by way of:

- Reviewing the current complex regulatory environment with DPI Water as a general “utility” regulator whose relationship with the general council regulator, the Office of Local Government, is unclear (e.g. pricing and charging, financial accounting and auditing, integrated planning and reporting) and where regulatory objectives conflict and duplication occurs with respect to health regulation by NSW Health and environmental regulation by the NSW Environment Protection Authority (EPA) including:
 - Suboptimal agency coordination and resourcing of infrastructure approval processes under section 60 of the Local Government Act (NSW) 1993;

- Lack of clarity with respect to stormwater harvesting and health regulation;
- EPA's preference of water recycling over discharge despite integrated water cycle management plans favouring discharge.
- Establishing modern economic, health and environmental regulation/regulators based on DPI Water's Best Practice Management Framework and calling up relevant guidelines such as the Australian Drinking Water Guidelines and Australian Guidelines for Water Recycling.
- Inclusion of contemporary provisions on conditions of supply of services where customers are bound by the conditions as amended from time to time (see Part 6, Division 7 of the Sydney Water Act (NSW) 1994).
- Establishing a modern charging regime in the Local Government Act (NSW) 1993 in line with the National Water Initiative Pricing Principles (2011) that:
 - Is separate from provisions in the Local Government Act (NSW) 1993 on rating and annual charges;
 - Improves provisions for usage based pricing; and
 - Includes development contributions which are currently regulated by way of reference to the Water Management Act (NSW) 2000 (see section 64 of the Local Government Act (NSW) 1993).
- Strengthening operational powers of local water utilities (offense provisions relating to illegal water use and discharge of water, permanent water conservation measures, meter protection, road works permits, powers of entry) in line with powers given to other utilities such as Sydney Water and Hunter Water.

A reviewed regulatory framework should also include provisions allowing local water utilities to form regional alliances.

4. Conclusion

LGNSW commends IPART for being objective and responsive to Local Government in the consultation process. As a result the majority of recommendations are generally supported by LGNSW and, judging by feedback from councils at the public hearing on 8 February, by councils too.

The review has covered a wide range of complex regulatory and reporting requirements and, as a consequence, it cannot be expected that IPART would have drilled deeply into the detail of each. Therefore, many of LGNSW's responses, while supporting the intent or objective of the recommendations, call for the formation of expert working groups to look into the issues more deeply and further develop the most effective corrective actions. It is essential that Local Government is represented in these groups. LGNSW would be pleased to participate in such groups and to facilitate appropriate expert Local Government representation where also required.

Local Government is enthusiastic about acting on the majority of the recommendations. It seems the challenge will be getting NSW Government commitment to act on the recommendations and, in particular, to motivate the numerous individual agencies involved. Unfortunately, it is evident that some are defensive of current practices and resistant to change. To help overcome potential barriers and provide momentum to regulatory reform, LGNSW strongly suggests that IPART's final report includes an overarching recommendation

that a Ministerial Taskforce be established to drive implementation of individual recommendations, upon which LGNSW represents the sector.

If there is anything you want to clarify in relation to this response, please contact Shaun McBride, Senior Strategy Manager, on 02 9242 4072 or shaun.mcbride@lgnsw.org.au.