



SUBMISSION

Better, Stronger Local Government The Case for Sustainable Change

Front Cover: Nelson Bay Foreshore, Port Stephens LGA

© Port Stephens Council, 2013

Port Stephens Council
116 Adelaide Street
PO Box 42
Raymond Terrace NSW 2324

Telephone: 02 49802 0255

Email: council@portstephens.nsw.gov.au

Contents

Executive Summary	4
Introduction.....	5
Port Stephens – A Snapshot.....	5
Port Stephens Council Submission	7
Response to Chapter 2: A Systems Approach	7
Response to Box 2: Elements of an Effective System of Local Government	7
Response to Chapter 3: Facing the Challenges of Change	9
Response to Chapter 4: Advancing Fiscal Responsibility	10
Response to Chapter 5: Delivering Better Infrastructure and Services.....	15
Response to Chapter 6: Matching Structures and Boundaries	19
Response to Chapter 7: Securing Good Governance	21
Response to Chapter 8: A Compact for Change and Improvement.....	23
Conclusion	23

Executive Summary

Port Stephens Council welcomes the opportunity of making a submission to Stage 2 of the Local Government Independent Review Panel. Our approach to the Paper is related to our lived experience as a General Purpose Local Authority and an active member of a Regional Organisation of Councils, Hunter Councils Incorporated.

Council is in general support of the signposts outlined in the report, in particular:

- Council as a system
- Financial sustainability
- Targetted regional / shared service delivery
- The IP&R process
- Clarity of key roles
- Principle of partnership
- Community consultation should drive any change
- A comfort with State Government Surcharge

In addition, Council asserts the following:

- Size is not of itself imperative, effective service delivery can be provided by other means eg centres of excellence, activity centres, etc.
- A local Council is not equivalent to a "Board of Directors" as the Institution of Councils is a political entity and does not have a clear common framework. Elected persons have a range of agendas, diverse philosophies and often polarised views representing their community.
- The importance of a regional approach to targeted activities and functions. Any agreed shared service will require funding for research, establishing governance frameworks and specific skill sets to operate in a commercial, environment.
- Council is persuaded by the published work of Dollery, specifically in regard to the debate around amalgamation. Whilst not against amalgamation / boundary adjustments, the Queensland experience of amalgamation and de-amalgamation indicates that communities need to be consulted and should be aware that urban local government authorities will generally subsidise rural local government authorities.
- Council awaits with interest the "Future Directions" Paper and will provide future submissions

Port Stephens Council submission regarding The Local Government Independent Review Panel Better, Stronger Local Government The Case for Sustainable Change

Introduction

Port Stephens Council welcomes the opportunity to provide a submission and feedback to the Independent Review Panel's Better, Stronger Local Government – The Case for Sustainable Change. We are committed to the review and commend the Independent Review Panel for the comprehensive way it has engaged with councils and their communities and stakeholders in forming their views as expressed in the discussion paper.

The purpose of this submission is to contribute to local government reform and to respond to the key elements identified in the discussion paper.

Port Stephens Council believes it is a strong position to contribute as:

- we have just completed an twenty four-month extensive and comprehensive sustainability review of all our services, including examining if we are legally, financially or operationally required to deliver services and at what level;
- during 2011-2012 we have engaged extensively with our community to determine service levels and to identify their priorities for the LGA's future to inform the Integrated Planning and Reporting Process;
- we have developed strategies to increase revenue as well as to manage expenditure;
- we have been noted in the recent Treasury Corporation Audit¹ as being one of the very small number of councils in New South Wales that is financially sustainable;
- we have moved from four councillors per ward to three councillors per ward; and from an annually elected Mayor to a popularly elected Mayor in 2012 – recent experience in local governance to inform our submission;
- we are an active and committed member of Hunter Councils Inc., our regional organisation of councils.

Port Stephens Council does not operate any utilities and its water supply is provided through Hunter Water Corporation so comments in this submission should be taken to refer only to general councils.

Our approach to the Discussion Paper is to relate it to the lived experience of our Council and as an active member of Hunter Councils Inc., the regional organisation of eleven Hunter Region councils.

Port Stephens – A Snapshot

Port Stephens is the land of the Worimi nation. Port Stephens is named after Sir Phillip Stephens, 1st Baronet Stephens, (11 October 1723 – 20 November 1809) who was First Secretary of the Admiralty in the late 1700s and later a Lord Commissioner of the British Admiralty between 1795 and 1806.

Port Stephens Council is a local government area in the Hunter Region of New South Wales, Australia. The area is 168 km north-north-east of Sydney, 25.8 km north of Newcastle. The area contains prime agricultural land, valuable natural ecosystems and a high level of

¹ T Corp, New South Wales Treasury Corporate, *Financial Assessment and Benchmarking Report: Port Stephens Council*, Sydney October 2012

species diversity. Its waterway system lies at the junction of the Myall River lakes system, Karuah River and the Pacific Ocean. The western half of the area is geographically dominated by the confluence of the Paterson and Williams Rivers with the Hunter River. The eastern portion of the LGA contains the Stockton Bight dune system, which extends for 32 kilometres.

The Council area is bisected and served by the Pacific Highway. The climate is warm year round and cool sea breezes keep the temperature mild in the summer.

Port Stephens is a thriving community with great diversity. Although often perceived as a wealthy tourist and retirement destination, the area has a broad range of residents from different socio-economic backgrounds. Residents and tourists alike are attracted to Port Stephens because of its natural beauty, magnificent waterways and rural character.

Coordinates: 32° 45' S, 151° 55'E

Region: Hunter/Mid North Coast, NSW

Area: 979 square kilometres

Waterways: More than 100 square kilometres

Population: 64,807 – estimated to rise to more than 80,000 by 2031

Median age: 42

Population density: 66.2/square kilometres

Labour force: 28,373

Unemployment: 6.2%

Climate: Mean minimum temperature 10.3 - 13.7 C
Mean maximum temperature 23.0 C

Mean Rainfall: Range 1125.6mm – 1348.9mm

Major Population Centres: Tomaree Peninsula, Tilligerry Peninsula, Medowie, Raymond Terrace



Port Stephens Council Submission

Response to Chapter 2: A Systems Approach

Port Stephens Council is a leading proponent of the Australian Business Excellence Framework and as such has extensive experience over many years in Systems Thinking, process management and continuous improvement. We therefore believe it is appropriate to adopt a systems approach to the review of local government in NSW. However we are concerned that the focus on local government as the system ignores the fact that it is part of two larger governance systems (State and Federal government). The health of any system is impacted upon and dependent upon the larger systems of which it is a part – the 'Russian dolls' concept. Local government does not operate in isolation and any review should also recognise the impact of the other, larger 'dolls' on local government.

We believe that the success of local government is in direct proportion to its ability to add value to its community. As each local government system is unique so it cannot be realistically measured in comparison to other councils – the primary measure is what the community values and how well a council delivers to them.

We subscribe to the views of the Panel at 2.3: *"At its best, local government demonstrates leadership on some of society's most intractable problems..."* Systems thinking understands that not just processes but relationships add value to communities. At Port Stephens Council we have a robust relationship with our community through more than 1,200 volunteers; an active Residents' Panel broadly representative of our community; and strong partnerships with our Aboriginal citizens through the Port Stephens Council Aboriginal Strategic Committee, with the Worimi and Karuah Local Aboriginal Land Councils; social and cultural relationships through the Interagency Network (supplying social services to our LGA) and the Strategic Cultural Committee of Council. Our five Sports Councils serve to manage our facilities and to provide inputs (and funds) for sporting infrastructure planning. Our financial and practical support of the business community and its local associations support relationships that inform future planning and are responsive to Council's challenges in a positive way.

As a result of these relationships the people of Port Stephens identify strongly with the LGA and none more so that the more recent arrivals as we are definitely a rapidly growing (and ageing) population of "sea and tree changers".

Response to Box 2: Elements of an Effective System of Local Government

Councils – Finances and Resource Sharing

We agree that councils should be self-sustaining as to revenue and the management of their finances should be of the highest standard. Port Stephens Council is financially sustainable and has developed additional revenue streams from dividends from Newcastle Airport, the sale of bio-banking credits and future sand extraction royalties and we have no intention to seek rate increases above the annual rate peg. Unlike most of the State, we have an increasing manufacturing base and enumerable natural assets that provide a strong tourism trade.

We recognise however that not all councils are in this position and many do not have the capacity or sufficient economic resources to allow profitable exploitation and they rely on rates revenue – an unsustainable position. We believe however that there is still a case to be made that amalgamation of smaller councils may lead to some economies of scale and

could make an amalgamated council more viable. The impact of Section 345(d) of the Local Government Act needs to be considered whereby staff conditions and entitlements are retained. We recognise that a more sustainable approach to share resources through regional organisations of councils to achieve economies of scale whilst retaining the 'local' element that is the cornerstone of local government.

In our region the organisation of councils – Hunter Councils Inc. – provides services and resources to smaller, neighbouring councils (as well as us) in a very successful model of resource-sharing that could be extended significantly to encompass many 'back office' services across councils.

We endorse the Integrated Planning Framework as the backbone of the future for local government and the new Local Government Act should ensure that is the case.

Councils – Governance

We cannot endorse the concept of councils (Mayors and Councillors) as a quasi-board of directors similar to a corporate structure. The principal reasons are that:

- the institution that is a council is a political entity;
- elected councillors are the representatives of the diverse elements and agenda within the community and as such have often divergent views on the efficacy of different courses of action – and say so. There is no 'collective' ownership such as prevails in well-managed companies described in Box 2.

Port Stephens Council endorses the need for highly skilled mayors, councillors and senior staff and notes that progress has been made in induction and other training for councillors. We endorse the concept of mandatory qualifications for councillors, for example Australian Institute of Company Directors qualifications; and the availability and enhanced quality of professional development of council staff through the Local Government Managers Association NSW, the Australian Institute of Company Directors and universities generally. As noted above however, we do not endorse the "Board of Directors" concept to meet this need.

Having very recent experience in both systems for appointing the Mayor, Port Stephens Council wholly endorses the popularly-elected Mayor system. It provided for us the stability of leadership and for the community a more certain direction for council.

We agree that the Local Government Act needs to make clear the definition of the relationship of Mayors, councillors and senior staff. To that end, we believe that changes need to be made to the manner in which general managers are appointed and we have made representations to the Local Government Act Task Force on this issue. In general the Local Government Act needs endorse the principle of a 'partnership' rather than a master-servant relationship and make it harder for a council to be brought to a standstill through internal conflict at the highest levels.

Council – Candidates

Port Stephens Council endorses the proposition of the Panel that candidates should reflect the make-up and varied interests of their communities. However in practice this is not achievable under the present system which is a combination of party-political factors and the employment and other pressures that prevent many potential candidates from participating.

However we cannot agree that remuneration is the 'silver bullet' that would make a difference to the ability of potential candidates to stand for councils. Aside from the issue of

affordability for individual councils, experience in Queensland where councillors are fully paid has not resulted in attracting candidates of superior quality compared to those currently recruited in NSW, and in fact the obsession with retaining their "jobs", staff etc has led to a very short-term focus – the antithesis of what NSW local government needs.

A case can be made, however for an increase in the remuneration of Mayors and councillors to reflect their real-time contributions; and some restrictions such as not being able to contribute to superannuation, should be reviewed.

Employer – Employee Relationships

Port Stephens Council Enterprise Agreement – originally negotiated in 2008 and renewed in 2011 – is regarded as a best practice example of its type, and provides fairly for staff in an atmosphere of trust between managers, staff and unions. It won the LGMA NSW Award for Excellence in 2009. The key is removing the antagonistic nature of most industrial relations and providing all stakeholders with a seat at the table.

We have been measuring our employee satisfaction, employee engagement since 2006 and noticed a steep decline in absenteeism and other measures of dissatisfaction since the Enterprise Agreement was put in place. In the last 12 months our employee engagement score increased another 10% on the previous year. Whilst we are not at the desirable benchmark (65%), 49% of employees at Port Stephens are engaged and a further 21% are 'almost engaged'.

During 2010 when we commenced planning our sustainability review, we recognised that we couldn't afford to bring in consultants and we would have to do it ourselves; and that for at least the 3 - 4 months that each review took, staff would have to carry this workload – and at times some confronting processes – in addition to continuing to deliver services. We achieved on-going savings of \$2.6 million, understood each other and our business much better, and built trust even when faced with a restructure and the loss of five executive and senior positions.

With goodwill it is possible to have strong and constructive relationships between all parties in the employment space.

Box 2 – Other Elements

Aside from the areas noted above Port Stephens Council has no disagreement with the Panel's findings.

Response to Chapter 3: Facing the Challenges of Change

Port Stephens Council does not necessarily reject the concept of boundary changes and/or amalgamations to achieve strategic capacity however we believe the concept that these necessarily bring economies of scale and enhanced capacity is flawed. *"Anyone who still believes that compulsory council consolidation will somehow lead to financial sustainability in local government ... has not bothered to acquaint themselves with the vast empirical literature on amalgamation."*²

² Dollery, B.E. *Process change not more forced amalgamation*, Attachment 4, Lake Macquarie Council submission to the Independent Local Government Review Panel

We have read the Panel-commissioned report by Jeff Tate, *Assessing processes and outcomes of the 2004 Local Government boundary changes in NSW*.³ We note that the research was undertaken in only five 'selected' councils, and we urge the Panel to consider other councils where the forced amalgamations occurred, notably Upper Hunter Shire Council in our Region. The Tate report generally paints a positive picture with some lessons learned but only from five 'selected' councils and it is not clear on what basis those councils were selected.

Some boundary changes to 'tidy up' existing anomalies may be recommended by the Panel, but the case for these would and should be made locally, not on a State-wide review basis. There are other, successful models for gaining strategic capacity based on shared resources and access by local government to capacity from outside its own base – such as tapping into State planning resources, environmental monitoring, treasury resources etc. In other words, some operational areas could be vertically integrated, rather than automatically assuming that horizontal integration is the only alternative.

That said, we acknowledge there are often natural catchments and natural communities of interest not reflected in existing boundaries, especially as population and settlement patterns alter over time. Where boundary changes are needed and agreed with the local community affected, the cumbersome existing legislation in this area requires overhaul as was identified in Dubbo at Destination 2036 workshops in 2011.

One of the significant constraints on the ability of councils to attain strategic capacity is the excessively prescriptive nature of the Local Government Act, and we hope that the rhetoric to date from all parties to Destination 2036 will hold the line by insisting on a more enabling Local Government Act.

The Council of Mayors Concept

Hunter Councils Inc. has a Board comprising the mayors of the eleven member councils in the Hunter Region. Its executive is the General Managers Advisory Committee (GMAC) which through an employed Chief Executive is responsible for the operations of Hunter Councils Inc.

Hunter Councils Inc. is proposing to the Panel through a separate submission that it be the pilot for a trial of this concept. In practice the organisation already operates as the central focus for major initiatives and negotiations with State agencies.

Response to Chapter 4: Advancing Fiscal Responsibility

Financial Sustainability

We note at 4.2 the NSW Treasury Corporation preliminary findings in relation to Group 4 councils of which Port Stephens Council is a member. In fact in our case, Treasury indicated that we were indeed sustainable as well as viable – as per the Panel's own definitions. To generalize about all councils in any of these artificially contrived groupings is flawed.

In the period to 2010 Council had experience in successfully increasing rates through the special variation process and use of special levies. In 2010 Council sought unsuccessfully another special variation. With hindsight this was a 'blessing in disguise' as it forced us to examine our expenditure, our asset backlog and to undertake a sustainability review of all our services and facilities. We also looked at our revenue side – what were our assets and how could we leverage from them to attain fiscal sustainability over the long term. This had

³ Tate, J. *Assessing processes and outcomes of the 2004 Local Government boundary changes in NSW*, Australian Centre for Excellence in Local Government, Sydney 2013

been the aim of the original application – to reduce the asset backlog. As the Discussion Paper identified inadequate capital and maintenance expenditure over many years had led to a backlog of \$26 million growing at a rate of around \$7 million per year.

We found that we had a lot of opportunities to increase revenue – although working with an onerous legislative system has made that more cumbersome than it needed to be. We are joint owners with Newcastle City Council of the Newcastle Airport. That organisation's financials were represented in our financial statements but we received no revenue – so we determined to restructure the entity. It is in the final stage (4) of the restructure and it is estimated to provide dividends to its owners of around \$2 million each per year, which we are applying to the asset backlog. We also have large sand resources on Council's land and are in the process of development sand extraction that will pay significant royalties of the next twenty plus years. We also have a land bank that Council had acquired more than 20 years ago with the future in mind. We have set up bio-banking which is producing dividends of \$4,400,000 (of which \$350,000 goes to the State government) per annum.

We also hold commercial property with high end tenants both within and outside Port Stephens LGA that provide revenue returns; and holiday parks that contribute to the overall financial viability and sustainability of Port Stephens Council – especially when, as a result of the sustainability review the decision was taken to close the non-performing asset in this category.

We believed that we had a sufficiently robust outlook that we could apply for a loan under the LIRS of \$1 million. When Treasury Corporation officials came to audit us they concluded that we were one of only a few NSW councils that was financially sustainable and capable of borrowing even more. Whilst previous Councils were particularly risk averse in their borrowing policy, we have now recognised the advantages and are applying for another loan in the second LIRS round for infrastructure works.

At the beginning of the sustainability review we had a target to breakeven our underlying deficit by the end of financial year 2015 – we are now in a position to breakeven at the end of financial year 2013-2014.

The following factors have allowed us to achieve our financially positive outlook:

- a council many decades ago that recognised the value of future land use planning and acquired a land bank;
- sustainability review and staff and Council being prepared to take the hard decisions on service delivery and service levels;
- discontinuing and reallocation of resources of underperforming/low priority services to higher priority services;
- a realistic assessment of our assets and potential revenue streams;
- investing in open, transparent and honest communication with our community over service levels – yes, they wanted more but weren't prepared to pay for it and opted for the status quo;
- Underpinning a continuous improvement approach using the Australian Business Excellence philosophy.

Our LGA faces many of the challenges nominated in the Discussion Paper – particularly rapid population growth and an ageing population: Port Stephens LGA population grew by 7.1% between 2006 and 2011; the proportion of the population over 65 years old grew from 16.3% to 19.3%. Our natural assets and restricted land use areas (eg water catchments) mean that only 42% of our land area is rateable, and available land for development is a shrinking resource. So the ability to raise rate income from new rateable properties is not optimal in the long term; and our ageing population impacts on the ability of our citizens to afford increased rates whilst at the same time the valuation of their holdings – especially in the coastal areas – continues to increase. In all parts of Port Stephens LGA the issue of

affordability applies – from the socio-economically disadvantaged west to the asset rich but income poor east of the LGA.

All of these factors combined to force Port Stephens Council to find another path and we have done so. The point of this narrative is that there are other ways for councils to address financial sustainability – even viability – other than through amalgamations.

We strongly recommend that any proposals of the Panel not be based on generalisations about groups of councils, as these are artificial constructs.

Statutory Fees – Impact on Revenue

Whilst we have overhauled our discretionary fees and charges and there is more work to do, it is not helpful that statutory fees have not kept pace with the real cost to provide those services. We strongly urge the Panel to recommend to the NSW Government a mechanism to capture the real cost of provision of services such as development application processing in an increasing complex and litigious operational environment. Our position is that all fees should reflect the costs of each council to provide them and should not be prescribed but rather a flexible range could be achieved if the step to abolishing statutory prices is too difficult to achieve. This has benefits:

1. Councils can potentially achieve full cost recovery and remove a significant drain on resources: in Port Stephens Council in 2011-2012 amounting to \$400,000 not recovered in development application processing alone.
2. Councils who are not realistically going to be able to provide statutory services at an affordable level could have the capacity to make shared resource arrangements – including with the State agency which is responsible for the statutory service area (vertical integration) or horizontally through arrangements made with other councils or the regional organisation of councils.

Community Service Obligations – Impact on Revenue

Most councils, including Port Stephens Council, recognise that it has community service obligations (CSO), which are non-commercial requirements for identified social purposes, and that these obligations constitute a significant component of the social policies of a council. However this recognition of CSO has developed over time and has not been quantified or challenged. We believe that if the community wishes to maintain the current level of service of many assets (eg halls, sports fields, etc) provision of those services at a significant discount to residents is not sustainable. Councils will point to the fact that those facilities have provisions for non-residents to use them but in reality the vast bulk of the usage is by residents of the community owning the asset. The rationale to charge non-residents more to use facilities is credible because they have not contributed to the provision of that asset. And the rationale to charge commercial fees for use of assets that the community has paid for in order to generate a profit which the community doesn't share is also sustainable.

However the rationale to provide services to residents at less than their costs is not sustainable and we ask that the Panel address community service obligations as part of the fiscal package of reforms that might be forthcoming.

Financial Assistance Grants

At Port Stephens Council we support the need to review the way Financial Assistance Grants (FAG) are made to councils. We recognise that there is only one 'pie' and in the past there has grown up a complex series of indices to ensure equitable distribution of the pieces of the pie. We have long felt that the indices were not working for Port Stephens: given the number

of documented constraints in our LGA that should be taken into account, the actual indices that apply are mostly irrelevant.

In general we would support a move from 'equity of distribution' to a needs-based distribution but with some qualifications:

1. That the demonstration of need would require significant substantiation to satisfy councils – both metropolitan and rural – that giving up their share of taxation revenue was justified.
2. Such re-distribution as the Discussion Paper envisages would effectively mean that some councils would receive no distribution of taxation revenue, thus disenfranchising their community who through taxation had contributed to the 'pie'.

We also believe that a case can be made to increase the 'pie' through a percentage share of GST revenue added to the general Financial Assistance Grant.

Rates and Rate Pegging

Our experience in 2010 regarding special variations above the rate cap – strong and sustained community opposition resulting in loss of Councillors' support and in an unsuccessful application – challenges the statement in the Discussion Paper that *"strong community backlash ... political sensitivities in NSW may be overstated"*. More accurate is the Paper's contention that one of the unintended consequences of rate capping is *"Unrealistic expectations in the community..."*

We believe that rate pegging in NSW is a blunt instrument and that other jurisdictions across Australia manage without it, with no more or less consequences than councils in NSW have experienced, especially reluctance by councillors to increase rates, borrowings etc. However if rate caps are to stay in NSW we believe that rather than continuing to tweak at the existing process, a review of the system of determining the amount of the cap should be undertaken. Specifically the Local Government Cost Index requires substantial review as it does not reflect the situation in all councils across the State. The cost base was established with averages across one year 2008-2009 on a 'basket' of cost categories. Use of averages – even weighted averages – is flawed because it can be distorted by the extremes; and, the 'basket' did not represent the whole of councils' expenditure – what wasn't in the basket was still a cost. Taking only one year to derive a base is also flawed because that year might have been atypical for different areas of the State. A better system would be to have at least used median data, and a trend to establish a more robust base for the Index.

The basis on which the LGCI is discounted for 'productivity gains' is by IPART's own admission not transparent: *"IPART has determined the productivity factor for local government in 2011/12 to be 0.2 percentage points. As a result, the rate peg for 2011/12 has been set at 2.8%. Our analysis indicated that there is no established measure of NSW local government productivity. The productivity factor that we applied was a judgment by the Tribunal."*⁴

Of such a low base, 0,2% is statistically significant and could material affect some councils' rates revenue adversely – yet the basis on which it is calculated is obscure, and no case can be made for applying it to all councils across the State in its present form.

Another shortcoming in the LGCI is that it is doled out annually, which is counter-intuitive to longer term, strategic financial planning and leads councils to make assumptions in the 10 year Long Term Financial Plan on what the rate cap might be – a 50 basis point discrepancy could in some councils' plans amount to a significant under or over estimate of rates revenue (we don't believe that the LGCI is actually used by councils to anticipate expenditure!)

⁴ IPART Local Government Cost Index Information Paper, December 2010: Sydney, p.8

In addition the timing of the announcement of the rate cap amount is not in sync with the IP&R process at most councils.

We offer the following potential enhancements to a system we seem destined to have to retain:

1. Develop a realistic index which is statistically valid;
2. Using smaller units than 'whole of State' to ascertain costs and apply the rate cap;
3. Set the rate cap for minimum four years ahead (use lead indicators from a revised index) and roll forward annually by September to inform the review of the Long Term Financial Plan.

We do support additional rate increases for nominated projects supported by the community – the process to demonstrate community support is the issue however, and needs review.

Rates and Rating

Port Stephens Council believes that the Panel is on the right path in reviewing categories of rates exemptions and concessions. In relation to categories there are significant anomalies. For example, land which is zoned such that it can never be rezoned residential is automatically lumped into the 'Business' category, creating an immediate distortion. The Business category is a catch all category – a better system would have a range of sub-categories that allowed councils to allocate properties to categories based on a matrix of factors.

The question of exemptions is difficult to manage. In Port Stephens LGA 58% of the land is not rateable, and of that only 1.04% is classified as community open space, with 46% national parks, reserves and Hunter Water Corporation special areas, leaving approximately 11% exempt from rates. These comprise State and Federal government entities; Worimi and Karuah Aboriginal Land Council lands, and exempt lands used by religious and quasi-religious entities and registered charities. Clearly the Commonwealth is not going to give the State taxing powers over it, and similarly the State government is not inclined to give local government taxing powers over it. So the opportunities for review of exemptions are narrow. Some of the most valuable land in the LGA is held by exempt entities and represents foregone rate income. An example is a former nursery taken over by a new religious entity which is still running the property as a nursery and a cafe but is exempt from paying rates. Any review of exemptions could incorporate a review of the business category to provide a concession but not a rate exemption in this case. It also requires local government to be given the authority to ascertain the category to which an entity belongs within a framework.

Pensioner rate concessions haven't changed since the 1980s and should be reviewed. The anecdotal evidence from our ratepayers is that it should be reviewed to be increased to reflect the increase in rates over time.

Responsible Financial Management

Port Stephens Council believes that its financial planning and management are of a high standard, supported by internal auditors appointed on a competitive tendering basis. The internal and external audit program is overseen by an external Audit Committee comprising two independent community members who report to Council quarterly. This level of scrutiny combined with adherence to the principles of IP&R as well as compliance with the legislation have resulted in competent financial management. The recruitment of senior, experienced professionals in key roles such as Civil Assets Manager and Financial Services Manager has enhanced our drive to best practice.

All this comes at a cost that some councils may not find affordable. Sharing internal auditing and Audit Committee resources is an obvious solution and is the provision of those services by regional organisations of councils.

We agree with the Panel that key organisations such as the Associations should play a greater role in capacity building. The California League of City Managers has a program of mentoring and coaching by senior professionals – mostly retired – that can bridge the gap in the short term.

Response to Chapter 5: Delivering Better Infrastructure and Services

Supporting Communities

We agree with the Panel's conclusion that councils must be able to decide how best to respond to particular circumstances and needs of their local communities, and in particular *"the right of local people to have a say on how their rates and charges are spent,.."*

In our experience during the sustainability review, having honest and robust conversations with the community and laying out the facts with realistic options resulted in appropriate (rather than unrealistic) expectations. A small example: in the review we identified that environmental education programs – Living Sustainably – could be a service that we didn't need to supply but our community thought otherwise. It is a free service and to retain it they were willing to pay to participate.

A 'whole of government' approach to service delivery in rural and remote areas is supported in principle however it must be on a partnership, and not a master-servant relationship, which includes technology transfer as part of capacity building. A 'whole of government' approach also involves sharing data – it has been very difficult to obtain information about issues of concern to our community such as data regarding State roads which cross our LGA.

Tackling Infrastructure Needs

Port Stephens Council's current asset backlog is in the order of \$26.4 million. Our Long Term Financial Plan preferred scenario will generate surpluses for financial year 2013-2014 onwards. The surplus continues to grow to a large \$14.606 million for the 2022-2023 financial year. These surpluses will allow Council to address asset renewal requirements of \$26.4 million over the life of the Long Term Financial Plan.

The asset backlog at Port Stephens grew largely in the manner the Panel's Discussion Paper describes, with lack of investment and frankly poor asset management documentation and practices that allowed the size of the problem to be understated for years. However there are other contributing factors that the Panel should take into account:

- Shifts in demographic profile of communities that make some asset categories under-utilised or no longer required but which are difficult to dispose of as they reside on community land.
- Conversion of community land to operational land is a long, expensive process that could be significantly improved to provide local government and its communities more flexibility to shift investment in assets to where the community wants them.
- New communities are designed for anticipated present occupiers (short term) compared to the ongoing (long term) cost of maintaining assets provided for a community that has changed. Being able to adapt usage of community assets to reflect current demographics is desirable. For example where communities were designed for families with children in the past and which are now occupied by seniors and/or empty-nesters, Council should be able to designate usage to passive recreational space instead of trying to maintain a 'playground'.

- When constructing new communities the ability of developers to offset contributions with donations of land that councils have to maintain and that may not be viable should be at the council's discretion.
- When constructing new communities contributions from developers should reflect the impact on existing infrastructure and the ongoing cost to ratepayers rather than a one-off capped amount.

The current IP&R framework requires that councils provide a 10-year program of capital works which, naturally is going to be more detailed in the earlier years. Our experience at Port Stephens is that the program is redundant almost from inception due to several factors:

1. Work carried over from previous year (ie projects not completed wholly within the designated year either by design or mischance) roll forward and displace projects in the advertised program; these rolled over works are not normally identifiable up to 9 months out when the Asset Management Plans are being formulated.
2. Adverse weather events that materially disrupt the capital works program, either because it cannot be achieved in wet weather; or substantial emergency damage repairs take precedence;
3. Other events that require immediate rectification, often of a capital nature for example the identification of asbestos in buildings used by the public;
4. Availability of additional grant funding that is too attractive to forego can result in other projects not tied to the funding to be pushed out; or the grant required matching funding removed capital funds from another or other projects; and, the project for which funding is available may not be in the current year – effectively projects can leap frog over the established priority due to the attractiveness of the proposed funding.

One outcome of the present system is that community expectations potentially can be raised and then not fulfilled. Good communication skills and transparent and honest reporting of performance can alleviate this effect. Notwithstanding the issues noted above, at Port Stephens Council the IP&R framework has led to significant improvements in asset management processes and practices – with a long way still to go.

Improving Efficiency and Productivity

Our Council has a robust Workforce Strategy based on annual workforce planning reviews that have been undertaken since 2007. Our Human Resources Manager is taking part in the Local Government Association's Workforce Architects project under the auspices of the Destination 2036 Implementation Steering Committee. Her participation is as a result of expertise that led to the award winning Port Stephens Council Enterprise Agreement. Key features of the Workforce Strategy include:

- Talent Management Strategy
- Learning Plan for every staff member – resourced
- Workplace Equity & Diversity Committee sponsored by a member of the Executive
- Consultative Committee with representation from unions, staff representatives and management representatives, with the General Manager as a permanent member. All staff related decisions are discussed with this Committee.
- eLearning programs to make training accessible across the many operational sites of Council
- 360 degree annual leadership review and funded program to address any identified gaps
- A transparent remuneration system that is benchmarked at least annually to the market
- High Performance Leadership coaching with annual 'refresher' day for all managers and coordinators across Council

- Comprehensive workplace health and safety system
- Employee Assistance Program
- Health and wellbeing program

We also measure staff engagement, leave (planned and unplanned), voluntary turnover and grievances. We have developed plans to address any issues identified from the measures of performance.

Our Council values staff and has made a conscious decision to invest heavily in staff development and to provide a flexible workplace that recognises that staff have family and commitments outside of their work. We know we can't compete on price and there is significant cost in going down the path we have taken but the rewards are realized in very low turnover (<8% pa) in an area where a staff member living in Port Stephens has a viable choice of any of five or six councils to work at, and there is also significant competition for skilled staff from the mining industry in the Hunter Region. We have invested in an employment brand campaign – *Change Your Outlook* – aimed at attracting people to consider living and working where they have previously only visited on holiday.

The Panel Discussion Paper identified skills shortages; inability to pay sufficiently attractive salaries; and growing competition from the mining sector as issues for local government and our experience endorses these findings. However we believe that there are other, creative ways to package a career in local government but we also agree with the Panel's finding that the industry including State government, has to do much more to promote local government as a desirable career choice. And universities too have a role to play. For example, there is a worldwide shortage of engineers and partnerships between local government and universities can help to bridge that gap. At Port Stephens Council we have placed engineering students for their required vacation employment and the students have identified the added value of working across so many disciplines that led two of our engineers to actively select local government as their career choice because of that variety and challenge. More can be done to make this an attractive way for councils to obtain scarce resources without needing to compete on remuneration alone – experience and flexible working conditions can be a strong alternative to increased salary.

As a result we currently have no critical roles unfilled at Port Stephens Council.

The Panel's Discussion Paper notes the Victorian experience with compulsory competitive tendering, and we agree that there were benefits such as having to understand your customers, understand costs, document service levels and so on. However it was an inefficient process that created divisions internally between clients and 'providers', in the case of one rural council that sold off its plant and equipment and let out the tender for its road maintenance and rehabilitation then could not adequately respond to an emergency. There may be benefits that derive from shared procurement and we have a model of its effectiveness in the procurement services provided to member councils by Hunter Councils Inc. There is also benefit in outsourcing some services such as document storage, some annually required ticket renewal training to a regional entity as we have with Hunter Councils Inc. However we do not believe in a system that would mandate how services should be provided through compulsory tendering or resource sharing – a more robust option is to undertake the ongoing service package delivery review that achieves cost effectiveness and efficiencies and keeps the needs of the local community as the driver of the process. We have an ongoing review of all service packages, with a simple, staff-driven, Council and management – sponsored system based on process change.

Port Stephens Council's sustainability review referred to above asked of every service package delivered by Council:

- 1) Should we be in the business of delivering the various services and associated activities? Where do these services and associated outputs link to the Community Strategic Plan? What are the legal, financial and operational needs to control the service?
- 2) If we should deliver the service, at what level do our customers and stakeholders require us to provide the service and at what cost?
- 3) What efficiencies can we find to deliver the services in the most cost effective way that delivers community value? Can we outsource it? Can we modify it? Can we stop doing it? Can we share resources with another council or Hunter Councils Inc. to delivery it?

We documented all our processes across Council and identified process owners – process improvement could then be undertaken once we understood what was involved and who was doing it. We also benchmarked individual services with other councils and where possible with other agencies and industries, provided the service packages were comparable. Extensive community engagement was undertaken for each service package and service levels established – what our community wanted and what they wanted to pay for it or trade-off for it. Internal databases tracked the review and a report was provided to Council each quarter on progress included estimated ongoing savings – financial and efficiency. We achieved \$2.2 million in ongoing financial savings per year and efficiency savings of \$400,000 per year ongoing. We have estimated that when other identified changes are actually implemented we will add a further estimated \$1 million a year in savings.

Importantly the methodology that we developed in-house was implemented by the staff themselves and one of the learnings we made was that those closest to the processes and services actually had generated innovations and developed strong ownership of the implementation. The decision has been made to continue the process by instituting a four-year rolling program of service packages reviews. Those service packages reviewed in early 2011 will be the first to be reviewed again in the second half of calendar 2013.

Regional collaboration and shares services

Port Stephens Council believes strongly in regional collaboration and sharing services. Hunter Councils Inc. is the regional organisation of the eleven councils in the Hunter Region, but importantly it is set up to collaborate outside the Hunter Region with councils where common purpose makes specific projects viable. An example is the Hunter Central Coast Regional Environmental Strategy, which includes regional approaches to weed management, compliance management, environmental assessment, vegetation mapping, climate change adaption planning and community engagement. Screen Hunter Central Coast manages all requests for filming in all 13 councils in both regions.

A simple, tokenistic legislated approach that stipulates that all councils must collaborate with neighbouring councils is problematic because such an approach doesn't take into account geography, natural catchments and imbalances between the resources of neighbouring councils.

In practice, arrangements are made and have been made between individual Hunter councils and all Hunter councils for the last 50 years. For example Port Stephens Council and Great Lakes Council collaborate on the Estuary Management Committee to jointly manage their shared frontage to the Karuah River and Port Stephens.

Hunter Councils Inc. provides shared services to participating councils that enable economies of scale for example in the provision of statutory training, waste management, and environmental management. In these instances there are cost advantages but also recognition for example that the environment does not recognize council boundaries.

Hunter Councils Inc. also provides services that actively bring the smaller, less well-resourced councils access to the same level of service afforded by larger councils. For example, Local Government Legal is a law practice for member councils and whilst some councils such as ourselves have a panel of legal external providers we also access Local Government Legal for its specific expertise. The option to 'opt out' if there is a viable private sector alternative that can deliver better value for money is another feature of the flexibility inherent in the Hunter Councils Inc. model.

The worldwide lack of engineers is also being addressed with the establishment imminent of an engineering practice that will provide shared design and structural engineers to member councils where the difficulty in each council individually competing to attract these skills is no longer in play. The opportunity to work in this diverse environment across a region with 11 councils is attractive to engineers. Port Stephens Council will be a client when the service commences because of our difficulty in sourcing these skills in the market on an individual council basis.

We agree with the Panel's assertion the transmission of business provision in both State and Federal legislation could be impediments to effective shared services. Terms and conditions that reflect private enterprise make shared services entities more attractive in some cases. In the Hunter we have been able to find ways to do shared services and work together to get economies of scale despite legislative restrictions by agreeing to cooperate on matters where it is possible for example, procurement. We believe we can get efficiencies through cooperation without necessarily forming entities that people have to transfer to work in. Secondment is a very good tool for career development, alleviating temporary skill shortages and importantly, providing inputs to shared services.

As mentioned at the beginning of this submission, we believe that the Hunter Councils Inc. model is ideal for regional collaboration and shared services and we endorse the recommendation that the Hunter Councils Inc. submission will make that it be the pilot for a Council of Mayors model.

Response to Chapter 6: Matching Structures and Boundaries

A variety of structures/the amalgamation debate

The Panel is investigating "*new local government structures – to be used only where required – at regional and sub-council levels.*"

We are concerned with two aspects of this Chapter. Firstly, it suggests but doesn't state outright, that where "*new local government structures*" are required will be determined by State government that is, mandated without input from affected communities. The whole rationale underpinning the Integrated Planning & Reporting Framework is the community strategic plan and therefore it is the community that should decide if its governance structure requires change or adjustment. In the case of metropolitan councils where the Panel has all but stated it will recommend amalgamations, then we agree that some sub-council structure with real local representation and provided with power and resources to act locally in the provision of some services might be necessary.

It is important that the Panel notes that how communities relate should drive any changes. In our area there are some communities who work, shop and use the facilities of neighbouring councils and might identify more as belonging to those councils rather than to Port Stephens. However it cannot be assumed and extensive community consultation should proceed on proposed changes.

Amalgamating councils for ideological reasons is poor practice and may lead to councils that were previously sustainable being dragged into an unsustainable position by joining with unsustainable councils.

Secondly, Port Stephens Council believes strongly that "forced amalgamations" is a failed strategy⁵ to achieve economies of scale and somehow advance financial sustainability when there are other alternatives available in rural and regional NSW. The report commissioned by the Panel states "*The research and interviews both confirm that the costs associated with amalgamation are often underestimated. Poor planning and implementation processes combined with legal, industrial and Proclamation restrictions have increased costs, extended the negative impacts associated with amalgamations and hampered the achievement of positive outcomes*".⁶

We note that the Panel's commissioned report also states "*The positive outcomes include improvements in infrastructure and service delivery, the capacity to tackle larger and more complex projects and issues, greater ability to access external funding, the capacity to speak with a unified voice on behalf of local communities and improved opportunities for staff of Councils*".⁷

Throughout this Submission we have demonstrated that there are alternatives, using our Hunter Councils Inc. model to achieve all of the 'positive outcomes' the author says derived from forced amalgamations. We believe that councils can achieve sustainability through process change supported by a regional cooperation model, as we and Lake Macquarie Council (the 2013 A.R. Bluett Memorial Award winner) have both demonstrated.

We do not believe for reasons stated above, that the present regional organisation of councils model requires to be legislated into some fixed entity and that the flexibility to associate across regions as well as within regions to advance common purposes should be retained. We also support the concept of a 'council of mayors' using the Hunter Councils Inc. as a pilot. (See section 2 above).

Implementing boundary changes

We welcome initiatives that will improve the processes around boundary changes as the Panel has identified the multiple shortcomings in the present situation. However we take issue with one point the Panel has made: "*the lack of a sufficiently robust regional collaboration/shares services alternative to amalgamation ...*" As demonstrated throughout this report the Hunter Councils Inc. model has delivered the outcomes for its member councils that amalgamations were assumed to deliver without the attendant negative impacts.

⁵ Dollery, B.E., Australian Local Government Amalgamation: A Conceptual Analysis Population Size and Scale Economies in Municipal Service Provision, *Australasian Journal of Regional Studies*, Vol. 14, No. 2, 2008

⁶ Tate, J. Assessing processes and outcomes of the 2004 Local Government boundary changes in NSW, Australian Centre for Excellence in Local Government, Sydney 2013 p43.

⁷ Ibid.

Response to Chapter 7: Securing Good Governance

Political Governance

In 2008 at the Local Government elections a referendum was put to the people of Port Stephens LGA to reduce the number of councillors per ward from four to three and to popularly elect the Mayor at the next election. This referendum was agreed to and in 2012 the election of councillors was conducted on that basis.

The Discussion Document raises a number of issues related to the behaviour, age and gender of councillors generally. In the Council elected in 2008 there were three women elected as Councillors and one younger man. Unfortunately the younger man – working and with a young family – found the demands of being a councillor too onerous and resigned. At the subsequent by-election another woman was elected. However in 2012 the election resulted in only one woman on the present Council.

The ratio of Councillors (including the Mayor) to population is 1:6480.7 at Port Stephens. Councillors are very closely identified with the Wards they represent and it is the nature of being a councillor in this context that they will be pre-occupied with operational details at the minute level as they are very close to their constituents. We believe that the advent of the popularly elected Mayor has provided a balance – a whole of LGA perspective.

Council has developed a robust professional development program for new and re-elected Councillors and identified deficiencies are improving, aided by the new Code of Conduct and the strengthening of the powers of the Chief Executive of the Division of Local Government. However as we pointed out in our original submission to the Panel, the Division is under-resourced to a significant degree, especially in the light of this Review of Local Government and the expectations that it raised across the sector.

As stated previously we do not believe that increased remuneration and resources will address the issue of attracting 'quality' candidates. In some areas – rural and remote for example – availability of suitable support staff of appropriate calibre could be an issue.

Although we support the concept of a pre-election awareness session, this should be mandatory and run at arms-length from the council to avoid the impression that existing councillors and/or staff are trying to dissuade certain candidates from standing.

More useful to ensure a better representation and more highly credentialed councillors would be specific criteria for nomination, such as business experience at a corporate level and Australian Institute of Company Directors membership.

Role of Mayors

We support the Panel's proposal for an expanded role for the Mayors as outlined however questions of party political affiliations, qualifications etc should be taken into account. See also our submission above regarding the concept of a Council of Mayors.

Alternative governance models

We agree with the overall approach the Panel is taking in this area.

Councillor-management relations

We refer the Panel to the Division of Local Government's 2011 Better Practice Review of Port Stephens Council Report for an independent assessment that agrees with the Panel's views in this area. We endorse the Panel's signpost in this area.

Audit and continuous improvement

As a Business Excellence council, Port Stephens works to *Principle 6: Effective use of facts, data and knowledge leads to improved decisions*. However we cannot agree to the Panel's assertion that *"a resident, ratepayer or other stakeholder ... obtain a clear picture of the relative performance of councils."* In our experience the people in our community are only interested in the performance of *this Council*. Comparisons with other councils are meaningless and statistically invalid – benchmarking of specific processes where like comparisons are possible is the only criterion for measurement between councils. Such benchmarking is routine at Port Stephens Council as part of our continuous improvement program.

However as councils are required to report at the end of term on progress against the community strategic plan over the previous few years, we agree that the lack of data from State agencies and other non-local government sources is particularly difficult to obtain. To provide a complete assessment in areas where a council's role is to advocate rather than control, partner agencies need to be more forthcoming with data at a local government level.

We have in place an independent Audit Committee. The objective of the Audit Committee is to enhance the corporate governance of Port Stephens Council through the provision of independent oversight, review and advice. The Committee assists Council by providing independent assurance and assistance on the organisation's governance, risk, control and compliance framework. The Committee reports quarterly to Council and provides independent advice and recommendations on matters relevant to the Committee's Charter. The Committee also acts as a forum for communication between Council, General Manager, senior management, internal audit and external audit.

We have instituted as mentioned previously a four-year rolling program of sustainability reviews of all service packages of Council. In addition we have in place two programs to continuously improve our operations:

- An Opportunity for Improvement (OFI) program where staff can put a perceived opportunity for improvement on the internal web site; it is 'triaged' with the process owner and the Business Improvement staff and prioritized for implementation;
- A Business Improvement Projects Program, focused on coordinating and supporting Council's approach to continuous improvement within the context of 'One Council'. The program manages requests for improvement from all sources – Council, executive, staff (OFI) and public, and is managed by a unit with an executive sponsor and analysis team.

This Council has taken a deliberate decision to invest in continuous improvement and over time most staff at level 4 and above are well trained in the use of tools associated with PDSA (Plan, Do, Study, Act) methodologies and we have documented processes in place to capture the efficiency and financial gains from ongoing improvement. The outcomes are reported to Council quarterly.

We concur with the Panel that local government is over-regulated and we hope the Act Review Task Force makes sure that the new Act is enabling and not prescriptive.

Response to Chapter 8: A Compact for Change and Improvement

Building State-local partnerships

Port Stephens Council welcomes recognition of the fact that the relationship needs to be a partnership. If implementation goes as planned the new Hunter Region Action Plan will be a blueprint for the relationship as it was developed drawing on the priorities of the Hunter Region councils' community strategic plans.

This partnership must address the ongoing cost shifting from the State Agencies to local government. The most recent example being the Department of Fair Trading providing a delegation for Council's to undertake plumbing inspections. Whilst a fee can be set to cover costs Council will wear the brunt of reduced housing affordability for a service fee which is checking on licensed plumbers. In Port Stephens the estimated cost of cost shifting for 2010-11 is \$ \$6,533,378.⁸

Co-drivers of change

As mentioned previously we believe that to be effective in the ongoing administration of local government in NSW, the Division of Local Government needs to be located closer to the seat of power in Sydney CBD – with Premier's Department and Planning Department – rather than 'out of sight' in Nowra; and it needs considerably more than the fifty or so staff it currently.

The new Local Government and Shires Association – Local Government Association – provides a single voice at the political level for local government. A partnership between it and DLG should bring mutual understanding, but the real issue is with the standing of DLG within State government, where it is not taken seriously by other departments. So, whilst in the Panel's words it should *be "well placed to forge a set of key relationships within State government..."* since it moved to the Department of Premier & Cabinet we have seen no tangible outcomes for local government in relation to State agencies.

Conclusion

We thank the Panel for the opportunity to contribute to the discussion on the future of local government in NSW. We hope that by providing Port Stephens Council's lived experience will assist the Panel to test its concepts and inform the next iteration of the Review process.

Peter Gesling
General Manager
Port Stephens Council



[Botanic Gardens, Pacific Highway, Heatherbrae - Port Stephens LGA](#)

⁸ LGSA Cost Shifting Survey 2010-11