

SUBMISSION BY NOROC
(Northern Rivers Regional Organisation of Councils Inc)

House of Representatives Inquiry Into Local Government and Cost Shifting

Introduction

NOROC is a co-operative of local government bodies representative of the Clarence and Richmond Valleys of NSW and comprising the Councils of Ballina Shire, Copmanhurst Shire, Kyogle Shire, Lismore City, Maclean Shire, Richmond Valley, North Coast Water and Rous Water.

The area covers a population of 170,000 and is one of the fastest growing areas in NSW with an average growth of 3% with principal growth occurring along the coastal areas.

NOROC's role is to strengthen the role of local government in the Northern Rivers in regional affairs by working effectively with Federal and State Government and the business and community sectors across the region in pursuit of improved social, economic and environmental outcomes.

The ability of Councils in the area to effectively deliver the desired standard of service and infrastructure is hampered by the constraints imposed by government and the inability of local government to expand its revenue base.

The principal issues which should be considered by the inquiry include the following:

1. Local Government Roles and Responsibilities

There should be a better way of delivering government services to the regional and rural community by the establishment of representative regional bodies responsible for co-ordinating and allocation of resources and finance through local government.

At the moment the effective and efficient management of resource is fragmented by the range and diversity of responsibilities of the Commonwealth and State Government. The management of resources can also be affected by the variety of bodies competing locally and regionally for government resource allocation. In the Northern Rivers area, for example, the number of regional bodies includes:

- Northern Rivers Regional Organisation of Councils,
- Northern Rivers Regional Chamber of Commerce and Industry,
- Northern Rivers Tourism,
- Northern Rivers Area Consultative Committee,
- The North East NSW Sustainable Regional Secretariat,
- Northern Rivers Regional Strategy,
- Lismore Living Centres Project,
- Northern Rivers Regional Development Board – Invest Northern Rivers,
- Northern Development Task Force / NOREDO,
- Norlink, and
- Australian Business Limited (Northern Rivers Office).

Areas where local government could more effectively provide and co-ordinate regional delivery of services subject to adequate government funding include:

- Community services – day care, aged, vacation school centre, neighbourhood centres and youth centres.
- Community safety.
- Community education i.e. educational facility infrastructure requirements.
- National resource and environmental management.
- Regional and economic development including tourism.

One of the currently emerging issues relates to national resource management, particularly the water industry and associated environmental management. The functions of water supply authorities in the Northern Rivers into catchment management issues and water supply experiences in Sydney a couple of years ago has had a major influence in the manner in which water supply authorities are required to deliver services.

Local government is ideally placed to deliver a range of environmental benefits and measures under the banner of Natural Resource Management and local government should be given direct funding from taxation revenue to support the growing responsibilities in this area.

Foremost, in considering local government's future role as a partner in government, is its formal recognition under the Constitution.

2. Constraints and Impact of Services Provided by Local Government and Impact of Unfunded Mandates

There are ever increasing demands on Councils in our area and those throughout NSW created by the imposition of state government legislation and administrative controls.

This is clearly illustrated by the list of administrative requirements imposed since the introduction of the 1993 NSW Local Government Act as follows:

- Annual Reports
- Award restructuring principles
- Buildings Assets Register
- Coastline Management
- Companion Animals Act
- Disability Discrimination Legislation
- Drainage Assets Register
- Environment Protection Authority demands
- Environmental Planning and Assessment (Integrated Development) Legislation (Das/BAs)
- Industrial Legislation
- Management Plan reporting
- National Competition Policy
- Native Title Legislation
- New accounting standards (changes annually)
- Occupational Health and Safety Legislation

- On site sewerage management facilities
- Plans of Management – community land
- Proposed provision of Cultural Plans
- Protection of the Environment Operations Act
- Public consultation and accountability, transparency
- Roads Assets Register
- RTA accountability/planning systems
- Sewer Assets Register
- Sewerage services planning
- Social Plans
- Staff training programmes
- State of the Environment reports
- Threatened Species Legislation
- Urban Stormwater Trust Management
- Waste Management (LEMPS)
- Water Assets Register
- Work Cover requirements

In addition local government is responsible for undertaking a wide and expanding range of service, regulatory and ancillary functions under the Local Government Act 1993 and functions conferred or imposed under a number of other Acts including:

- Building Services Corporation Act 1989
- Bush Fires Act 1949
- Child Protection Act
- Clean Air Act 1961
- Coastal Protection Act 1979
- Community Land Development Act 1989
- Companion Animals Act
- Contaminated Land Management Act 1997
- Conveyancing Act 1919
- Crown Lands Act 1989
- Environmental Objectives for NSW Water
- Environmental Offences and Penalties Act 1989
- Environmental Planning and Assessment Act 1979
- Fire Brigades Act 1989
- Fisheries Management Act 1997
- Food Act 1989
- Freedom of Information Act 1989
- Heritage Act 1977
- Impounding Act 1993
- Library Act 1939
- Liquor Act 1982
- Local Government (approvals) Amendment (Sewerage Management regulation 1998)
- Local Government Amendment (Ecologically Sustainable Development Act 1997)
- Marine Parks Act 1997
- Native Title (NSW) Act 1994

- Noxious Weeds Act 1993
- Occupational Health and Safety Regulation 2001
- Pollution Control Regulation 1997
- Privacy Act
- Protection of the Environment Act 1988
- Public Health Act 1991
- Public Works Act 1912
- Records Act
- Recreation Vehicles Act 1983
- Roads Act 1993
- State Emergency Service Act 1989
- Stormwater Management Plan
- Strata Titles Act 1973
- Swimming Pools Act 1992
- Threatened Species Conservation Act 1995
- Traffic (Parking regulation) Amendment Act 1993
- Unhealthy Building Land Act 1990
- Waste Minimisation and Management Act 1995
- Water Supply Authorities Act 1987 (NSW Water Reform)

These demands not only affect the financial ability of local government, but also affect the capability of local government to perform its traditional service role for the community.

Increased demands and costs are also being generated by:

- Planning and building regulation including Plan IST.
- Street lighting charges.
- Total Catchment Management.
- Provision of public health infrastructure support, such as facilities and provision of services to attract general practitioners to country towns.
- Provision of community law and safety as a result of public perception of increased crime and declining police numbers in country areas.
- New health responsibilities for local government.
- Necessity for Councils to provide e-commerce type of operations.

3. Impact of Public Liability and Abolition of Non – Feasance Immunity

NOROC like all other local government bodies, has expressed its concerns at the rapid escalation of public liability insurance and the adverse affect of the public liability crisis on the communities organisations.

NOROC has made representations to the government in this regard, calling for urgent action to find a solution to a national co-ordinated approach.

There is also concern relating to abolition by the High Court, last year, of a non-feasance immunity particularly enjoyed by road authorities (local government and state government).

The inquiry will appreciate that these two issues will impose onerous and costly consequences for local government.

4. Local Government Finance

Local government's capacity to maintain existing services and infrastructure is already compromised. In many instances Councils are already forced to cut services and defer crucial infrastructure expenditure. This is particularly true at our local level.

Without a broader financial base, local government will definitely not be in the position to effectively meet new statutory obligations, deliver new services demanded by the community or to build new infrastructure required to support development of our region. Local government will not have the capacity to take on new roles and responsibilities.

Consequently there are several issues we bring to the inquiry's notice:

4.1 Local Government Finances (including need for share of funds to Local Government from GST)

Local Government finances are under increasing stress. Local Governments capacity to deliver services and to develop and maintain infrastructure are under genuine threat. This is the combined result of restricted revenue raising capacity, increasing responsibilities and rising community expectations.

Rating is the only taxation measure available to Local Government and accounts for approximately 50% of total revenue. This narrow taxation base places a severe restriction on a Local Governments capacity to raise revenue generally. Further, the rating base varies significantly between Local Government areas, an aspect only partially addressed by the Horizontal Fiscal Equalisation (HFE) principles of the Local Government grants process. Unlike Commonwealth and State Governments, Local Government does not have the flexibility to spread its taxation effort over a suite of taxation tools. The situation is exacerbated by the rate pegging system in NSW.

The restricted taxation base has led to a growing reliance on fees and charges but this recourse is reaching its limitations. User charges are the second largest source of revenue and already represent 27% of Local Government operating expenditure in NSW.ⁱ Through its application of user fees and charges Local Government already achieves a much higher cost recovery ratio than other spheres of government. On a national basis, the cost recovery ratio for Local Government is 36.8% compared to ratios of 4.3% for the Commonwealth and 12.2% for the States.ⁱⁱ This partly reflects the type of services provided by Local Government. However, it also suggests that Local Government is already maximising its use of user fees and charges and that there may be limits to the extent that Local Government can increase its cost recovery efforts. Apart from general community resistance to ever increasing fees and charges, there are important equity and governance considerations. Many council services by their very nature cannot be provided on a cost recovery basis. Further, the opportunities to raise revenue in this way vary significantly between councils. For

example parking meters are an option restricted to high density commercial and tourist areas.

Grants are the third major source of revenue for Local Government, with Commonwealth Financial Assistance Grants (FAGs) representing 8.6% of total operating revenue for councils in NSW.

Grants to Local Government have continued to decline as a share of GDP over the past 20 years and currently represent around only 0.4% of GDP.ⁱⁱⁱ FAGs are currently being maintained in real terms per capita with no foreseeable prospect of an increase. The current Commonwealth Government is more likely to argue that State Governments should meet the additional needs of Local Government, particularly considering the revised Commonwealth/State funding arrangements since the introduction of GST.

The Commonwealth Grants Commission has also found that State Government grants to Local Government have progressively declined in relative importance since the introduction of FAGs in 1974-75.

Within this constrained financial environment Local Government has had to cope with new and increased responsibilities. The Commonwealth Grants Commission has also acknowledged this fact.^{iv} ABS Government Finance Statistics data^v supports this conclusion clearly demonstrating a shift in the composition and by inference, an expansion in the range of services provided by Local Government over the past 25 years. In that time there has been growth in expenditure on human services, with increases in education, welfare and public safety services. There has also been an increase in the relative importance of recreation and culture and housing and community amenities. While not highlighted as a separate category in the Government Finance Statistics, it is also clear that Local Government activities in the areas of the environment and planning have also expanded substantially, particularly in recent years. Expenditure on roads remains as a major category of expenditure and continues to grow in real terms, but has declined as a proportion of overall expenditure.

The growth in responsibilities has largely resulted from:

- devolution – new responsibilities imposed by other spheres of government
- ‘raising the bar’ – where increased standards or complexity of service provision are imposed by other spheres of government or the community itself
- cost shifting – (1) where Local Government agrees to provide a service on behalf of another sphere of government but funding is subsequently reduced or withdrawn, with Local Government having to maintain the service because of community expectations, or (2) where another sphere of government ceases to provide a service and Local Government is obliged to step in (abrogation of responsibility)
- increasing community expectations.

The fact Local Government has met these increasing responsibilities while subject to severe financial constraints is evidence of a sustained increase in productivity in Local Government over the past 25 years. Local Government expenditure has remained

constant at around 1% of GDP during this period. This also suggests that the scope for meeting further demands in this way, while not exhausted is likely to be subject to diminishing returns.

The evidence strongly indicates that the current financial situation is not sustainable in the long run. While the situation is one that needs to be urgently addressed by all spheres of government, there are certain actions required of the NSW Government. Not to act risks serious failures in service and infrastructure provision.

The NSW Government needs to amend the current system of rate pegging to make it more responsive to the genuine needs of Local Government generally and individual councils. Secondly, the government needs to make a provision for Local Government from future GST revenue.

4.2 Rate Pegging

Under the current system of rate pegging, there is evidence that the approved percentage increase frequently does not even match the CPI increase. The approved increase in general income for 2001/02 is 2.8%. Local government salary and wage increases last year and in the current year are 4% - 5%. It should be noted that wages and salaries comprise some 60% of Local Government operating costs. Additionally, other cost burdens have been imposed on Local Government in a manner, which does not allow it to recover those costs except to the extent of the 2.8% revenue increase.

Insurance premiums are rising dramatically at the present time and indications are that further increases will occur over the coming year. The HIH collapse, international events and natural disasters have exacerbated insurance premium increases. Councils are currently facing insurance premium increases of over 100%.

Some government instrumentalities also have the power to levy a charge on Local Government to fund their own operations. Such organisations include the NSW Fire Brigade, Rural Fire Service, and Resource NSW. Frequently, these charges exceed the rate pegging limit imposed upon councils.

However, under the current regime, one of the most telling difficulties facing the industry is its inability to carry out any significant improvement to the condition of the various components of infrastructure. This infrastructure, in many cases, is aging and includes roads, bridges, footpaths and stormwater drainage. In many cases, the maintenance sums budgeted are not even maintaining the current condition and funds are not available to undertake significant improvement programs. Many council areas have stormwater drainage systems which are over 100 years old. They are in need of replacement because of their deterioration and because the systems needs enlarging. The significant funds to undertake this work is not available from recurrent budgets.

Some councils face a further difficulty in that their rating base is too low. For various reasons, some councils in the past have not taken up the permissible increase and the restriction of catch-up sums to two years means that cost increases have outstripped income. The current regime makes no allowance for restoring a council's rating base.

The Local Government Shires Task Force has agreed on a two tiered approach to rate pegging. The first tier is intended to be an annually determined index which will more accurately reflect the increases in costs to local government as a whole which are beyond the control of councils or the industry. This index should be a readily available annual index of which the Minister should take note in making his determination under Section 506 of the Local Government Act.

The second tier component is designed to deal with individual council specific needs and is intended to replace the current special variation requiring approval of the Minister under Section 508 of the Act. It is envisaged this component will be exercised through the Draft Management Plan and community consultation. Any proposal under this tier would normally need to be in accordance with a medium to longer term strategic plan.

4.3 GST Allocation to Local Government

The long term solution to meeting the financial needs of Local Government involves broadening its tax base. This would help overcome the problem of Vertical Fiscal Imbalance (VFI) and it would also provide an opportunity to create a stronger nexus between Local Government finances and economic growth.

At the Commonwealth level, Local Government has persistently sought the re-establishment of the linkage between FAGs and total Commonwealth tax receipts. Local Government has been seeking a 1% share. With the new intergovernmental fiscal relationships accompanying GST it is now appropriate to seek an allocation from the GST revenue received by the NSW Government.

A share of the proposed GST was sought as part of the tax reform debate. It was argued that the Commonwealth allocate a fixed share of the GST to Local Government prior to its distribution to the states. The Commonwealth has since responded that any share of GST revenue going to Local Government would need to be negotiated between the Local and State Governments. The Queensland government has indicated a willingness to enter into such an arrangement with Local Government in that state.

The Inter-Governmental Agreement on the reform of Commonwealth-State fiscal relations signed in 1999 stated that the new arrangements provided the States with access to a “robust and growing tax base”. Local Government also requires access to a “robust and growing tax base”.

We are supportive of the objectives of the Review of Commonwealth-State Funding that has been recently initiated by the governments of NSW, Victorian and Western Australia. However, it not sufficient to achieve a fairer result for the NSW Government. Any gains should also be explicitly shared with Local Government. A fixed percentage allocation of GST would achieve this result.

4.4 Payment of Rates by State Government Business Enterprises

Under the competitive neutrality principles of competition policy, government business enterprises should be placed on the same footing as their private sector

counterparts. Among other things, this includes being subject to the payment of taxes and other government charges.

4.5 Competition Policy Payments

Local Government is frustrated by the government's continuing refusal to allocate a share of the states competition policy payments to Local Government. Local Government is making a direct contribution to the reform process and is responsible for a substantial proportion of the benefits expected to be achieved.

A primary thrust of national competition policy involves the reform of government trading activities and Local Government has a significant role in the process. Local Government has accepted the principles of competitive neutrality and council trading undertakings are being restructured along corporate lines. This will be most significant in water and sewerage, as Local Government is largely responsible for the provision of services outside the areas covered by the Sydney and Hunter Water Corporations.

Another key element in the process is regulatory reform, particularly in relation to business regulation, planning and development approval processes. Local Government has been generally supportive of these reforms and is making a considerable investment in the technology and processes required to effect the reforms.

In addition to the organisational costs associated with implementing NCP, Local Government has also suffered direct financial impacts from reforms instituted by other spheres of government. These costs have been disregarded in the reform process. These costs have arisen as a result of NCP driven reforms in the electricity, gas, road transport and water sectors.

Local Government is making its contribution to the reform process but this contribution is not being explicitly recognised.

The stance of the NSW Government is at odds with advice from the Federal Government that suggests a proportion of the NCP payments to each state government is intended to offset any up front costs borne by councils in implementing competition policy reforms which have a lasting benefit.

The position contrasts with the position taken by the governments of Victoria, Western Australia, and Queensland where Local Government has been allocated 9%, 4%, and 20% of their respective competition payments. These governments have recognised the substantial role played by Local Government in the implementation of competition policy principles. They have also seen the opportunity to promote the reform process by providing incentives to Local Government.

Local Government is entitled to a share of competition payments to be received by NSW under national competition policy.

The NSW government received over \$284m in competition payments for the year's 1997/1998 to 1999/2000. The Commonwealth Budget papers show that NSW

received a further \$156m in 2000/2001 and is set to receive a further \$241m in 2001/2002. Under current arrangements there will be further increases through to 2005/2006.

The above-mentioned comments on local government finance further demonstrates local governments dilemma in its ability to access a fair share of the government revenue base.

Conclusion

In summary, we believe that there should be greater focus by government in the better co-ordination of allocation of resources and services at a regional level, adequately funded from a share of GST funds and by alleviating the financial and administrative constraints imposed on local government.

Ultimately, the recognition of local government as a Constitutional partner on government, should be pursued.

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