

26 July 2002

The Secretary
Standing Committee on Economics,
Finance and Public Administration
House of Representatives
Parliament House
CANBERRA 2600

Dear Sir/Madam

Inquiry Into Local Government and Cost Shifting

Council is pleased to attach its submission on the above inquiry. However, Council believes that the terms of reference are too narrow and should be expanded to include cost shifting by the Federal Government. In some instances Federal Government policies have an overriding effect on State and then local government policies/services. To this end Council's submission looks at cost shifting onto local government by both State and Federal governments.

Whilst the submission provides a number of instances of cost shifting, the Committee should not see these as an exhaustive list of the areas where cost shifting has occurred but rather examples to support the statements made in the submission.

Council looks forward to the outcome of the inquiry. Should you require any further information please contact me on 9839 6000.

Yours faithfully,

IAN REYNOLDS
GENERAL MANAGER

File No.: 53-52-1

**SUBMISSION TO THE HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON ECONOMICS, FINANCE
AND PUBLIC ADMINISTRATION**

**INQUIRY INTO LOCAL GOVERNMENT AND
COST SHIFTING**

**Prepared by Blacktown City Council
62 Flushcombe Road
BLACKTOWN 2148
Phone: 9839 6000
July 2002**

INTRODUCTION

Located at the heart of a region with more than 1.5 million people, Blacktown is a dynamic and vibrant City playing a strategic role in the Sydney region. Blacktown is the largest local government area in New South Wales with over 260,000 residents representing more than 30 different cultures and ethnic groups. Population trends forecast continued fast growth with projections indicating Blacktown's population will reach 320,000 early in this century.

One of the largest suppliers of employment-generating land within the Sydney Region, Blacktown has 10 industrial estates covering a total of 1165 hectares. The addition of another 770 hectares of land around the Eastern Creek area – generated in partnership with the State Government – will ensure the City continues to be Sydney's pre-eminent business and industry destination for many years to come.

OVERALL COMMENTS

The Federal Minister for Regional Services, Territories and Local Government has asked the Committee to inquire into: Cost shifting onto local government by state governments and the financial position of local government.

Blacktown City Council considers the terms of reference to be too narrow and should be expanded to include cost shifting by the Federal Government. To this end this submission looks at cost shifting onto local government by State and Federal governments. In some instances Federal Government policies have an overriding effect on State and then local government policies/services.

Blacktown City Council endorses the WSROC submission to this inquiry.

RESPONSES TO SPECIFIC TERMS OF REFERENCE

1. Local government's current roles and responsibilities

The status of local government needs to be improved in the local-State and local-Federal relationship. There needs to be greater awareness of the primary role of local government in local service provision and urban management and less ad hoc intervention from other levels of government especially where there is a clear accountability to local constituents.

Local government is the form of Government closest to people, it is part of the community and has anchored the Australian system of government at the community level since the late nineteenth century. Local government shares aspirations, exploits opportunities, listens to concerns and leads communities in times of change.

Local Government seeks to provide good governance for its community by being fully informed on local issues; by considering all aspects of environment, social and economic wellbeing through effective strategic and corporate planning based on

extensive community consultation; and by balancing competing claims and interests openly, fairly and sympathetically.

Local government is a principal means by which local and regional communities express their identity, enhance their wellbeing, care for their environments, and relate to Commonwealth, State and Territory governments. It should be recognised that local government will have different needs and functions depending on location. For example, a large metropolitan council will have different capacity and requirements to a small rural shire.

Over the last 10-20 years the role of local government has changed due to:

- changes in community expectations
- cost shifting by Federal and State governments

with insufficient additional funding for these new roles. Local government is now expected to provide a broader level of services, particularly social and community, economic development, tourism, cultural development, and technology services.

Recommendation

The inquiry should be expanded to look at Federal government cost shifting.

2. Current funding arrangements for local government, including allocation of funding from other levels of government and utilisation of alternative funding sources by local government.

Council's main source of income is generated from rates and annual charges, user charges and fees, investment revenues, general purpose grants, specific purpose grants and contributions.

There are legislative restrictions on councils' ability to increase income particularly in the area of regulatory fees or in some instances where Council is required to provide a service but is unable to charge a fee for this service. (For example the introduction of private building certifiers (See Appendix A)).

The Financial Assistance Grant to Council has been decreasing in real terms per capita and not keeping pace with inflation. This is particularly concerning given an increasing population (see table below).

Year	Population	Grant	Grant/Capita
1991/92	211,671	\$11,299,627	\$53.38
1996/97	232,219	\$10,995,568	\$47.35
2000/01	256,364	\$11,197,210	\$43.67
2001/02	>260,000	\$11,535,269	<\$44.36

Reduction in roads funding and the proposed changes to roads funding arrangements by the Federal government as detailed in Auslink – A National Land Transport Plan (Appendix C) may spread existing roads funding to cover a wider range of projects resulting in local government needing to meet the shortfall to maintain existing infrastructure.

Council believes there is a need to establish processes that will ensure when a service is moved from State or Federal governments to local government a source of continuous funding is provided. In the past these services have either been moved to local government with no source of revenue and no rights to charge for the service or initial funding has been provided and then stopped, leaving local government to provide the service at the expense of some other service (see appendices A & B).

The process for moving services from Federal or State to local governments should include an assessment of the change including an Auditor-General's assessment of the initiative, particularly the impact of the action on each party.

For example:

- Auslink – A National Land Transport Plan (Appendix C)
- Transfer of Parking Infringements from State police to local government – 100% revenue but not cost neutral.

Recommendation

There is a need to clearly identify responsibilities of all spheres of government and, if there are to be changes in responsibility for service provision, this should only occur after full consultation with local government and accompanied by adequate funding.

3. The capacity of local government to meet existing obligations and to take on an enhanced role in developing opportunities at a regional level including opportunities for councils to work with other councils and pool funding to achieve regional outcomes.

- Westpool is example of regional councils coming together. In this instance seven Western Sydney Councils pool their resources to provide public liability/professional indemnity cover to its members. Over a 14 year period the initiative has proven very successful with the pool keeping member costs at a predictable and manageable level, providing increased risk management skills amongst members and retaining a financially strong organisation.

Federal and State legislation is needed to support councils in cost-containment in insurance.

- Councils in the Greater Western Sydney region are working together through local Regional Organisation of Councils. Blacktown City Council is an active member of WSROC. A recent Greater Western Sydney Mayoral Statement (Appendix D) is a joint statement by all Greater Western Sydney Mayors coming together along with the President of WSROC and the Chair of MACROC to raise common interests and to seek the opportunity to present

their concerns at a tri-level government leaders summit to set a joint direction and establish clear programs and funding commitments for these regions.

- When councils come together it is important that State and Federal governments support these initiatives.
- There is a much greater need for Federal government engagement in metropolitan regions and the provision of urban infrastructure. The Western Sydney Orbital is an example that has a local effect in various areas but also has State and National significance. This is the first instance of the Federal Government withdrawing from its 100% funding commitment to National Highway Construction and passing the cost to local users.

Recommendation

That the Federal government recognise that Councils are innovative but need the support of both State and Federal governments in pursuing innovation.

4. Local government expenditure and the impact on local government's financial capacity as a result of changes in the powers, functions and responsibilities between State and local governments.

It should be recognised that councils need to provide additional services and functions above the core functions of local government. These services and functions will vary between councils, and recognition should be given to the differences in responsibilities between metropolitan and rural local government when devolving responsibilities.

There is increasing pressure for service delivery in urban councils associated with State and Federal government policies. For example:

The Companion Animals Act 1998
Recycling
Library Services
RTA Block Grant – Traffic Facilities Component
National Competition Policy
Immigration
Child Care
Roads
The Environment
Health Services
Flood Mitigation

More detailed information on the above examples can be found in Appendices A and B.

Recommendation

- (a) *The State Government should be requested to reconsider the decision not to pass on a proportion of national competition policy (NCP) payments to local government*

- (b) *Local government should receive a proportion of GST proceeds similar to the personal income revenue payments made to local government in the 1970's.*

5. The scope for achieving a rationalisation of roles and responsibilities between the levels of government, better use of resources and better quality services to local communities.

- Australia's constitution should recognise that our federal system has three spheres of government working in partnership. Constitutional recognition will:
 - Guarantee the role of local government across Australia ensuring people have democratically elected officials at the level where services are provided to meet local community requirements;
 - Ensure local government is run democratically by locally elected representatives without interference by other levels of government;
 - Enable Federal and State governments to more readily consult with local government on matters affecting the community;
- In view of the Highway Immunity Abolition High Court decision on 31 May 2001, State and Federal governments need to recognise, and take appropriate action more quickly when court decisions have a major impact on the workings of local government.
- Salinity is a national issue that is currently not being managed on a regional/State or Federal level and is being left to individual councils to do what they can. Without a more centralised approach to this problem, efforts made by individual councils may be undermined by non-action in other areas. At present this exemplifies a Federal/State issue that has been cost shifted to local government.
- Impact of Rural Fires & Environmental Assessment Legislation Amendment Bill 2002. This is new legislation currently proceeding through the State parliament. The Local Government & Shires Associations (LGSA) have prepared a submission to the State government seeking reconsideration in some areas. The areas of concern include increased workload for councils with no funding for additional resources and no fee to be charged by councils for issuing of relevant certificates. A copy of the LGSA's concerns is contained in Appendix F.
- Need to rationalise government agencies and reduce duplication.

Recommendation

Where councils identify the potential for co-operation the Federal and State governments should support this with legislative change where necessary.

6. The findings of the Commonwealth Grants Commission Review of the Local Government (Financial Assistance) Act 1995 of June 2001, taking into account the views of interested parties as sought by the Committee.

The inquiry is to be conducted on the basis that the outcomes will be budget neutral for the Commonwealth.

The assumption that the inquiry will be Federal government cost neutral will be difficult to achieve as there is significant inter-relationships between the three tiers of government and in some instances Federal government policies have a direct impact on both State and local governments. For example, changes to funding for flood mitigation; State and Federal government legislation to protect the environment and flora and fauna (see Appendices A & B).

This requirement for Commonwealth cost neutrality is unnecessarily restrictive, particularly in view of identified cost shifting by the Federal government. The Federal government needs to recognise the potential need for increased resources to local government.

Recommendation

The Committee expand the inquiry to examine cost shifting from the Federal sphere as well, acknowledging that this may mean the outcomes will not be cost neutral to the Commonwealth.

APPENDIX A

EXAMPLES OF COST SHIFTING FROM STATE GOVERNMENT

This appendix contains examples of cost shifting and should not be seen as a complete list of areas of cost shifting from State government.

- State policies on urban consolidation and new release area development – There is pressure on council to release new areas for urban development. Council is responsible for providing and maintaining infrastructure long before developer contributions are received. Backlog of infrastructure of other responsible authorities, e.g. RTA, places more strain and financial burden on councils in terms of additional maintenance on existing infrastructure.
- Library Services – Councils are the second most frequently attended cultural venue – after cinemas. 95.4% of the Australian population in 1997 considered libraries to be very important or important (Australian Bureau of Statistics, February 2000).

When councils originally signed on to provide public library services the funding arrangement was on a 50/50 basis between the State and councils. Under the Library Act 1939 (as amended) library services are to be provided as a free service by Councils that are a signatory to this Act. Blacktown City Council is a signatory. The Act does not provide for a specific amount of funding to be provided by the State and over time this has markedly decreased. The table below shows total local government expenditure and total State government expenditure on libraries over recent years.

Year	Local Government	State Government
1994/95	\$113,489,758	\$16,170,000
1999/00	\$185,982,095	\$17,920,000 (includes \$1m for NSW.net)

- Maintenance of Lines & Signs within the LGA – The Roads & Traffic Authority (RTA) are responsible for the care, control and ongoing maintenance of longitudinal road pavement line marking and regulatory signs such as Give Way and Stop signs.

The RTA and local government formed a working party to determine the amount each Council should receive in order to take over this role under the Block Grant – Traffic Facilities Component.

It was identified that Blacktown City Council would need \$730,000 to maintain the existing infrastructure. The RTA have only offered \$593,000 and if that isn't taken up by Council then only \$371,000 will be allocated by the RTA for works by them in the City of Blacktown. Of this \$371,000, \$60,000 is for new works and only \$311,000 is for maintenance. The \$593,000 on offer does not provide any funds for new work.

- Brothels – It used to be when a brothel opened up in an area, the police would come and shut it down. When the State government changed the legislation so that brothels could be legally set up in designated areas, local government became the regulatory body. There is no funding available for this. If a brothel is set up in a non-designated area or without proper approval, Council is responsible to gather evidence and take legal action to have the brothel closed.
- Private Certification - In 1998 the NSW State Government, under the auspices of the National Competition Policy (NCP), introduced private certification for approval, inspection and certification of certain aspects of development projects.
 - Council is required to publish all its fees and charges for these services thus providing the private certifiers with a competitive advantage over Council.
 - Under the provisions of the Environmental Planning & Assessment Act 1979 (as amended in 1998) Council is ultimately obliged to ensure that development conforms with any development consent irrespective of any private certification. Council is unable to charge a fee to recoup costs involved in meeting this statutory requirement. In some instances Council may not only incur costs for inspections and monitoring but may also incur substantial legal costs.
- Councils are required to work within the National Competition Policy guidelines but are hamstrung by State legislative requirements such as the need to publish their fees and charges. In other words, councils are not allowed to work as commercial organisations but must compete with the commercial sector on an unfair basis.

The State government has not passed on National Competition Policy payments to local government in NSW.

- The Dog Act 1966 was replaced with the Companion Animals Act 1998 which came into effect in July 1999. This new Act provided for lifetime registration of dogs and cats. Councils act as the agent for the Department of Local Government to administer the Act and are paid 80% of the registration fee. The administrative costs to Council to maintain the database is between \$3.50 and \$6.00 per dog per update. The lifetime fee for a desexed dog is \$35.00. In the lifetime of a dog, there may be changes in address or changes of ownership that need to be made. Under the new legislation Councils have been required to provide “Leash Free Areas”, hold the dog for a minimum of 14 days; and continue the regulation and control of animals.

Council received 100% of the revenue collected under the old legislation and had lower administrative costs even though fees were collected on an annual basis. Currently the annual revenue paid to Council is less than that previously obtained under the old Act.

- Recycling – Councils were initially encouraged to provide recycling services via the Recycling Rebate Scheme. This scheme was funded from the Section 88 Levy on landfill. Subsequently the Recycling Rebate Scheme was removed but Councils continue to pay the Section 88 Levy and this levy has continued to increase. For further information on the impact of recycling generally see Appendix E.
- Administrative costs associated with compliance of reporting under the Local Government Act. For example – the State of the Environment Report, Plans of Management.
- Pensioner Rebates – when pensioner rebates on rates were introduced, councils received 100% State subsidy on the rebate. This has now reduced to approximately 50% of the subsidy with no increase in other funding. The Federal government has also widened the eligibility criteria for such rebates.
- The Threatened Species Conservation Act 1995 (State Government) and The Environment Protection and Biodiversity Protection Act 2000 (Federal Government). This is an example of where Federal government legislation overrides State legislation. Council is obliged to comply with both these Acts at considerable cost to Council for surveys and studies. Council is unable to charge a fee or recoup the costs.

APPENDIX B

EXAMPLES OF COST SHIFTING FROM FEDERAL GOVERNMENT

This appendix contains examples of cost shifting and should not be seen as a complete list of areas of cost shifting from the Federal government.

- Federal policies on immigration lead to a large proportion of migrants settling in Sydney. This in turn can place pressures on councils for specialist culturally and linguistically diverse services such as non-English books in libraries; SUPS workers in child care centres; and access and equity programmes.
- Child Care – When the Federal government removed funding for operating costs in 1996 there was a dramatic drop in the number of placements in the centres and resulted in Council operating at a loss. Figures are now returning to a more sustainable level. In addition the Child Care Benefit for both Long Day and Family Day Care is forever changing, is complicated and labour intensive, and no funding is providing. Changes to the subsidy have a major effect on the use of the centres and result in a loss to Council.

Councils are locked into the provision of child care, however suffer wear and tear on infrastructure with no financial assistance for the replacement of infrastructure.

- FBT – Local Government is not treated as a rebatable employer listed under the schedule at Section 65J of the Fringe Benefits Tax Assessment Act 1986. The effect of not being listed is that local governing bodies pay an effective tax of 94% on the original cost of any fringe benefit provided to an employee. This anomaly arises because local governing bodies are unable to claim the cost of the fringe benefit provided to the employee and the FBT paid as an expense for income tax purposes. Currently employers who are included in the schedule pay an effective rate of 49% and business (who can claim the deduction for income tax purposes) pay an effective rate of 28%.
- Flood Mitigation – When the Federal government changed the funding ratios for flood mitigation from 2:2:1 to 1:1:1 this was seen by the Federal government as an increase in the funding albeit that it was now asking local government to contribute more and not the other levels of government. This stance also assumes that local government can afford to meet this increase. As the proposals for funding in this area are originated from local government, each proposal will be made on the basis of what the council can afford. If a council is already funding flood mitigation to its capacity then the effect of the Federal government's action is to decrease funding in this area. The NSW government has indicated that it is willing to maintain the old ratio of 2:2:1 if the Federal government also matches this contribution.

- The Threatened Species Conservation Act 1995 (State Government) and The Environment Protection and Biodiversity Protection Act 2000 (Federal Government). This is an example of where Federal government legislation overrides State legislation. Council is obliged to comply with both these Acts at considerable cost to Council for surveys and studies. Council is unable to charge a fee or recoup the costs.

APPENDIX C

AUSLINK – A NATIONAL LAND TRANSPORT PLAN

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Transport and Infrastructure Policy

AUSLINK

A National Land Transport Plan Background Briefing

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- [Current national land infrastructure framework planning and funding arrangements](#)
 - [Challenges to the current framework](#)
 - [The AusLink Plan](#)
 - [Benefits of the plan](#)
 - [Next Steps](#)
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Current national land infrastructure framework planning and funding arrangements

To date, there has been an absence of a national strategic approach to an integrated road and rail network.

Road infrastructure funding responsibilities for Commonwealth, state and territory, and local government were established through the 1991 Inter-Governmental Road Funding Agreement.

Under this approach, the Commonwealth has full responsibility for the National Highway System; the state and territory governments focus on arterial roads; and local governments concentrate on local roads. The Commonwealth now assists the states and territories by jointly funding Roads of National Importance, and assists local governments through untied Local Roads Grants and the Roads to Recovery Programme. 40 per cent of Commonwealth road funding is directed to local government.

Overall, the Commonwealth provides approximately 25 per cent of total public road expenditure in Australia.

There have been some developments in recent years towards a national approach to rail infrastructure by the Commonwealth, and state and territory governments including:

- creating a Defined Interstate Rail Network;
- establishing the Australian Rail Track Corporation (ARTC);
- an audit by the ARTC of major rail corridors;
- committing to the construction of the Alice-Darwin rail link;
- investing \$250 million from Commonwealth funds to upgrade the interstate rail network; and
- selling the National Rail Corporation and FreightCorp.

These initiatives are a step towards the development of a national approach to rail investment. However, the combined efforts are not an agreed inter-governmental blueprint for action.

Under the current approach, there are no effective national arrangements that enable road and rail investments to be prioritised, planned and funded by governments in a cross-modal context.

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Challenges to the current framework

Australia's economy is growing at 10 times the rate of the OECD average. Our freight task will double by the year 2020 and exports will grow some 50 per cent by 2010. The current approach to land infrastructure planning and funding will struggle to sustain this pace of growth. Challenges to the current framework include:

- there is inadequate attention directed to logistics links between road, rail, ports and airports.

- the Commonwealth's 100 per cent funding responsibility for the National Highway System sometimes leads to cost-shifting, and impedes strategic investment of Commonwealth resources.
- the state and territory road authorities have well-established channels to promote road proposals. However, rail and other intermodal infrastructure do not have a similar range of options to advance proposals.
- there are very limited channels for private sector infrastructure development proposals.
- there is an absence of channels to support non-engineering solutions, which allow better asset use and longevity, for example Intelligent Transport Systems.
- the ad hoc approach to land infrastructure investment has led to a lack of confidence in the effectiveness of land transport spending.

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The AusLink Plan

AusLink is the Federal Government's plan for developing Australia's future infrastructure network. Auslink aims to deliver more strategic spending of Commonwealth transport funding, greater opportunities for private sector involvement and a better deal for infrastructure investment in metropolitan and regional Australia. The plan consists of the following points:

- the Federal Government will sponsor the development of an indicative rolling 5-10 year transport infrastructure development plan. The plan will be developed on a national, participatory, basis.
- on the basis of the national plan, the Government will seek project bids that advance the plan's strategic priorities. The Government will issue invitations to the states and territories, local government, regional development bodies and the private sector to put forward their most attractive bids. Private sector proposals will be given equal treatment with all other bids.
- non-engineering transport solutions, such as new technology and traffic management will also be eligible for funding.
- transparent decision-making criteria across transport modes will be used, doing away with the separate and inconsistent treatment of road, rail and intermodal investments.
- the Government will amalgamate its land transport funding programmes, so money can be allocated to the projects that have the greatest benefits, regardless of their transport mode. Funding for regional projects will be quarantined.
- to increase the value of the Government's infrastructure spending, proponents will be encouraged to leverage their proposals. If there are two proposals evaluated as equally beneficial, the one with the greater level of investment by the proponent will have greater chances of acceptance.

- the Government will consider establishing a national advisory body to assist in the development of the national infrastructure plan. The final decisions on spending Commonwealth funds would still rest with the Federal Government.
- the Government will improve the planning focus and funding arrangements for the National Highway System, to yield higher returns to the community. The Government will move beyond the current 100 percent Commonwealth funding responsibility for the National Highway System, to allow joint funding of a broader national land transport network. The new network will cover critical road and rail links and their intermodal connections.
- the Government will seek to renegotiate the 1991 Roads Agreement, to replace it with a far broader Transport Infrastructure Inter-Governmental Agreement, involving the Commonwealth, states, territories, and local government. It will cover road, rail, intermodal connections, and non-engineering solutions.

AusLink will not involve a reduction in the Commonwealth's transport expenditure. It will not affect any of the current projects funded by the Commonwealth, or any projects that the Government has made a firm undertaking to fund.

It will not affect the Government's decision to spend \$180 million over four years to extend the Black Spot Programme. Nor will it affect the \$1.2 billion Roads to Recovery Programme.

The Federal Government's transport and infrastructure priorities will be clearly identified in the national plan's strategic priorities and for each round of project bidding. These will also identify those areas that are clearly not Commonwealth responsibilities. The Government's funding will focus on the new national cross-modal network and within this, on the projects that deliver higher national benefits.

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Benefits of the plan

The benefits of a new approach to land transport infrastructure planning and funding include:

- developing a modern land transport network, as a more effective engine for growth, competitiveness and social equity;
- improving opportunities for private sector investment in infrastructure development;
- addressing the imbalances between: modal and intermodal funding, engineering and non-engineering solutions, and urban and regional investment.

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Next Steps

The Government will issue a comprehensive discussion paper – a Green Paper – on AusLink in August 2002, following an initial round of consultation. The Government will conduct further consultations on the Green Paper with the states and key parties, and will then develop a formal statement of Government policy – a White Paper – by March 2003.

Following the release of the White Paper, a new Inter-Governmental Agreement will be developed with the states, including any new institutional arrangements.

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Further information

- Media Release: [Anderson Announces Sweeping Land Transport Plan](#)
- Speech: [Address by The Hon John Anderson MP at the Re-Engineering Australia Forum, Sydney](#)

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Last Updated: 21 May, 2002

APPENDIX D

**GREATER WESTERN SYDNEY
MAYORAL STATEMENT**

GREATER WESTERN SYDNEY

MAYORAL STATEMENT

27 JUNE 2002

This Mayoral Statement highlights urban growth as the major challenge facing our region and our councils.

We, the Mayors of the fourteen (14) Cities and Shires that make up Greater Western Sydney, along with the President of WSROC and the Chair of MACROC, seek commitments from the NSW and Commonwealth Governments that all urban growth will be supported by measures to guarantee an equitable and sustainable urban environment.

The Greater West is a key metropolitan region, integral to Sydney's role as a global city. It is essential that the significance of the region is better recognised by all levels of Government and that a coordinated strategy is developed to manage urban growth within the Sydney basin.

The population of Greater Western Sydney is around 1¾ million people, 40% of Sydney's total population. Substantial population growth has already transformed the region, which is predicted to further grow by up to 600,000 people over the next 20 years, many of whom will be born in the region.

We seek major commitments by Government to invest in the physical and social infrastructure of our region. This investment should be focused to meet existing needs in established urban areas, the early provision of infrastructure to support current urban development as well as identification of long-term commitments to meet the needs of future growth.

The NSW and Commonwealth Governments need to develop a clear policy for Sydney that balances longer-term growth pressures on Greater Western Sydney with development in other parts of the Sydney basin. Ad-hoc land release programs and ill-defined urban consolidation policies, which focus urban development without matching infrastructure commitments are not sustainable.

As representatives of local councils in Greater Western Sydney we seek greater support from the NSW and Commonwealth Governments to cope with the challenges of past and future urban growth. We seek:

- A greater say in the rate, type and location of development in our local areas;

- Recognition of the concerns and aspirations of residents in Greater Western Sydney in making decisions about urban growth and land supply;
- A clear commitment and funding program to provide essential infrastructure and services in a timely fashion to address problems in existing communities as well as servicing new communities;
- A real commitment to sustainability and the creation of high quality places in which people can live and work;
- Recognition that the environmental quality of Greater Western Sydney must be maintained as a key regional asset and as a clear constraint to urban development;
- Continued commitment to an inclusive as well as a socially and culturally diverse region that presents opportunities for all our residents;
- A stop to the pressure on local councils to cram unacceptably higher densities into established communities;
- A commitment to assist in the provision of social infrastructure and services in established as well as newly developing areas to promote cultural, social and recreational opportunities;
- A commitment to growing high quality locally-based jobs in Greater Western Sydney to match growth in housing and population and to the development of the regions' educational and training infrastructure; and
- The development of better ways to work with other levels of government to coordinate, fund and deliver a sustainable urban region.

Finally, we seek an opportunity to present our concerns to the NSW Premier and request the convening of a tri-level government leaders summit, facilitated by the NSW Premier's Department, to set a joint direction and establish clear programs and funding commitments for the management of urban growth in Greater Western Sydney.

Clr Michael Tadros
Mayor
Auburn Council

Clr David Blake
Mayor
Bankstown City Council

Clr John Griffiths
Mayor
Baulkham Hills Shire
Council

**Clr Alan Pendleton
Mayor
Blacktown City Council**

**Clr Jim Angel
Mayor
Blue Mountains City
Council**

**Clr Geoff Corrigan
Mayor
Camden Council
Chair MACROC**

**Clr Russell Matheson
Mayor
Campbelltown City
Council**

**Clr Anwar Khoshaba
Mayor
Fairfield City Council**

**Clr Rex Stubbs
Mayor
Hawkesbury City Council**

**Clr Mark Pigram
Mayor
Holroyd City Council**

**Clr George Paciullo, OAM
Mayor
Liverpool City Council**

**Clr John Haines, OAM
Lord Mayor
Parramatta City Council**

**Clr Patrick Sheehy
Mayor
Penrith City Council**

**Clr Colin Mitchell
Mayor
Wollondilly Shire Council**

**Clr Mark Greenhill
President WSROC**

APPENDIX E

INDEPENDENT REVIEW OF CONTAINER DEPOSIT LEGISLATION IN NSW – AN EXECUTIVE SUMMARY

Independent Review of Container Deposit Legislation in New South Wales

Executive Summary

Container deposit legislation (CDL) describes legislation that establishes a deposit and refund system for used containers. As part of the review of the New South Wales (NSW) Waste Minimisation and Management Act (1995), the NSW Minister for the Environment, The Hon Bob Debus, commissioned Dr Stuart White to conduct an Independent Review of Container Deposit Legislation in NSW (the CDL Review).

Container deposit legislation is an example of an increasingly important environmental management principle, known as extended producer responsibility (EPR). Dr White was, therefore, requested to investigate the broader principle of EPR with reference to international experience, including how it might be implemented in NSW. This investigation, contained in *Volume I* of this report, revealed that EPR is a strategy worth pursuing. It has the potential to deliver improved waste management and broader environmental outcomes in NSW, in an economically efficient manner.

The new Waste Avoidance and Resource Recovery Act (2001) contains provisions which are consistent with the best practice elements of EPR recommended in this Review.

In accordance with the terms of reference of the Waste Act Review, *Volumes II and III* of the CDL Review *describe and assess the effectiveness of container deposit legislation in litter and waste management* in the NSW context. After initial investigation, the CDL Review focussed on CDL applying to post-consumer beverage containers made from materials currently recycled. The Review then examined the appropriateness of the introduction of such legislation in the NSW context by assessing:

- stakeholder and community attitudes to container deposit legislation;
- costs and benefits of container deposit legislation on both a whole of society basis and in respect to key stakeholder groups; and
- the feasibility of container deposit legislation given the current industry, institutional, and legislative frameworks.

The CDL Review found that stakeholder attitudes to CDL are highly heterogeneous, with strong support from local government and environment groups, majority support from the community, limited support from the recycling industry, and opposition from the beverage, packaging, and retail industries.

When both financial and environmental impacts were considered on a whole of society basis, the potential benefits of introducing CDL in NSW were found to significantly exceed the costs. The annualised net economic benefit of CDL in NSW in the case where recovered container materials are recycled was found to be of the order of \$70-100 million per year compared to the current situation. This net economic benefit is largely due to environmental benefits that were valued by the CDL Review at \$100-150 million per year. This valuation of environmental benefits is exclusive of the value of improved visual amenity due to litter reduction. Litter reduction is, however, an important benefit to be gained from CDL and has historically been a major driver for its introduction both in Australia and overseas.

In summary, the estimated value of the environmental cost of disposing of a single average beverage container to landfill, compared to recycling that container, is 8-9¢. The cost of recovering that container through a combined CDL and kerbside recycling strategy is approximately 2-3¢.

Consumers of containerised beverages were identified as the stakeholder group that would bear the largest cost burden if CDL were introduced in NSW. The beverage industry and both large and small retailers would also be likely to incur net costs under such a system. The magnitude of these costs would depend strongly on the extent to which they were able to pass them on to consumers and also on the type of CDL system established.

Local government, in contrast, would realise financial benefits from the introduction of CDL, through reduced costs of kerbside collection and through the value of unredeemed deposits in the material collected at kerbside. The timing, and extent of these benefits would depend on the timing of renewal and negotiation of recycling contracts relative to the introduction of CDL, in cases where councils use contractors for kerbside collection. It would also depend on the terms of such contracts in relation to the ownership of used container materials and the unredeemed deposits.

New South Wales has a very high recovery rate for old newsprint, at approximately 75% in 2000. The frequency and convenience of kerbside collection is a major factor in this recovery rate, and therefore it would be important to ensure that CDL did not compromise this success. The modelling and analysis that has been undertaken in this Review indicates that the introduction of CDL will ultimately improve the financial performance of kerbside recycling by reducing its costs. There would be no financial justification for any council to reduce the frequency and convenience of kerbside collection of paper as a result of the implementation of CDL.

The CDL Review estimated that there would be a net employment increase of between 1,000 and 1,500 full time jobs if CDL were implemented, depending on the option. Potential long term losses of employment are mainly from kerbside recycling, MRF sorting and garbage collection, estimated at 25 jobs, with the net increase in jobs being due mainly to employment in collection centres or retail outlets.

Other stakeholder groups likely to benefit financially from CDL due to collection and donation of deposit bearing containers are charities and some disadvantaged sections of the community.

The CDL Review concluded that NSW would obtain overall benefits from the significant improvement in the container material recycling rate and the reduction in litter that could be expected to result from the introduction of a best practice form of CDL. The Review considers that the desired outcomes of high recycling rates and reduced litter are also achievable through other regulatory mechanisms such as mandatory recovery and recycling targets. However, it notes that international experience has found deposit-refund systems to be the most effective mechanism for achieving high container recovery rates.

There are several issues that would warrant further attention prior to the development of container deposit legislation or other forms of extended producer responsibility in NSW. Primary among these are potential legal impediments. These impediments would be less likely to arise if the deposit-refund or other form of EPR system were established by industry or implemented at a national level. The current opposition of important industry stakeholders to CDL will also warrant consideration, as will an effective mechanism for the administration and regulation of the system. With careful reference to previous Australian and international experience with EPR schemes in general and deposit-refund systems in particular, it would be possible to implement an effective and economically efficient container deposit-refund system in NSW.

The overall conclusion of the CDL Review is that:

The potential benefits of, and level of community support for, significantly increased recovery of used containers are such that action should be taken to ensure that the recovery rates are raised to a more economically optimal level based on total benefits to society. The current mechanisms for container collection and recycling are unlikely to achieve these rates and the current targets in relevant Industry Waste Reduction Plans are well below these optimum levels.

Recommendations

In regard to the implementation of the principles of extended producer responsibility in NSW, the CDL Review recommends that:

- *Policy and legislative frameworks in NSW be amended to incorporate the principles of EPR and to facilitate its effective implementation.*
- *The NSW Government seek agreement at a national level for the adoption of EPR. This would allow a more effective model of EPR to be developed for NSW by addressing constitutional and cross-border issues.*
- *Legal impediments to EPR, specifically those relating to constitutional, mutual recognition and taxation issues, be fully investigated.*
- *Product-specific EPR programs be developed that incorporate mandatory performance targets.*
- *Industry be given the opportunity to determine how they will meet the performance targets specified by product-specific EPR programs, e.g. via the establishment of voluntary schemes that provide appropriate environmental, economic and social benefits, with an understanding that mandatory schemes will be implemented if the voluntary schemes fail to achieve their performance targets.*
- *Products are selected for development of an EPR program based on analysis similar to that conducted for beverage containers in the CDL Review. This would include a comprehensive analysis of the total costs and benefits to society, including externalities, and the use of representative and deliberative processes of public participation.*

Regarding container deposit legislation in NSW, the CDL Review's recommendation is that either:

1. *Container deposit legislation be introduced that establishes a container deposit and return system with the following features:*

- *Deposit applicable to all beverage containers made from aluminium, glass, PET, HDPE, other plastics, liquid paper board and steel;*
- *Mandatory acceptance of used containers and refund of deposits by all retailers of deposit bearing containers. This should be subject to exemptions and/or qualifications that would prevent an inequitable burden being placed on small retailers where these exemptions would not compromise consumer access and convenience;*
- *Should point of sale return not prove possible to implement, a depot or collection centre based CDL system should ensure accessibility, preferably requiring retailers with a threshold turnover level to provide facilities near retail outlets;*
- *A uniform deposit level of ten cents initially with provision to alter the level of deposits on certain container types at the discretion of the Minister for the Environment;*
- *A mechanism for ensuring that those parties involved in the acceptance of*

used containers and refunding of deposits are adequately compensated for those services, and

- *A mechanism for expanding the range of containers subject to a deposit.*

Or

2. The strengthening of industry recycling targets to levels that achieve equivalent outcomes to those that could be expected to result from the introduction of CDL. These targets should therefore:

- *Achieve recovery rates for the recycling of used container materials of ninety percent, and;*
- *Apply as a minimum to beverage containers, with provision for expansion to encompass other container types.*

APPENDIX F

**LGSA's COMMENTS ON
RURAL FIRES AND ENVIRONMENTAL ASSESSMENT
LEGISLATION AMENDMENT BILL 2002**

BUSHFIRE AND EMERGENCY SERVICES

Item 4 – RURAL FIRES AND ENVIRONMENTAL ASSESSMENT LEGISLATION AMENDMENT BILL 2002

Contact: Warren Taylor – LGSA.

The LGSA support the Rural Fires and Environmental Assessment Legislation Amendment Bill in general, however a number of serious concerns have been outlined in a submission to the Government.

Item 4 in the Weekly Circular of 31 May 2002 outlined many of the legislative changes proposed in the Bill.

On 6 June 2002, the LGSA invited a number of councils and Local Government representatives to attend a joint briefing on the Bill by nominees of Planning NSW and the RFS.

From that briefing, the Presidents prepared a submission to the Government seeking reconsideration of the Bill in the following areas:

Bush Fire Hazard Reduction Certificates

The Bill provides that under Section 148 of the EPA Act, a council will assume a new function and map the areas of land declared by the RFS Commissioner to be bush fire prone land. The Commissioner will certify the map as being accurate. (The RFS will provide assistance where councils are unable to prepare maps.)

Section 149(2) Certificates will require compulsory inclusion of details of land mapped as bush fire prone.

Section 100F of the Rural Fires Act will require a council to issue a bush fire hazard reduction certificate to an owner of private property or a range of other properties within seven days, or if agreed, later than seven days.

Section 100F(9) requires that no fee be charged by council and there are no appeal rights.

Local Government considers that:

- The steps leading up to a decision to issue the certificate, and selection of appropriate conditions, is work that must be performed by the RFS, either under the Service Level Agreement or preferably, as a specific legislative duty of the RFS. This would also provide consistency for the issue of fire permits by the Commissioner.
- If Local Government is to perform the function, provision of skilled resources will be required and funding is essential if no fee can be charged for the substantial workload involved. An undertaking by Government to provide a funding mechanism to meet these additional costs is essential.
- Local Government is concerned that the Bill will create **legal liabilities** that do not currently exist, should there be an error in the Commissioner's map or in the drafting of the certificate. This additional potential legal liability is not acceptable.

Local Government considers that these activities should be specific legislative functions of the RFS, as a logical package of functions that flow from the Bush Fire Risk Management Plan, Annual Operations Plan and Bush Fire Environmental Assessment Code prepared by the Commissioner.

Complaints Management

The Service Level Agreement between RFS and each council is intended to preserve arrangements that existed on 30 June 2001 when the FCO was council's employee who in most instances processed hazard reduction enquiries and complaints on behalf of council.

The driving force in coordination of the Bush Fire Risk Management Plans and Annual Operating Plan is the FCO. Accordingly, Local Government firmly believes that all complaint handling on hazard reduction should be a legislative function of the RFS through the district FCO.

Planning for Bush Fire Protection 2001

Schedule 1 of the Bill will require conformity with the requirements and standards of this recent publication, which contains a number of significant deficiencies.

- It is understood that setback distances have been based on theoretical modelling undertaken by the CSIRO. The modelling process works through numerous variables to reach an assumed conclusion which in most instances, remains theoretical.

Some councils have developed far more reliable methods and conclusions which were not contradicted by the major fires of Christmas 2001 and New Year 2002.

In this circumstance, it is untenable to deny the opportunity for local variations to the setback requirements based on local experience and research.

- Inadequate infill development arrangement. For example, it is unlikely that any existing development within major urban council areas will comply with the infill development requirements established in *Planning for Bushfire Protection*, even where bush fire protection provisions have already been incorporated at subdivision stage. As the Bill now stands, this triggers referral to the RFS, but no guidelines are available to assess such applications. This will result in:
 - an ad hoc assessment process, uncertainty for developments and difficulty in defending decisions in the Land and Environment Court
 - a significant increase in the workload of RFS staff, exceeding the capacity of local staff to deal with issues
 - more deemed refusals due to uncertainty and workload issues
 - construction standards that fail to address the issue that they were originally designed to address – redevelopment of existing sites located too close to bushland – and that override existing local arrangements developed with appropriate expert input.

Despite these shortcomings, the Bill makes application of the specifications and requirements of *Planning for Bushfire Protection* mandatory. It allows no flexibility to address situations where locally developed solutions have been demonstrated by experience to be more than adequate in the areas in which they have been applied. It permits no opportunity to address the deficiencies and localise its provisions through a Development Control Plan.

Strenuous objections have been made to the Minister's RFS Working Party about the inequity of councils paying for service wide program charges. The LGSA have repeatedly requested advance consultation so that the 13.3 per cent contribution made by Local Government relates to activities supported by Local Government.

Increasing the referral regime of DAs to include the RFS, while at the same time paying a further 13.3% for the new program, without consultation until the Bill was presented, is a further example of Local Government not being treated as a partner.

The LGSA requested:

- That amendment to the Bill allow for councils to apply for a variation of or exemption from “Planning for Bushfire Protection 2001” and give recognition to local planning instruments or policies that have been prepared in consultation with the RFS.
- That funding for additional RFS planning staff for assessing fire risks on DAs be provided by the State and not be a service wide program charge on which councils attract a 13.3 per cent payment.

Resourcing of RFS

The LGSA noted the Minister’s media release stating: “The Rural Fire Fighting Fund will receive an \$8 million funding boost this year, which includes \$4.5 million for 53 extra staff – including 41 in regional and country areas. Eighteen will be dedicated to helping plan, carry out and audit hazard reduction operations and another 35 will assist with local bushfire management activities.”

Although the RFS will have funds, concerns exist about human resources availability to respond to the DAs in both a consistent and timely manner. In particular, the Bill is not definitive on the matters against which the RFS is going to be assessing a DA.

The LGSA are of the view that many applications will be deferred by the RFS through lack of skills and qualifications to assess the high volume of DAs. It is also noted that there is no timeframe in the Bill in which the RFS is required to respond to a council although the 40 day “deemed refusal” period will continue to run. If they are setting up this consultation mechanism, then there should be some type of guarantee of service.

Other concerns

Some other concerns raised are:

- mapping – existing maps will need to be reviewed in light of the Bill as they do not contain the level of detail required. This is potentially a resource intensive task for councils, particular the smaller rural councils
- in relation to the appearance of RFS staff in the Land and Environment Court in terms of the qualifications of staff and general willingness to appear as a witness for council. This is directly related to the resourcing issue outlined
- the general liability of councils for decisions based on advice from the RFS.

Issue of Fire Permits by Commissioner

Although many councils have delegated this function to the Commissioner, councils have seen it essential that this process is exercised under delegation, which may be withdrawn if circumstances warrant this action.

No compelling evidence has been produced to justify the change of permits being issued by the Commissioner and Local Government considers that the current process continue.

Preparation of the Draft Bush Fire Environmental Assessment Code

Section 100K of the Bill provides for a consultative mechanism in the preparation of a Code and the following representatives have now been appointed:

- Local Government Association - Cr Sara Murray, Vice President (General) and Wingecarribee Shire Councillor
- Shires Association - Cr Robert Gledhill, Mayor of Boorowa and Executive Member (H Division)
- Local Government and Shires Associations of NSW - (Alternate Delegate) Warren Taylor, Manager Advice and Development.

One meeting has been convened and a technical working party has been appointed to urgently develop workable suggestions.

The Bill has passed the Second Reading with further debate scheduled for the next few days, however the outcome of the LGSA requested amendments are not yet known.

R90/0204