



**Standing Committee on economics, finance  
and public administration**

**Inquiry into local government and cost  
shifting**

**synopsis of hunter regional organisation of  
councils submission**

***this synopsis will be followed by a  
supplementary report that provides detailed  
quantification and amplification of the issues  
raised in this synopsis***

## **EXECUTIVE SUMMARY**

- **The roles and responsibilities of councils in New South Wales are loosely defined in the charter within the 1993 Local Government Act. The looseness of the definitions, and the specific reference to a number of Acts, aside from the Local Government Act, puts councils in a poor position to resist or moderate the devolution of responsibilities from the State Government.**
- **The devolution of responsibilities and obligations from State Agencies grew very rapidly from around the middle of the 1990s. Part of this devolution grew out of changing societal and economic demands. Part of it has sprung from the ‘small government’ goals of both Federal and State governments over more than a decade. As the higher levels of government have retreated from various fields councils have been left to pick up the pieces. The general impact has been to boost the number of functional areas that councils have to work in.**
- **The rate of growth of revenue of councils in NSW has been much slower than that of the State Government in recent years. This has made the devolution of functions particularly troublesome for councils: many do not have the resources to fund their new responsibilities.**
- **Rate capping has been a major impediment to councils. In the 25 years of its existence, councils have been unable to gain a realistic share of the great expansion in property values, upon which rates are based. This greatly impedes councils in having the ability to respond to requests and demands from other levels of government.**
- **An analysis of the other major sources of revenue for councils demonstrates that there are no counter-balancing avenues for councils to boost revenue in lieu of foregone rate revenue.**
- **Where councils are permitted to charge for devolved responsibilities, the State Government has generally capped the amount they can charge. There are other circumstances where previously revenue-generating activities of councils have reverted back to the State. There is a large quantity of non-rateable properties within many councils; these still have to be serviced by the councils but do not generate any income. Relatively, there has been a fall in the**

proportion of total income from State grants that is available to all councils in NSW.

- **Councils in NSW do not get a share of national competition policy funds, nor do they have access to GST funds. The funding base is insufficient to support the level of devolution and expansion of functions that has occurred.**
- **There is little immediate prospect of broad reform of the current structure of Local Government in NSW. Councils can best improve their capacity to meet their expanded portfolio of functions, reduce service costs, and rationalise service delivery by regionalising many activities**
- **Across NSW regional organisations of councils have been formed, but they vary greatly in their ability to achieve more efficient service delivery systems. HROC has advanced its processes to the point where it offers other parts of the State a model to follow.**
- **Over the past eight years the expenditure of NSW councils has grown 10% more than their revenues. This gap is unsustainable, especially in a period of enlarging responsibilities.**
- **It is difficult to estimate the total costs to council across NSW arising from devolution because there are just so many areas in which it has taken place. In just one field alone, environmental management, there have been 163 new obligations created since the mid-1990s. Material from HROC shows that there are at least 17 other areas in which devolution has occurred. Specific costs to councils in the Hunter are given in the supplementary report.**
- **Changes to State Government charges to councils, and the reduction of income to councils from the privatisation of other activities, has pushed up costs to council at a rate much higher than the CPI, and much higher than councils ability to raise revenue.**
- **A number of areas of devolution have been accompanied by funding from the State Government. The problem is that such funding is often project specific, is short-term, often requires matching funds, and is competitive. Once those funds have been expended there is no mechanism for assisting councils with on-going costs of maintaining new equipment and services.**
- **Rationalising the roles and responsibilities of councils requires establishing the autonomy of councils, creating effective consultation with councils, and defining realistic agreed bottom-lines for council participation.**

# 1. Local Government Current Roles and Responsibilities

## 1.1 The Charter

The roles and responsibilities of Local Government in New South Wales are set out in the Section 8 of the Local Government Act (1993) in the form of a council's charter. The charter outlines a set of principles that are meant to assist councils in the operation of their functions. In the listing below those parts of the Charter that seem to be most closely related to the theme of this Inquiry are highlighted in bold.

The Charter enjoins councils to:

- provide directly, or **on behalf of other levels of government, after due consultation**, adequate, equitable and appropriate services and facilities *for the community*, and to ensure that those services and facilities **are managed efficiently and effectively**;
- **exercise community leadership**;
- exercise its functions in a manner that is consistent with and actively promotes the principles of cultural diversity;
- promote and to provide and plan for the needs of children;
- properly **manage, develop, protect, restore and enhance the environment of the area** for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- have regard to the long term and cumulative effects of its decisions;
- bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- **raise funds for local purposes** by the fair imposition of rates, charges and fees, by income earned from investments and, where appropriate, by borrowings and grants;
- **keep the local community and the State Government** (and through it, the wider community) **informed** about its activities;
- ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of council is affected;
- be a responsible employer.

## 1.2 Background to the 1993 Act

The 1993 Act sought to reform Local Government in New South Wales. It stressed efficiency and effectiveness in the operations of councils, and encouraged both accountability and transparency. It endeavoured to establish a more corporatist structure to Local Government, attempting to have a clearer separation of the policy-making roles of councillors, and the operational duties of staff. Much of the transparency and accountability of councils was based on the public reporting requirements designated by the Act.

*The Charter provided a broad and mixed set of principles that were not legally binding....*

Whilst the Charter suggested the principles on which councils would make decisions, they were not proposed as a set of legal requirements. The Charter (Section 8 (2)) does not provide a basis for legal action and is not to be taken into account in any such action.

The 1993 Act brought about significant internal reorganisation of council structures. It led to a strong emphasis on strategic and corporate planning, and the relationship of these to management plans.

It might be noted that in the first provision of the Charter it is made clear that councils have a responsibility to provide services and facilities both directly, and on behalf of other levels of government. Sections 21 to 23 of the Act clarify this further. Section 21 states that councils must perform functions imposed by the Local Government Act. Section 22 ordains that a council must perform “the functions conferred or imposed on it by and under any other Act or law”. Section 23 enjoins a council to do all things as are supplemental or incidental to, and consequential on, the exercise of its functions.

*Councils are specifically bound to perform operations that might arise out of a number of Acts beyond the 1993 Local Government Act.....*

These provisions are very clear about the roles of councils. Local Government in New South Wales may be liable to respond to a wide variety of Acts beyond the Local

Government Act itself. A number of relevant Acts were nominated within the 1993 Act, but the number has grown greatly since 1993.

**The relationship of councils to those nominated in the 1993 Act, and other Acts, is so open-ended that effectively Local Government can be required to provide services and facilities in any way that the State Government decides is relevant. Herein lies the central problem that the current Inquiry is addressing.**

*In the second half of the 1990s in particular, the New South Wales Government introduced a broad range of legislative changes, much of which had direct or indirect implications for the Local Government. The direct implications were those where councils were specifically required to perform certain functions. The indirect effects came with the ways in which State Government Departments and Agencies interpreted the application of the new legislation. In many cases they conceived roles for councils to complement or supplement the Department or Agency's own activities.*

The Departments and Agencies did almost all of the devolution of responsibilities independently. There was no attempt to produce a whole-of-government approach, or to give councils a sense of how the new responsibilities related to each other. There was no sense of the priorities of the responsibilities passed down. The cumulative effect was a great increase in the obligations passed on to councils (see Section 4 of this synopsis).

*Whether the devolution of functions was a deliberate attempt to shift costs to councils or not, the outcome has been a significant rise in council expenditure.....*

In many cases there was no direct focus on cost-shifting; the intention was usually to provide a local area element (through councils) to whatever the task might be. Some of the devolution involved either direct assistance to councils to undertake the new tasks, or the opportunity for councils to recoup costs through charges. ***Most of the devolution, however, did not involve any resource provision.***

The cumulative effect of the devolution of obligations has placed such a strain on Local Government resources that it is really a moot point to try and identify what parts of the changes have involved cost-shifting, and which have not. The impact is

that in a very short space of time the functions of Local Government have multiplied, without any commensurate increase in the sector's resources.

A further aspect of these changes is that in many operational areas there has been no, or very little, consultation with Local Government before devolution occurred.

### 1.3 Functions of Councils

In the 1993 Act the functions of Local Government are divided into six areas: service, regulatory, ancillary, revenue, administrative and enforcement. Examples of each are provided in the Act. They demonstrate the very wide range of functions that councils might have to perform. The elasticity of possible roles that councils might have to play, makes it difficult to define precisely just what their core functions might be.

*Prior to 1993 the key functions of councils were limited and broadly understood by the community.....*

Historically councils focussed on a fairly narrow range of key activities concerned with roads and infrastructure, waste collection and disposal, area planning and building approvals and supervision, libraries and a few other cultural facilities, and parks and recreation facilities. The 1993 Act led to councils reorganising their internal structures. The changes reflected the fact that the traditional focus on the type of functions mentioned above, insufficiently reflected the reality of an enlarged, and enlarging, portfolio of responsibilities.

*The expansion of councils' roles came from changing societal values and expectations that impacted on all levels of government.....*

Many of these added responsibilities arose out of changing societal values and expectations. Higher living standards and better lifestyles placed new demands on councils. There was a much greater sense of the significance of individuals' personal lifestyles, as opposed to previous emphases on community structures. At the same time, this personal focus led to a greater emphasis on local identification and local amenities. Any perceived threat by councils to these things might engender a swift reaction. In the midst of these changes there grew a greater emphasis of the protection and management of the natural environment.

Whilst expecting higher and more diversified services and facilities to be provided by councils, the population became more impatient with red tape and bureaucracy. There has been a greater anticipation of seamless service delivery. At the same time communities have been more conscious of, and more demanding of, cost-effective programs by councils. Without any devolution of functions from higher levels of government, councils over the past decade have had to manage and find solutions to a much larger range of issues than in the past.



*The Commonwealth/State Government reaction to changing economic and social conditions produced a kind of second wave of impacts on councils.....*

The flurry of legislation at the Commonwealth and State Government levels over the past six or seven years has added significantly to the underlying processes of changing and expanding Local Government roles. The ambitions of both of the higher levels of government to provide better services and opportunities for people led to the various legislative changes that brought about the devolution of a number of obligations placed on Local Government.

There was also a secondary impact on Local Government from the activities of both Federal and State Governments. This was because both these levels of government have pursued a goal of 'small government', with an underlying philosophy of doing more with less. This has impacted on councils in two ways. One is the withdrawal of government from certain activities, leaving councils to fill the void they leave behind. The other is the structural change that has accompanied privatisation and corporatisation. Both of these things have greatly enlarged the economic, social and welfare tasks faced by many councils. These things are not matters of devolution of functions, but of neglect. Local Government picks up the costs of the services.

## **2. CURRENT funding arrangements for local government**

### **2.1 Constitutional Recognition**

Whilst the functional base of Local Government appears to be continually expanding, the opportunities for Local Government to find the resources needed to respond to the new demands is very limited in New South Wales. The reason is that Local Government has no place within the constitution, and is simply a creation of the State Government. If Local Government were accorded recognition within the constitution, its roles and responsibilities would be made much clearer, and much more defensible. The possibility of cost shifting or devolution by stealth would be greatly reduced.

### **2.2 Comparisons of State and Local Government Revenue Growth**

**In the past eight years in New South Wales State Government revenue has grown by 79%. In the past seven years<sup>1</sup> Local Government finances in NSW grew by 26%. For the HROC group revenue grew by just 22% over the period. It is clear that with such a low revenue growth rate Local Government is poorly placed in comparison with the State Government to take on added responsibilities.**

In the next sections (2.3-2.6) each of the major components of revenue for councils is examined. The general conclusion is clear. Many councils lack the opportunity to increase funding. This is the stark reality behind the relatively slow rate of growth of council revenue compared to State or Federal levels of government. *In an age where governments are attempting to do more with less, councils are being expected to do a lot more with very much less.*

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<sup>1</sup> Data were only available from 1994-95 onwards for NSW councils.

### 2.3 Rate Capping

Rate revenue traditionally represents the major single source of income for councils, but in New South Wales the yearly increase in the total volume of rates for each council is capped by the State Government.

*The result of this has been that over the 25 years of rate capping councils have not been allowed to capture a large enough proportion of the enormous rise in property values in the populous areas of NSW. This has meant that councils have been unable to build up sufficient funds to manage the maintenance and replacement of key aspects of their infrastructure. Much of the recent devolution of responsibilities has grown out of a belated effort by higher levels of government to address deficiencies in the infrastructure base and environmental deterioration. Councils with significantly limited revenues are being asked to repair problems that might not have occurred if there was no rate capping.*

The Minister for Local Government makes a decision each year about the maximum level of increase of rates. The decision is based on the movement of the CPI and wage movements, although the actual details of how a specific level is chosen in any one year is not revealed. Councils may apply for a special variation, based normally on the need to provide special services or facilities that cannot be funded by the allowable rate increase. In 2002 eleven councils were permitted a special rate increase. The Minister does not enter into any public explanation of why other applications for special rate increases are not granted. There is bipartisan agreement on rate capping.

*Rate revenue is the major source of revenue for wealthier councils, but provides less than 30% of revenue for less wealthy communities. Whether wealthy or not rate capping prevents all councils from being able to fund the ever-enlarging range of devolved responsibilities.....*

Over the past seven years rate revenue as a proportion of total council revenue has ranged from an average of 59% for the large and very large metropolitan councils, down to 26% for small rural agricultural councils<sup>2</sup>. In 2000-2001 (the latest available data) the range of rate revenue to total revenue went from 54.4% (Cessnock) through to 23.1% (Merriwa). Over the seven years rate revenue as a proportion of total revenue rose for 11 of the 13 councils belonging to HROC.

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<sup>2</sup> The classifications are based on those of the National Office of Local Government.

The HROC experience runs counter to the general experience of councils in New South Wales, where rates as a proportion of total revenue has declined. This has been particularly apparent in rural New South Wales.

## 2.4 User Charges and Fee Revenue

Charges and fees represent revenue from water and sewerage services (outside of the areas serviced by Sydney and Hunter Water), trade waste, and domestic waste. Over the past seven years have generally made up between 15 and 20% of the revenue of councils, and this is not likely to change in the near future.

There is a fair degree of variation in the proportion of revenue from this source amongst the HROC group. In Merriwa in 2000-2001 fees and charges made up 48.4% of revenue, and in Port Stephens, Scone and Singleton they represented well over 20% of all income. In contrast Dungog, Murrurundi, and Gloucester less than 10% of the councils' income came from this source.

*The opportunities for councils to boost user charges and fees is limited, and cannot be seen as an alternative source of funds to perform devolved responsibilities....*

There are particular reasons for these variations, and these will be explained in the supplementary report that will follow this synopsis. The main point to be made here, however, is that councils cannot expect substantial increases in funds from user charges and fees to aid them in managing their increasing responsibilities.

## 2.5 Contributions and Donations

This segment relates to such things as Section 94 contributions. Across NSW councils have received on average between 10 and 15% of their revenue from such sources over the past seven years. For the metropolitan fringe councils this average rose to 17%, with Baulkham Hills and Camden averaging 36%.

Income from contributions and donations is largely dependent on growth. Since a large number of councils in the state are battling to sustain their economies there is not a great prospect of these sources of income assisting them.

*The size of any increase from these sources will primarily be spent on immediate infrastructure and community needs arising from growth. They will not meet the cost of the increased portfolio of services and facilities that councils have had to address over the past decade.....*

For the HROC group the range of income from contributions and donations (as a percentage of all income) runs from 0.3% (Murrurundi) to 19.0% (Great Lakes).

*There are no other alternatives that might provide the funds needed for councils to absorb their additional responsibilities, except in a limited number of wealthy councils...*

In the Statements of Accounts of NSW councils there is a category called “Other Operating Revenue”. This can cover a huge range of things from revenue from parking metres, to revenue from investment properties, to revenue from business ventures. Not surprisingly the income from this source varies enormously across the State. Real opportunities to source income in this way are very limited for most councils. The contrasts are enormous. For example, South Sydney council from 1994-95 to 2000-2001 gained \$47 million from these sources, a total that was greater than the *total* revenue of 42 councils in NSW. The City of Sydney gained \$83 million from these sources, a figure that exceeded the *total income of some 72 councils over the period*.

Except for Gloucester, the HROC group does not receive large revenue from the “other” sector. As will be discussed later, HROC is now commencing a range of activities that will likely boost the regional revenue from such sources, but HROC is the exception in this regard.

## **2.6 Grants**

Grants form the other major source of income for councils. There are a very large number of councils in NSW where grants represent between one third and one half of a council’s total revenue.

As a broad rule of thumb, the dependence on grants varies with geography: the further west a council is located, the higher the level of dependency.

*Grant revenue is related to the economic base of the councils: the weaker the economic base, the higher the per capita grant level. The major sources of grants cannot be expected to provide councils with the resources to handle enlarged responsibility portfolios...*

Both of the generalisations made about the grants hold true for the HROC group of councils. Grants as a proportion of total revenue, range from a low of 12.3% in Newcastle to 49.6% in Murrurundi.

The major grant funds come from the Commonwealth Government through the Financial Assistance Grants and the Local Roads Grants. For 2002-2003 this combined pool will represent around \$463 million. The chances of grant funds increasing at a pace that will allow councils to meet their increasing range of responsibilities is slim.

*The current level of FAG and Local Roads grants is not sufficient to meet the needs of councils now, without the further increases in responsibilities that might occur in the future.....*

The Grants Commission in NSW allocates the Commonwealth FAGs and Local Road grants on the basis of an extensive, and independent, examination of recurrent expenditure needs of councils (in an effort neutral setting), and the outcomes show that the current level of grants are about half the size of what they should be to cater for the recurrent expenditure needs of the councils.

## **2.7 Constraints on Fees and Charges**

The State Government generally controls the level of fees and charges that councils might charge across a wide range of activities. This means that councils, unlike other sectors of the economy, cannot pass on the real costs of providing services and facilities to users.

*Many of the activities that have been devolved to councils over the past decade have not involved many opportunities for councils to derive income for performing the new functions.....*

The process of devolution for these functions has been simply an additional cost factor to the councils. A number of examples with actual costs for HROC councils are provided in the supplementary report.

Where councils have been able to apply charges related to a new function, the level of the charges has generally been insufficient to match the cost of providing the services.

In the field of environmental protection, for example, where a substantial amount of devolution has occurred since 1995, revenue been less than 50% of the costs. Much of that revenue, importantly, has been made up of special purpose grants from the State

or Commonwealth Governments. As such it is specific to certain projects, and limited to a particular time period.

## **2.8 Revenue-generating Transfers**

In NSW the financial relationship is more complex than the addition of new functions to the range of council duties, and the lack of opportunities for councils to obtain income to match the added costs. It has also included councils losing revenue-generating activities.

A good example is the transfer of electricity services from county councils to new State-created corporations. Another example in the metropolitan area is the creation of the Waste Services system, which has effectively made councils waste services activities cost neutral. In other words, councils have to manage the operations and payment systems related to waste services, but have no opportunity of boosting their net income from these activities. In some cases, councils now have to pay licence fees to the State where none existed before. Following the combined environmental Act (the POEO Act) many councils have to pay the EPA a fee for operating their water and sewerage systems.

## **2.9 Non-rateable Properties**

In many councils a large part of the areas that councils have to manage is covered by non-rateable properties. State and Federal Governments and their agencies hold the major part of this land.

Whatever the land is used for, there will be costs to councils because they will have to service such things as the road systems and waste disposal systems. When the use represents a commercial activity of either State or Federal governments the level of demands on council services, and the level of costs associated with those demands, grow markedly.

Councils justifiably point to the inequalities of such outcomes. The problems are exacerbated by the fact that the amount of non-rateable properties tends to grow over time.



## 2.10 Decline in State Funding

Most of the funding that the State Government supplies to councils is in the form of specific-purpose grants. These are normally competitive, and many require matching funds from the councils.

Because the grants are competitive, and because they are necessarily related to the size of the total pool for each grant purpose, only a limited number of councils receive grants in any one year. This often means that some of the most needy councils miss out, sometimes because they haven't got the resources to compile a convincing grant application.

*State Government grants once made up around 15% of the total pool of grants, but this has slipped to about 7% of the grants that all councils receive...*

One outcome of the grants-based link between councils and the State Government is the difficulty of building region-wide responses to various issues. Most grants go to individual councils, and are not framed in a regional setting.

*When only a limited number of councils in a region receive special-purpose grant funds, the overall regional structure may in fact deteriorate.....*

Grant funds from the State Government are also time-phased grants. When the grant is finished councils are left to manage the on-going maintenance and upkeep of the facility that was the focus of the grant, but without any accompanying means of raising the resources to do so.

State grants as a proportion of total grants going to councils has declined relative to Commonwealth grants. Although for example, the Federal Financial Assistance Grants are probably around half of what is needed to assist councils to provide basic levels of service, they at least have an in-built mechanism for increasing the size of the grant pool year by year. This relates to CPI changes and to population growth. This surety allows council managers to expect grants of a certain size each year.

*The State grants are delivered by individual Departments and Agencies, and reflect the priorities and circumstances of those Departments and Agencies year-by-year.....*

There is no certainty attached to such processes, and it is quite possible that some grant pools will dry up in some years.

## 2.11 National Competition Policy

In NSW none of the proceeds of National Competition Policy funding is passed on to Local Government, even though Local Government reform has been part of the justification of the State receiving payments from the Commonwealth.

In Victoria and Queensland Local Government has access to part of this pool. Already encumbered by rate capping, NSW councils miss out relative to councils in neighbouring states by not gaining anything from the National Competition Pool.

## 2.12 GST Revenue Share

Prior to the introduction of the Goods and Services Tax, the Federal Government had planned to pass on the responsibility for the financial assistance grants to the States. In the negotiations with the Australian Democrats, the Federal Government agreed that this responsibility would remain with the Commonwealth. The State therefore argues that because it would receive smaller GST payments, and the Commonwealth was funding the FAG system, it has no obligation to pass on GST funds to councils.

*Councils have missed out in a number of ways...*

The reality is that the State Government now expects councils to provide a much broader range of services and facilities than they have in the past, so the cost of Local Government is continually rising. Although the FAG system promises some stability in grants over time, it has been divorced from its original link with income tax. This link would have given Local Government a means of keeping pace with the growth of the economy. Since councils in NSW have no link to GST payments either, a further potential source for giving councils a justifiable relationship to the tax base of the nation has been denied.

### **3. Developing opportunities at a regional level**

#### **3.1 Regional Organisations of Councils**

The Local Government Act allows councils in New South Wales to join together to form regional organisations of councils, commonly referred to as ROCs.

*The ROCs are likely to become increasingly important in the future.....*

The current government's program of voluntary amalgamation has failed to have much impact on creating a reformed Local Government structure. There is bipartisan agreement that forced amalgamations are not on the political agenda. The future, therefore, lies in enabling councils to achieve better economies of scale, to meet their ever-increasing load of responsibilities more effectively, and to address regional challenges by boosting the ROC structure.

#### **3.2 The Limitations of ROCs**

*There are weaknesses in the way that the ROCs are currently organised. One of those weaknesses arises out of the fact that they have no real place within the statutory system....*

The members of the ROCs are not directly elected by their constituents. Elected members of councils are made up of people who are elected to safeguard and promote the interests of their individual councils. Some of these councillors are then nominated by their councils to work with the ROC. There is always the possibility that the nominated members may face perceived conflicts of interest in deciding between what is good for their own council, and what is good for the region. In a number of cases the potential for conflict that lies within this system has halted the progress of individual ROCs.

Similarly, the financial arrangements of the ROCs are dependent on the ability of member councils to contribute. As Section 2 shows, many councils are battling to fund their own activities without, at the same time, supporting the regional structure.

ROCs have been formed for a variety of reasons. Some find common ground in economic concerns. Geography and environment link some. Some have common social concerns or historic links. Some ROCS are very large in area, some are very small. Some ROCs lack strong regional coherence because the development of a strong and coherent regional structure was not really contemplated when they were formed. Some ROCs have holes in them: that is, some parts of a region may not have all the councils as members. And there are some councils who simply have not joined a ROC.

Some ROCs have many members, while others have few. REROC and CENTROC have 14 council members and HROC has 13. At the other end of the scale CCROC has just two members and MACROC three.

If the overcoming of the revenue:cost problems that have arisen out of the extended range of responsibilities of councils (and there are good arguments in support of this), the present regional structure of councils in NSW would have to be rationalised.

### **3.3 The Strength of ROCs**

As stated above, the slim likelihood of any wholesale reform of council structures in NSW has elevated the ROCs to a central place, if better outcomes for Local Government are to be achieved through the provision of joint services. Building a successful ROC requires a great deal of cooperation and vision within the ROC. Of the 18 ROCs in NSW there are three that have made outstanding progress in developing strong regional activities. Two of these are in Sydney, and the other is HROC.

### **3.4 HROC Structure**

In many ways HROC provides a model that other ROCs in NSW might follow. The Hunter Councils have a history of cooperation that dates back to 1955. In recent years the system has been formalised with a permanent staff and administrative structure.

The Board comprises delegates from each council in the region including the mayors and nominated councillors. The Board meets quarterly.

The General Managers of each council meet eight times a year to discuss matters of a regional nature that affect the management and administration of the councils.

Committees of representatives of each council have been formed for several purposes. Some of these work as professional forums. Some act as task forces to address issues that affect all of the councils. Some act as project groups developing, for example, joint tendering arrangements or the facilitation of regional purchasing arrangements.

### 3.5 HROC Committees

Table 3.4.1 summarises the principal 21 committees that operate within HROC. As the table suggests every council is represented on every committee (with one exception), and on some committees some councils may have more than one representative. Some committees also contain one or more representatives of community organisations relevant to the committee's theme. This represents a flexible organisational structure that enables councils to relate regionally in a manner befitting the significance of different issues to them.

Each committee has a sponsoring General Manager, and each has a team leader. Some committees have members from councils outside HROC whose interests are similar to HROC.

Table 3.4.1

Committee	Number of Councils Represented	Number of Members
Community development and planning	13	17
Contracts	14	22
Cultural Planning	13	19
Customer Service	13	20
Depreciation	13	16
GST	15	31
HR and Training	13	21
Information Hunter	13	19
Joint Action Group	13	17
Joint Purchasing	13	13
OH&S	15	28
Plant & Equipment	13	20
Privacy	13	18
Records Management	15	23
Risk Management	15	23
SOP Meeting	15	16
Sport & Recreation	14	19
Sustainability	13	15
Utilities	13	17
VSR	5	7

### **3.6 Commercial Activities**

HROC has now entered a new phase of its development where it will undertake a number of commercial activities.

These have the aim of delivering cost-effective services to member councils. They are also designed to boost revenue generation to assist in maintaining the administration of regional efforts. The achievement of the commercial activities was delayed by the need to create a separate corporate entity to undertake the tasks.

Among the leading activities are:

- ◆ Records Repository
- ◆ Training and Traineeships
- ◆ INFOHUNT
- ◆ Weeds
- ◆ Waste Services
- ◆ Recycling
- ◆ Tourism

Details of how these commercial activities are organised are provided in the supplementary report following this synopsis.

### **3.7 Other Regional Activities**

There are a number of other organisations that reflect the concerted drive of the Hunter councils to address regional issues. One such is the Lower Hunter and Central Coast Regional Environmental Management Strategy.

This group (comprising five Hunter Councils and two Central Coast councils) was developed in 1995 through an extensive 12-month regional community consultation process. Its aim is to assist, support and resource councils to more efficiently develop and implement environmental management. The original group of seven councils will now be joined by Upper Hunter councils.

Current projects include:

- regional biodiversity conservation strategy
- urban water cycle management
- Upper and Northern Hunter Regional Environmental Management Strategy
- State of the Environment reporting.

Details of these and other activities will be presented in the supplementary report.

## **4. Local Government Expenditure Changes**

### **4.1 Expenditure and the State: Expenditure Rises**

In Section 2 of the synopsis it was noted that in the seven years from 1994-95 to 2000-2001 Local Government revenue in NSW grew by 26%. The information available for expenditure covers only six years (1995-96 to 2000-2001). In that time expenditure grew by 33%. Clearly, the rate of growth of Local Government expenditure has been faster than its revenue growth, and the main reason has to be the load of additional functions that Local Government has had to address.

**In 1995-96 20 councils, out of the 177 that then existed, had an operating deficit for the year. By 2000-2001 62 councils out of 172 in NSW had an operating deficit. The growth of unfunded mandates has pushed more than one third of the councils into deficit.**

*The situation is worse in the case of HROC councils.....*

In 1995-96 just one out of the 12 councils, for which information was available, was in deficit<sup>3</sup>. In 2000-2001 six of the 12 councils were in operating deficit. The rate of growth of expenditure was very high amongst the HROC group. Over the six years one council had an above 60% increase in its level of expenditure, one had an above 50% increase, three had above 40% increases, and two had increases above 33% (the State average).

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<sup>3</sup> Data for Great Lakes was not available.



## 4.2 The Causes of the Expenditure Rises

The main reason for such substantial jumps in the levels of expenditure by councils has been the explosion of responsibilities and obligations passed down by the State and Federal Governments.

*As pointed out in Section 1 there has been very little pattern to this devolution. Individual Departments and Agencies have included Local Government in their own strategic and action planning, almost as a matter of course.....*

In some cases multiple requests and obligations have been handed to councils by separate parts of the one Department, without any understanding of what each has asked. The problem for Local Government is that under the Local Government Act (see Section 1) virtually any arm of the State Government can incorporate Local Government into their schemes. The State Government has never really considered the cumulative effects, reflected in the steep rises in Local Government expenditure over a very short period of time.

Add to this, the fact that the Federal Government has also passed on new obligations to councils, and it becomes clear that there is a pressing need to rationalise the relationship between Local Government and the two higher spheres of government.

*It is almost impossible to capture the full scale of the recent devolution of powers, because it spreads across so many Agencies and affects individual councils in different ways. There has been no central stocktaking of what it adds up to....*

One of the main areas in which devolution has occurred is environmental management. This has followed the embrace of ecological sustainable development (ESD) by both State and Federal Agencies following the 1992 Rio Accord. As agency by agency drew up their own responses to the challenges of ESD they incorporated local area elements that they expected to be handled by councils.

Arising out of this there are now 29 Acts and Regulations in NSW that may involve actions or responsibilities from councils giving rise to 163 separate obligations in the area of environmental protection and natural resource management.

As well, the Commonwealth Government has passed on undertakings related to greenhouse gas abatement, biodiversity, salinity, water quality, and coasts and oceans.

To give just one example of how one element of this broad canvas of obligations can swell out to create multiple demands on Local Government, consider the Hunter Catchment Blueprint. Of the 50 actions laid out in the blueprint Local Government is identified as the responsible or supporting authority for 29 actions. In the supplementary report that follows this synopsis a large number of examples from environmental management, and other areas listed in 4.3, will be provided with costings.

### **4.3 Other Areas of Devolution**

There is not room in the synopsis to cover in detail all the areas where devolution from State and Federal Governments has occurred in recent years. The following list indicates the major areas where this has occurred, and the supplementary report will provide specific examples and the estimates of the cost to councils.

#### *Areas of Devolution*

- health and safety
- community and cultural development
- libraries
- recreation and leisure facilities
- weed management
- waste minimisation
- roads and traffic management
- risk management
- economic development
- welfare
- stormwater management, drainage, flood control
- development approvals
- tourism development
- coastal development
- bush fire management
- airport management

### **4.4 Additional Costs**

Besides the range of new responsibilities that have been passed on the councils, Local Government also has to meet State Government charges (some of which may have been in place before the devolution wave), which vary from year to year, but generally increase.

The problem with such imposts is that the levies are raised by the State Government without consultation, and by large amounts. For example in the current financial year bush fire levies have risen by a factor over three times the level of CPI increases. One HROC council reports that its Rural Fire Service contributions have increased by 166% over 8 years.

Heavy vehicle registration fees have also risen steeply. The roots of these rises lie with the Commonwealth Government, and the focus is sound (as with the bush fire levy), but the effects on council finances can be considerable.

#### **4.5 Reduced Income**

Some of the changes made by the State Government have had the effect of reducing revenue to councils.

The introduction of private certification of development approvals, for example, was intended to improve the efficiency of the development process by widening the number of certifiers. This has reduced the income that councils get from this source (and incidentally brought with it a train of problems arising from the fact that private certifiers are making judgements on developments whilst being paid to do so by the same developers). As councils have lost income through the introduction of private certifiers, they have also had to take on more responsibilities in relation to the introduction of integrated development processes.

#### **4.6 Privatisation and Corporatisation of State and Federal Activities**

Councils in rural areas in particular have been greatly affected by the privatisation of some functions, and the corporatisation of others by both Federal and State authorities.

The effects of privatisation or corporatisation have often involved the removal of employment and income from places, leaving a growing welfare problem.

In a number of places the same effects have been felt because State and/or Federal Departments and Agencies have rationalised their structures, often centralising activities into major centres, leaving a raft of problems behind in the places vacated.

Councils have been frequently left with the task of generating economic activity to try and arrest the decline, whilst also catering for the social needs of those directly impacted.

#### 4.7 Regional Challenges and Regional Capacity

The requests and obligations that have been passed down by both Federal and State Governments have been universal in nature: that is, each council in the State has been obligated in exactly the same way.

*There is a kind of "one shoe fits all" mentality at work.....*

In fact, very often the requests, obligations or actions devised in Sydney are not terribly appropriate to the particular circumstances of councils located in different areas of the State.

Councils are distinctively well placed to understand issues within local areas. As well, councils have very different capacities to respond, even where the devolved ideas are sensible in relation to their areas. The skills needed to handle requests/obligations devised by teams of experts within a large Sydney office are probably not going to be available in a small council where staff have to be capable of handling many tasks at a general level to keep the system going. As well, the less well-resourced councils do not have the financial bases that allow them to shift resources quickly and easily.

The view from Sydney or Canberra fails to understand the great variation in the geographies, areas, populations, financial bases and economic and social structures across a State like NSW.

*The way ahead must involve a more realistic understanding of the capacity limits of councils, and a more focussed relationship of the process of devolution to regional realities.....*

One of the major problems is that the bureaucrats in Sydney or Canberra see the world largely in systems terms, where space and location become incidental features. Local government sees its role as managing actual places, so its focus is comprehensively concerned with managing all the parts of that place. In contrast, the State/Federal view is of a world divided into discrete parts, each part represented by a Department or Agency.

One of the difficulties that arises out of this is that where State or Federal authorities work through regional structures, the structure of one Agency will be different to those of other agencies. The differences reflect a mixture of history and bureaucratic bases, specific to each Agency. From this results a mixture of patterns of organisation across the State which don't bear much relationship to the local area management of those places (the councils). This adds to the complexity and cost of councils dealing with different agencies, and limits those agencies gaining understanding and building robust working relationships with councils.

#### 4.8 Assistance to Councils

The rapid devolution of responsibilities from State and Federal Governments to Local Government has not taken place in a complete cost-shifting fashion. In a number of cases there have been some funds available to cover part of the costs undertaking new obligations.

*There are a number of problems with how these funds are allocated.....*

- ❖ Funds for councils are usually associated with the start-up of some program. When the program is in place, councils are usually left with the costs of maintaining it into the future.
- ❖ Whether the funding is start-up, or available under some other means, councils usually only get funds in the short-term. A basic difficulty with the recent spate of devolved responsibilities is that no one has thought through to the medium and longer terms. There is a bland assumption that councils will somehow find the means to cope.
- ❖ In some parts of the devolution process councils have become unpaid tax collectors for the State. Means have to be created whereby councils are able to at least recoup their costs.
- ❖ The mechanisms by which councils relate to the State are often in the form of developing plans (eg. stormwater) and writing reports (eg. State of the Environment). There are many of these that councils have to prepare, and they are expensive to produce (one HROC council estimates that on average the cost is \$40,000). Besides the matter of costs, councils quite rightly argue that they have to go through processes of planning and reporting that are not required of their much better resourced counterparts at the State or Federal levels.
- ❖ The demands for information flows from State and Federal governments are framed within structures where the information links that might accommodate such flows, and make use of the information, are not well established. The devolutionary process has faltered as a result.

## 5 Rationalisation of Roles and responsibilities

### 5.1 Establishing the Autonomy of Councils

At the root of the problems of devolution of functions from the higher levels of government to councils, is the fact that Local Government is not recognised in the Australian Constitution.

*Local Government's place within the three-level system of Australian government is not clearly enough defined, and its rights and obligations are identified too vaguely.....*

As the Charter of Local Government in NSW (Section 1) demonstrates what is laid down is a curious mixture of broad “motherhood” statements about community leadership and the like, and directives that sit oddly with the scope of functions that now practically determine just what councils do.

An example of the directives is the call “to promote and to provide and plan for the needs of children”. Why this injunction should be elevated to be the fourth point amongst the 12 points of the Charter, and be the only directive of its kind, is anyone’s guess. Why isn’t there an injunction to look after old people or poor people or handicapped people or indigenous people or indeed anyone else? This is an example of the kind of things that flavour-of-the-month type of governance creates. The Charter has accordingly be changed and modified over the years, reflecting the focus of the government of the day.

*Both Federal and State Governments tend to produce stereotypes of Local Government.....*

Generally, the level of understanding of what Local Government can, and does, do is poorly understood by other levels of government. Notions of what Local Government *ought* to do abound, but each Agency or Department has its own opinion of what that *ought* should be. Hence the ease with which the rain of devolved functions has been foisted on councils.

In an age where subsidiarity has become a strong goal of governments across the world, the present ill-defined status of Local Government in Australia should not be allowed to go on. Subsidiarity refers to the principle that public responsibilities should be exercised generally by those authorities that are closest to the citizens. The present system does not allow Local Government to take autonomous responsibility for the good rule and government of its areas. Nor do the increasing levels of devolution provide for appropriate levels of community participation.

*Councils must have discretionary powers to decide what is important to governing their communities efficiently and effectively.....*

Service delivery arrangements that are almost entirely top-down negate the ability of councils to reflect local communities of interest, and to create priorities and solutions to problems that are responsive to the specific needs of communities. Councils do more than just deliver services; they provide the governance structure for their communities. The more the State or Federal authorities can grow to understand this crucial fact, the easier it will be to coordinate the functional relationships between the different levels of government.

## **5.2 Consultation**

The relationship between Local Government and other levels of government, in an age of broadening responsibilities, will always be a very ragged one unless better mechanisms for consultation are developed.

*Rather than the expansion of Local Government being defined through a stream of uncoordinated functional responsibilities ordained by higher levels of government, timely, meaningful and cooperative consultation should precede any functional changes.....*

- ✓ This should be based on developing *consistent principles* for the allocation of roles and responsibilities; principles that recognise the significance of local area management in any scheme of change.
- ✓ There should be a continuous effort to divide responsibilities equitably, and in relation to resources and capacity.
- ✓ There should be a strong focus on eliminating duplication and overlaps.

*This is not to suggest that there is no consultation at present. There is, but the quality and timeliness of much of it leaves a lot to be desired.....*

There are four particular problems with the current levels of consultation.

- ❖ Each Department or Agency (or even sub-sets of these) develops its own form of a consultation process. Each Agency has its own specialist skills and resources, and generally comes to Local Government with its own elaborate idea of what it feels councils must do. Councils are unitary bodies concerned with the overall management of the places that they are responsible for. *It is often difficult to establish a level playing field in relation to the consultations.*
- ❖ Many Departments and Agencies have highly spatially centralised decision-making structures. They devise schemes without an adequate understanding of how they relate to regional issues and regional structures. Even where Agencies have a reasonably good regional structure, the communication flows back to Head Office from multiple locations often fail to make much of an impression on key decision-making.
- ❖ The State and Federal Governments often feel that the task of consultation is complete if they make contact with the Local Government and Shires Association about an issue, or include a representative from the Association on its planning group. These things are helpful, but the LGSA contains many members whose views do not necessarily coincide. If governments are serious about understanding and incorporating regional viewpoints their consultation systems must be much broader and more robust.
- ❖ The most basic problem with the current consultation set-up is that there are just so many Departments or Agencies that potentially could be involved in discussions. If the State and Federal Governments are truly going to consult with Local Government there needs to be much more effort put into creating whole-of-government approaches to issues so that Local Government can respond in a constructive fashion.

*Cooperation, achieved through consultation, will lead to coordination.....*

The system should comprise a series of State-Local Government partnerships, within which the roles of each party is well understood, and their autonomy respected.



The Coalition Opposition in NSW has proposed establishing a “Contract with Councils”. Its aim would be to create a situation where the State Government would not be able to transfer functions and responsibilities to councils without fully explaining the impact that the changes will have. This seems to stop short of the kind of operational partnership discussed above, but at least it is a recognition of the problem.

*The problem with the consultative process like being suggested by the Coalition is that it is too broad.....*

Non-partisan consultative forums with key Local Government figures, and annual meetings with Mayors and General Managers will not solve the problems, or probably gain a very strong understanding of what they are.

The NSW Local Government structure, comprising a large number of councils with different populations and areas, makes it difficult to create proper consultative structures. There needs to be an intermediary structure if consultation is to be effective. This will mean regionalising the links between State and Federal Governments and Local Government in the State. Choosing the right regions and making them effective is not easy. In this context the HROC model is a good starting point.

### **5.3 Financial Considerations**

*The bottom-line to the problems of devolution is the financial bottom-line itself.....*

Until State and Federal authorities recognise that devolution can never be a costless exercise, the outcomes from devolving functions will always be unsatisfactory. Central to the processes of consultation that should proceed any devolution should be a clear appraisal of the costs of the functional change, the relative proportions of the cost that should be borne by the State/Federal Government, and Local Government, and the capacity of councils to bear those costs.
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Even if the process of devolution were to stop tomorrow (and that is unlikely), the cumulative load of new or enlarged responsibilities leaves Local Government with an on-going problem of finding the resources to do what is required.

*In NSW a major part of the solution to this problem lies in allowing the councils to boost their incomes through the removal of the rate-capping system.....*

The rate-capping system has reached its use-by date.

It was framed in a period of very high inflation. It tried to rein in council spending in an age when councils operated under very different conditions than they do today. The 1993 Local Government Act, and even the fact of devolution, has changed the whole face of Local Government management. Councils have proved that they are very effective managers.

As well, the unincorporated property values have grown enormously in most parts of NSW over the past 25 years. Councils should be able to exercise their taxing powers in relation to this fact, so that they can perform their functions in the best fashion. By maintaining the restrictions of rate-capping, the State Government is like asking publicans to run efficient and profitable taverns but not charge for beer.

- A further help to enabling councils to perform their devolved duties is to control the levels of increase of Government charges so that they reflect the real capacity of councils to afford them.
- Conversely, the Government must understand the negative consequences of removing from councils the ability to charge for certain things that have generally been in their preserve.
- Government should also be realistic about setting caps on new charges that arise out of devolution of functions.

<p>In making decisions about bottom-line considerations in relation to devolved functions the Government should have a realistic understanding of the costs of performing that function beyond the often subsidised start-up point, and how those costs can be recovered by councils.</p>
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*Finally, Governments must be realistic about the capital costs associated with devolved responsibilities and the on-going maintenance costs that accompany any capital investment....*

State and Federal Governments should also understand the human resource implications of functional shifts.

- One aspect of this involves training; this is often provided in the start-up phases but little attention is paid to on-going training.

- However good the training programs might be, Governments have to recognise the resource differences between State/Federal Agencies and councils. Whilst a strong range of skills might reside with the latter, the reality for most councils is that their own skills base will never approach the specialist skills that lie within the Agencies.
- There ought to be long-term assistance programs (involving training, flows-of-information, and technical support) to assist councils in managing their devolved responsibilities.
- Because of the structural features of the Local Government system training, support and funding links might best be made at a regional level.
- Underlying the operation of all of these things strong information systems should be established between the councils, their regional structures, and other levels of Government.

## **6 Commonwealth Grants Commission Review of local government (financial assistance) Act 1995 of 2001**

A reading of the review report suggests that very little of relevance to this Inquiry is evident there. The main recommendations relate to clarifying certain aspects of the operations of the 1995 Act, simplifying the objectives (especially the goal of horizontal fiscal equalisation), and creating a second pool within the FAG to separate the minimum grants money from the rest of the funds.

Reference to the Federal Financial Assistance Grants, however, raises the issue discussed in Section 2 of the synopsis. That is, that comprehensive and independent analysis by the NSW Grants Commission shows that the size of the total pool of funds is a little under half that needed by councils to cover (effort neutral) recurrent expenditure, let alone take on new, devolved, responsibilities.