



NSW Independent Local Government Review Greens NSW Submission

RE: July 2012 Consultation Paper
September 2012

Dear Local Government Review Panel,

Thank you for the opportunity to make a submission regarding local government in NSW.

Local government is the level of government most closely connected to the community and is positioned to best identify and respond to community needs. It is an essential component of democracy and any changes to local government in NSW should strengthen, rather than weaken, the bonds and connections between local councils and residents.

The Greens welcome the opportunity to contribute to the discussion regarding the future of local government, as begun in the July 2012 Consultation Paper issued by the Independent Local Government Review Panel.

We have concerns, however, that the questions laid out in the Consultation Paper do not expressly address the terms of reference of the Independent Local Government Review Panel (hereafter 'the Panel'), being:

The NSW Independent Local Government Review Panel is charged with investigating and identifying *options for governance models, structural arrangements and boundary changes* for local government in NSW, taking into consideration:

1. Ability to support the current and future needs of local communities
2. Ability to deliver services and infrastructure efficiently, effectively and in a timely manner
3. The financial sustainability of each local government area
4. Ability for local representation and decision making
5. Barriers and incentives to encourage voluntary boundary changes

By not requesting participants to discuss these parameters, and instead focussing on three vague questions, it is questionable whether the Panel is actually fulfilling the remainder of the terms of reference, being:

In conducting the review the Panel will:

1. Ensure recommendations meet the different nature and needs of regional, rural and metropolitan communities
2. Consult widely with the broader community and key stakeholders
3. Take into account the work completed, and future work to be completed, under the Destination 2036 initiative
4. Take into account the broader interests of the State including as outlined in the State Plan
5. Consider the experiences of other jurisdictions in both the nature and implementation of local government reform
6. Take into account the Liberal-National's 2011 election policy of no forced amalgamations



David Shoebridge MLC
Member of the NSW Legislative Council

As such, before addressing the three questions posed by the Panel in the Consultation Paper, the Greens in our submission will directly address the key aspects of the Panel's terms of reference, namely: governance models, structural arrangements and boundary changes for local government in NSW.

David Shoebridge
Greens NSW Local Government spokesperson

ADDRESSING THE REVIEW'S TERMS OF REFERENCE

1. GOVERNANCE

a. Wards

In principle, the Greens NSW support councils having the option to divide into wards insofar as they provide a mechanism for ensuring that the composition of elected councils reflects community diversity. A ward system in a local government area with multiple centres can provide more direct representation for those communities and their individual character.

Leichhardt municipality, for example, has distinct communities in places such as Annandale, Leichhardt and Balmain all within the one local government area. Many regional councils have wards based around significant regional towns. This can provide for a greater sense of community engagement between councillors and the community and more specific local knowledge in council.

To be effective, the size of the ward should be such that it is not beyond the means of an ordinary member of the community to contest it.

The Greens policy¹ supports the requirement for referenda in relation to proposed changes to the number of wards within a council area, the number of councillors per ward, and changes to ward boundaries (except for minor changes due to population shifts).

The effectiveness of the ward system is largely reliant on a proportional representation voting system. For councils with wards, the Greens believe that to ensure representative democracy it is essential that each ward elects a minimum of three councillors using a proportional representation voting system.²

To allow for diversity of opinion on councils, proportional representation should be a legislated requirement, with councillors being elected based on proportional representation.³ Especially at a local level, the larger the ward the greater the challenge to provide effective grassroots representation.

¹ Greens NSW Local Government Policy, Democratic Reform, 34

² Greens NSW Local Government Policy, Democratic Reform, detail 30

³ Greens NSW Local Government Policy, principle 6



Electing any less than three candidates per ward results in councils that poorly reflect the composition of the community they represent and invariably results in party-political domination on councils. Botany Bay Council is a prime example of this, where two member wards and exhaustive preferential voting for many years ensured that one party won both vacancies.⁴

In March 2012 the Greens introduced the *Local Government Amendment Local Democracy - Ward Representation Reform Bill*, which aimed to put an end to two-member council wards. However, it was voted down in NSW Parliament⁵.

The government instead amended the Local Government Act so that councillors in two-member wards are elected proportionally rather than by an exhaustive preferential system, a minor improvement. Botany Bay City Council, however, amended its structure from three two-member wards to six one-member wards, in order to retain single party dominance over the local government area.

Botany Bay is now the only council in the state which has councillors who are not elected by proportional representation. This represents a break down in our democratic processes and the Greens recommend that the Local Government Act be amended to require that wards must be made up of at three councillors or more elected by proportional representation.

While there are valid arguments in support of wards, the Greens believe that the choice to have or not have wards must remain a decision for the local community. Many LGAs believe that removing wards reduces parochialism and this is a legitimate reason for not imposing wards across the state.

b. Transparency & Public Accountability

Greens believe in increasing transparency and accountability in councils, particularly in terms of opening up council meetings and decisions to the public and increasing resident participation in council decision-making.

Greens on councils across NSW have worked hard to democratise council proceedings by creating rights for residents and community groups to directly address council meetings⁶, for meetings to be recorded and made publicly available⁷ and webcast⁸. These should be statutory requirements.

Accountability is best served by limiting the use of informal meetings of councillors and council staff, so that they are not used to circumvent requirements for open transparent decision making.⁹ All council meetings should be public and residents able to contribute.

The Greens NSW policy aims at increasing transparency of council operations and council meetings through improved access and visibility of council and shire meetings; and by ensuring open and

⁴ See ABC Elections website here: <http://www.abc.net.au/elections/nsw/2012/council/?page=BotanyBay>

⁵ For further detail, see <http://davidshoebridge.org.au/2012/03/29/government-fails-to-address-undemocratic-botany-council/>

⁶ Greens NSW Local Government Policy, Details, 42

⁷ Greens NSW Local Government Policy, Improved Meetings, 40

⁸ Greens NSW Local Government Policy, Improved Meetings, 43

⁹ Greens NSW Local Government Policy, Governance, 44



independent processes for council dismissals, removal of council powers and the appointment of administrators¹⁰.

Greens councillors report that the accountability of council General Managers and senior staff is to a large extent dependent on who is in the chair at the time.

Current statutory arrangements confer excessive powers to the General Manager, at the expense of elected councillors. Greens councillors recommend amending the statutory arrangements to make General Managers more accountable to elected councillors, and thus the local community they represent, and to give councillors a meaningful role in hiring and assessing the performance of senior staff.

Given current trends towards the contracting out of public services, there is a real need to change the way in which contracts are awarded at a local government level. In the interests of transparency, tenders for public sector work and the expenditure of public funds should be assessed and decided on in an open forum.

c. Community Consultation

The Greens NSW believe there is a scope for a greater role for community consultation within local government¹¹, and that councils will reap the benefits of consulting more inclusively with all sectors of the communities they represent.

Greens councillors report that advisory committees provide an effective mechanism for consultation between council and the community. However they must not become de-facto closed door decision-making bodies.

Community consultation should be improved by making consultation mandatory in relation to the following local government issues: planning instruments, development applications, rezoning, budget prioritisation and the sale of public land.¹²

The Greens NSW support the establishment of precinct committees as a means to expanding community involvement in local government decision making.¹³

Greens councillors have called for the expansion of Youth Councils, as a means to achieving consultation with people aged 18-35 who remain otherwise totally disengaged with local government. Rockdale Council has an example of a well-functioning Youth Council that assists in the delivery of services to young people within the LGA.

Proposed changes to the NSW Planning laws relating to community consultation are particularly concerning. A key election promise of the O'Farrell government was to return planning powers to local communities. However the government's planning Green Paper¹⁴ contains a number of

¹⁰ Greens NSW Local Government Policy, Details, 18, 19

¹¹ Greens NSW Local Government Policy, Details, 20

¹² Greens NSW Local Government Policy, Community Consultation, 49

¹³ Greens NSW Local Government Policy, Community Consultation, 50

¹⁴ See Planning Review website here: <http://planningreview.nsw.gov.au/>



provisions which remove of the ability of councillors and residents to be consulted on most development applications.

The Green Paper also proposes the creation of Enterprise Zones which will be characterised by "very little, if any, development controls"¹⁵, where development will occur without any say by the local community. These proposals will greatly reduce local governments role in planning for the sustainable future of their communities.

The Green Paper proposes to engage the community in the planning process for their local area at the strategic planning level. This is a noble aim but the government has yet to reveal the parameters for this consultation. Given the difficulties involved at engaging people in a strategic planning level, there is a real danger that the government's proposal will instead lead to less community involvement in decisions relating to their local area.

Whatever consultation is done at a strategic level, this is no reason to remove the rights of the community to engage in planning and development decisions once strategic planning has been done.

d. Relationship with other levels of Government

The Greens NSW believe in integrating local government with state and federal government and codifying this integration through Commonwealth Constitutional recognition for local government.

Done well this would allow genuine consultation by other spheres of government on all relevant legislation and programs that impact significantly on local government, including a local government impact statement¹⁶.

The policy also calls for parliamentary privilege type protections should be extended to councillors as a means to enhancing democratic participation¹⁷.

2. STRUCTURAL ARRANGEMENTS

a. Regions of Councils

The concept of Regions of Councils (ROCs) is a positive one inasmuch as there are obvious benefits for councils in regional areas to engage with each other on areas of regional significance, such as joint infrastructure development tendering and environmental protection initiatives. There clearly is some benefit in councils engaging in collective purchasing arrangements at a regional level.

The ROC model has worked effectively in regional and rural areas where it has successfully delivered services like waste disposal and libraries to larger geographic areas on a more cost-efficient basis through group-purchasing, share capital investment and advocacy.

¹⁵ Planning Green Paper, page 45:

<http://planningreview.nsw.gov.au/LinkClick.aspx?fileticket=amJqcsb0YOOQ%3d&tabid=77>

¹⁶ Greens NSW Local Government Policy, Details, 17

¹⁷ Greens NSW Local Government Policy, 53



However, many Greens councillors have expressed a number of concerns about the current ROC model. In its present form the ROC is accountable to neither residents nor Councils. This is seen particularly in the variability in the operating structures.

Overall, the ROC model requires a level of state bureaucracy to substantiate its role, but should remain a voluntary opt-in model and not receive any increase in statutory power.

b. Councillor Training

It is currently at the discretion of councils whether or not training is provided for councillors. However, feedback from Greens councillors suggests that paid training sessions for incoming councillors are invaluable and should be compulsory. Training is particularly useful in relation to planning law matters, Code of Conduct responsibilities and pecuniary interests.

c. Employer Responsibilities

Local government is often the single largest employer in a given local area, providing secure public sector employment. The Greens believe local government should continue and expand on its role as a key employer in local communities.

Greens councillors report on the value of local government employing permanent staff, compared to contract-based employment, in terms of providing for generational transfer of skills, including the training of apprentices, and the accountability of staff to council.

The Greens believe that the contracting out of local services takes away the ancillary benefits of employing people locally and also masks extra costs that can be incurred. Without a personal stake in the local community through full-time ongoing employment, contractors by and large are less loyal, less responsive, and less accountable.

d. Tenders

Greens councillors recommend that any evaluation matrix considered by councils in deciding tenders must scrutinise employment practices within the tender company, for example whether *they* contract out and whether they use sub-standard labour or award standards.

Greens councillors recommend that all tender reports should be public documents. The Greens NSW policy seeks to reform how councils handle commercial-in-confidence information to ensure public scrutiny and transparency. Greens councillors report that such improvements would be well received by unsuccessful tenderers, those members of the public most interested in probity and would prevent the current anti-competitive tendering environment encountered by local government.

The Greens NSW local government policy aims to clearly define the responsibilities of all layers of government, implement sustainable financing for local government and to end cost shifting¹⁸.

¹⁸ Greens NSW Local Government Policy, 15, 16



e. Rates

Rate-pegging, along with continued cost-shifting from state and federal to local government, continues to put unreasonable financial constraints on local government.

Greens NSW policy stipulates that social equity should be prioritised over user-pays principles when setting council rates charges. The policy calls for an end to rate-pegging, and for a binding memorandum of understanding between NSW local and state government setting out responsibilities, appropriate finance and a commitment to cooperation and consultation.¹⁹

3. BOUNDARY CHANGES

In furtherance of the principle of grassroots democracy and in support of the view to empowering local communities through the forum of local government the Greens NSW support the requirement that proposed 'significant' local government area boundary changes be approved by referenda in each affected council area; and that open, public consideration of boundary changes be conducted prior to referenda.²⁰

The Greens NSW support the requirement for referenda in each affected council for approval of proposed council amalgamations²¹.

The Greens NSW will not support forced amalgamations or boundary changes, and will hold the O'Farrell government to its election commitment of no forced amalgamations.

The Greens NSW recognise that questions of amalgamation and boundary change facing regional and rural council areas with population distribution is vastly different to those facing urban metropolitan councils. Where amalgamations and boundary changes do occur in geographically larger council areas, they must be approved by referenda by local communities.

In the case of council amalgamations, the Greens NSW seek to ensure council staff jobs, wages and working conditions are protected.

There are other viable options, including resource sharing, creative regional governance structures and greater state support that should be considered prior to amalgamation in most circumstances.

KEY QUESTIONS ASKED IN THE CONSULTATION PAPER

Below are the three key questions the Panel has asked to be addressed in submissions. The answers given are merely indicative of the direction we could take. There will be other issues that we should address and the points below are only suggestions in how we could approach the answers. Some points will be very different for different councils as there are so many differences between the processes of each council.

What is a positive on one council could be a negative or non-existent on another and we look forward to further discussion on how these points relate to individual councils.

¹⁹ Greens NSW Local Government Policy, 13, 28, 29

²⁰ Greens NSW Local Government Policy, Democratic Reform, details 32, 33

²¹ Greens NSW Local Government Policy, Democratic Reform, detail 31



1. WHAT ARE THE BEST ASPECTS OF NSW LOCAL GOVERNMENT IN ITS CURRENT FORM?

a. Democracy

The democratic process of open elections for council members is very important as Council is the closest level of government to the community and is in the best position to identify and respond to their needs.

The ability of any member of the community to run for council is an important part of our democratic system and allows people from all levels of society to stand for election. This will be lost if local councils are allowed to expand to the size and scale seen in Victoria.

b. Wards and Precinct Committees

The ward system, where it is in place, with councillors elected proportionally, typically allows more direct and personal access to councillors who have a particular knowledge of their area

Precinct committees, where they exist, are an important part of the democratic process allowing members of the community to have a meaningful say in the developments and activities in their suburbs.

c. Transparency

Familiarity with the process and systems of the council allows residents and applicants a certain amount of surety and understanding in how the system works.

Recording, live streaming and open sessions of council allow constituents to follow the workings, processes and decision making of council and demonstrates accountability and transparency.

Allowing residents to come and speak at Committees of Council, roundtables and forums is an important way for the community to have a say in the workings of the council.

d. Accountability

Constant auditing and publishing of council business processes, finances and staff performances add to the transparency necessary for open and accountable government.

The ability of all interested parties from developers to residents to put their case to the democratically elected councillors in public forums and committees allows council to hear all voices and balance different points of view in an open, transparent and democratic manner.



2. WHAT CHALLENGES WILL YOUR COMMUNITY HAVE TO MEET OVER THE NEXT 25 YEARS?

For all councils large and small, regional and metropolitan, some of the biggest challenges over the next 25 years will be:

Demographic change, particularly in large cities where population increase will put huge strains on existing resources. This is particularly true of ageing populations and the special needs of aged care.

The provision of **affordable housing**, co-operatives and alternative forms of tenure such as community land trusts.

Social services for an ageing population, people with a disability, refugees, the homeless and other disadvantaged groups.

Future-proofing our LGAs against climate change, extreme weather events and sea level rise (coastal councils).

The provision of **appropriate infrastructure**.

The growing problem of **waste removal** and its sustainable reuse/disposal.

The provision of **public transport** (all levels of government).

A move to **sustainable and renewable forms of energy**.

The provision of **active and passive green open space** in an ever decreasing spatial environment.

Increasing the opportunities for **community input** into the local government decision making process and providing the mechanisms for resident-driven local action plans.

Creating more **local council employment opportunities** rather than contracting services out to private contractors and sub-contractors.

Bringing **an end to cost shifting and rate pegging** in consultation with the community.

Removing the dual votes of mayors and creating panels which allow all elected councillors to play a role in the hiring of General Managers and Directors.

Rectifying issues relating to **exempt and complying development**, relating to transparency, the lowering of standards of consumer protection, the potential for corruption and the loss of information to the community about the type of housing and development in any given LGA.

The corrosive **influence of private certifiers on building standards** across the state and the impossibility of councils to retrospectively remedy their errors.



3. WHAT 'TOP 5' CHANGES SHOULD BE MADE TO LOCAL GOVERNMENT TO HELP MEET YOUR COMMUNITY'S FUTURE CHALLENGES?

1. Improved Community Input

There should be more community input into all stages of local government decision making not just major planning documents. This should be done by the use of Precinct Committees, Small Business Panels and other Advisory Panels e.g. Disability Access, Young People, LGBTI etc.

Some councils, like North Sydney and Leichardt, already have Precinct Committees while other councils may have one or more Advisory Panels but there is no conformity across the state. This should be remedied to make all councils more accountable. In particular there should be more Aboriginal and Torres Strait Islander Panels to advise councils on the needs of our first Australians.

2. Community Needs, Not Developers' Greed

A better balance must be created between developer needs and resident amenity. Notices of all development applications, service improvements and policy reviews should be able to be accessed by the community through Precinct Committees, community noticeboards, online access and community presentations.

3. Improved Reviews and Assessments

Improved public consultation and rigorous peer reviewed expert consideration should be made of all areas of major development such as Greenfield, infill, brownfield and urban renewal developments which will have a major impact on surrounding areas.

Social Impact Assessments should be undertaken for all such significant developments which would look at transport, parking, open space, infrastructure and community services such as schools, employment and retail needs and the amenity impact on existing residents.

4. Financial and Ecological Sustainability

Sustainability measures must be incorporated into all council business to ensure that the LGA will be sustainable into the future and will not degrade and destroy natural and built assets. Sustainability should be incorporated into all developments both council and private to ensure the ongoing viability of an LGA in terms of protection against climate change and dwindling resources.

5. Three Levels of Government Working Together

Better working, planning and funding arrangements should be established between all three levels of government particularly around the provision of transport and infrastructure.

For example the introduction of light rail into the City of Sydney is an important innovation to the public transport system but it cannot be achieved by local government alone. It must be supported by the state and federal governments.