

ATTACHMENT D

SSROC's submission on "Revitalising Local Government", 24 March 2014.

Also accessible at

<http://ssroc.nsw.gov.au/wp-content/uploads/2015/04/Letter-to-Minister-for-Local-Government-accompanying-ltr-to-NSW-Premier.pdf>

Submission on “Revitalising Local Government”

24 March 2014

Southern Sydney Regional Organisation of Councils

SUBMISSION TO:

Local Government Independent Review Panel

Ashfield Bankstown Botany Bay Burwood Canada Bay Canterbury
City of Sydney Hurstville Kogarah Leichhardt Marrickville Randwick
Rockdale Sutherland Waverley Woollahra

Executive Summary

Introduction

The purpose of this submission is twofold.

Firstly, despite there being no, or at best sketchy evidence that forced amalgamations result in more efficient and effective service delivery or meet the community of interest concept which is crucial to the local communities, the Independent Local Government Review panel has continued to focus on the amalgamations of Councils in the Sydney metropolitan area. Amalgamations should only occur if Councils initiate the process.

Unjustified amalgamations:

1. Reduce democracy.
2. Lessen the capability of communities to express views on local issues.
3. Reduce contestability.
4. Eliminate diversity in regional collaboration and the exploration of potential economies of scale

Secondly, the reform aims to achieve "strategic capacity" in Councils, and a reliable partner for State Government. Amalgamations are not the answer to these challenges, and the ILGRP has signally failed to demonstrate that they are. But many of the reform objectives can be achieved by regional collaboration and necessary enabling legislation. The Councils of Southern Sydney aim to deliver these outcomes and continue to benefit from the services of a regional organisation by a model that provides for:

- Membership of a regional group determined by Councils, not prescribed by the State Government
- A Council of Mayors governance model
- Sub regional groups or Joint Organisations as described by the panel, but without the detailed prescription suggested by the Panel, for strategic planning purposes and/or specific projects that have an end date e.g. the current WestConnex project.
- The state government entering into a 'compact' with local government, specifying the obligations on both sides in relation to intergovernmental relations. In particular, the government would commit to agreed protocols governing consultation on policy and planning, including an undertaking that consultation would take place primarily through the Councils of Mayors.

The solution builds on what is currently the best of regional collaboration with a number of key enabling legislative changes and mutually agreed changes to intergovernmental relations between the State Government and its agencies and local government. **We urge the Government to adopt this model, or to permit its trial in southern Sydney.**

No Forced Amalgamations and A Proposed New Regional Structure

In SSROC's previous two submissions to the Panel it has been highlighted that nowhere in the various analyses mentioned in the Panel's reports, is there any evidence that leads to a conclusion that larger Councils provide better or more efficient and effective Local government. As SSROC has highlighted previously, the comparative analysis in relation to infrastructure management across Australia does not support the contention that those

States that have gone through an amalgamation process are in some way in a better position in relation to financial sustainability or infrastructure management.

Twelve months ago SSROC member Councils proposed a model for regional collaboration that will ultimately require legislative change. The proposal involved a new structure and governance framework for SSROC to complement the proposed model.

It was suggested that a pilot program based on the new structure, and the necessary legislative change that would be required, would provide a basis for an ongoing model for regional cooperation.

Subsequent to proposing this model SSROC engaged Professor Gary Sturges to consider a new regional model for local government in the SSROC area, with particular attention to three issues:

1. A Council of Mayors;
2. Efficiency;
3. Participatory democracy.

In his report titled “**Efficient Boundaries**”, Professor Sturges’ states;

“This report was not principally concerned with amalgamations and boundary changes, but it is evident from a close reading of the Panel’s final report, that it is relying on amalgamations to deliver economies of scale and greater strategic capability in the delivery of local services. In the Sydney Metropolitan Area, the Review Panel is proposing widespread rationalisation, with a number of local authorities being merged into much larger councils.”

He continues:

This (his) review argues that the ‘efficient boundaries’ of local government are somewhat more complex than the Review Panel has recognised. As discussed below, the evidence concerning economies of scale and scope in local services is not strong, and they differ from service to service. Moreover, the efficient size of a council may differ between its political (or representative) functions and its production functions..... The search for the ‘efficient boundaries’ of local government cannot be reduced to a simple set of principles capable of being driven through in a one-off reform agenda.

Accordingly SSROC’s position of no forced amalgamations, directly or by stealth through regional joint organisations or through a boundary commission deliberation, either before or after the next State election, is unchanged.

As a result of the report of Professor Sturges SSROC’s position in relation to regional collaboration is also unchanged, but is expanded upon utilising the key principles identified in his report. Under this model, as highlighted by Professor Sturges:

- *The Local Government Act would be amended to enable regional groupings of local authorities to establish themselves as Councils of Mayors or similar bodies.*
- *The state government would enter into a 'compact' with local government, specifying the obligations on both sides in relation to intergovernmental relations. In particular, the government would commit to agreed protocols governing consultation on policy and planning, including an undertaking that consultation would take place primarily through the Councils of Mayors (or their equivalents). The Department of Premier and Cabinet would be the custodian of this agreement from the perspective of state government.*
- *The state government would enter into a separate memorandum of understanding with the member councils of each proposed Council of Mayors (or equivalent).*
- *Boundaries and membership would be decided by the member councils, but there would be legislative constraints on withdrawal within a period of five to ten years, or alternatively, a comparable notice period. This would severely limit the scope for gaming behaviour on the part of individual councils.*
- *In the formulation of the memorandum of understanding with state government, member councils would agree to work closely together on issues of regional and sub-regional planning. The state government should use the memorandum of understanding to ensure that councils continue to collaborate and develop their collective capabilities in relation to regional planning.*
- *While the Councils of Mayors would be the primary vehicle for regional advocacy and planning, this would not preclude councils from coming together in other sub-regional and cross-regional groupings to deal with issues of particular concern to individual councils (as is presently the case).*
- *Each Council of Mayors would arrive at its own agreement on the range of services that would be commissioned and/or provided exclusively through that body, with members bound for the duration of the business plan (say, ten years). Member councils would still collaborate in joint commissioning of goods and services case by case, as is presently done through SSROC, and in that case, participants would be committed for the duration of the contract."*

SSROC reiterates its previous proposal offering to work closely with the State Government in the establishment of a Council of Mayors for the region, based on the fundamental principles described above.

1. Background

In considering its position in relation the Panel’s final report SSROC, as an organisation comprised of 16 member Councils, has focused primarily on issues associated with regional collaboration. Many of the proposals outlined in the Panel’s recommendations are well thought out many will be supported by member Councils, but there are divergent views within Councils over some of the recommendations. SSROC’s view is therefore that individual Councils should make their individual comments to the Panel in relation to these issues.

Accordingly the focus of the submission on what SSROC believes are ‘efficient boundaries’, both in a regional and individual Council context.

This submission reflects not only the views of its member Councils but also is strongly influenced by an independent assessment of the findings of the Independent Local Government Review Panel by Professor Gary Sturges (see attached report “*Efficient Boundaries*”). Rather than repeat in detail the findings and recommendations of Professor Sturges, his report forms part of this submission as an attachment. Nevertheless many of the comments contain in this submission will draw directly from his report.

The structure of the report will be:

1. The Strategic Capacity Concept
2. To address the components of the Panel’s report that relate directly to efficient boundaries ie recommendations numbers 31 to 37 in the Panel’s report.
3. Propose a Council of Mayors model
4. Conclusion and Next Steps

2. The Strategic Capacity Concept

The initial report of the Panel focused on financial sustainability as key driver of for major review of local government in NSW and promoted larger Councils as a mechanism to rectify the problem. When this 'underlying' driver was proven not to be the key issue the Panel's focus turned to the obscure concept of strategic capacity. Although definitions have been proposed, is still not clear and has not been clearly enunciated either in this or previous reports or at Panel forums. As Professor Sturgess states in his report:

"The final report of the Review Panel argues that the focus of government policy should lie in strengthening 'strategic capacity'. This is defined as developing the 'right structures, government models, skills and resources to discharge its responsibilities and realise its potential'. This term is liberally sprinkled through the report, although it seems have a variety of different meanings. For example, the word 'strategic' is used in the following passage as though it were identical with economies of scale:

. . . the need for councils to shift their focus towards a more strategic view of their operations; to have the ability to respond to the diverse and changing needs of different communities; and to take on new functions or deliver improve services in order to meet those needs. This implies a move to larger, more robust organisations that can generate increased resources through economies of scale and scope, and then 'plough back' efficiency gains into infrastructure, services and other benefits for their communities.

It is possible that what the Review Panel means is that larger organisations will attract better quality managers and that they will be capable of supporting more staff trained in strategic policy and planning. But as discussed earlier in this report, all of this depends on what kind of institution local government is supposed to be. There is little doubt that planners and policymakers in state and federal governments would like local government employees to look and sound more like them, but it is far from clear that this is what the public want, or that it would result in better public services. And there is certainly no evidence that would suggest that larger municipalities are better managed or more innovative than smaller ones"

SSROC submits that the communities that Councils serve want organisations that can:

- 1) Deliver services at a local level in a responsive and efficient and effective manner
- 2) Provide readily access decision makers

They do want a general purpose style of government which the Panels report is proposing.

3. Recommendations of the Panel Associated with Regional Collaboration

Recommendation 31

Introduce additional options for local government structures, including regional Joint Organisations

Recommendation 35

Establish new Joint Organisations for each of the regions shown on Maps 2 by means of individual proclamations negotiated under new provisions of the Local Government Act that replace those for County Councils

- *Defer establishment of JOs in the Sydney metropolitan region, except for sub-regional strategic planning, pending further consideration of options for council mergers*
- *Enter into discussions with 2-3 regions to establish 'pilot' JOs*
- *Re constitute existing County Councils as subsidiaries of new regional Joint Organisations, as indicated in Table 5*
- *Establish Regional Water Alliances in each JO along the lines proposed in the 2009 Armstrong Gellatly report*
- *Set the core functions of Joint Organisations by means of Ministerial Guidelines*
- *Seek federal government agreement to make JOs eligible for general purpose FAGs*

Recommendation 36

Identify one or more regional centres within each Joint Organisation and:

- *Create a network of those centres to drive development across regional NSW*
- *Consider potential mergers of councils to consolidate regional centres, as indicated in Table 6*

Recommendation 37

Develop close working partnerships between Joint Organisations and State agencies for strategic planning, infrastructure development and regional service delivery, and

- *Add representatives of Joint Organisations to State agency Regional Leadership Groups*
- *Give particular attention to cross border issues and relationships in the operations of Joint Organisations and in future regional strategies*

Comments in Relation to recommendations 31, 35,36,37

SSROC does not support any of the above recommendations, nor the logic or analysis behind them.

The panel expressed concern that "the embedded culture of ROC is one of voluntarism, either in membership or participation in joint activities or both. Their scope of operations and effectiveness varies too much from time to time and region to region". They suggest this implies the need for stronger, statutory regional bodies whose role and functions are fixed over the medium-long term. It states that without this change "it is difficult to see local government as whole being able to present itself as a reliable and capable partner of State Agencies".

These comments in themselves suggest a certain lack of understanding with respect to not only how the majority of ROCs, and certainly SSROC, operate, but why they hold the view that local government in its current form "can not present itself as a capable partner of State Agencies".

Page 57 of The Sturgess report states " One of the difficulties with the proposal to establish RJOs that are consistent with state and federal planning boundaries is that assumes that departments and agencies are interested in, or capable of giving a binding commitment to maintain these boundaries as primary administrative divisions and to work closely with the RJOs. Based on past performance, these are heroic assumptions.

It is also unclear why it would be in the interest of local government to be assimilated into state government policy and planning processes in this way. While there are obvious benefits in collaboration between federal, state and local governments, their interests are not always aligned. Our federal system is (and ought to be) competitive as well as collaborative, a principle the state government well understands in its dealings with the federal government. Relax the assumption of a common purpose, and coordination becomes another term for coercion.

In any case, it is unlikely that the RJOs could accommodate the diversity of interests that exists across the Sydney region. While the Panel seems to discount the possibility, there would still need to be sub-regional and cross-regional planning and advocacy forums. ...Eight SSROC councils are also members of a special purpose ROC, the Sydney Coastal Councils Group; five belong to the Cooks River Alliance; and another five have investigated the possibility of establishing a special purpose county council to coordinate planning issues associated with the redevelopment of Parramatta Road. If the councils adjoining Botany Bay were broken into two separate RJOs, as proposed by the Review Panel, then there would be need for another cross-regional advocacy forum to represent their shared concerns about transport planning and environmental management issues.

In spite of the superficial elegance of the RJO concept, there is significant doubt about how it would work in practice. "

With respect to "Strong Joint Organisations" as described by the Panel he makes the following comments:

In its list of proposed changes to local authority boundaries in the Sydney region, the report recommended that if the state government did not proceed with forced amalgamations resulting in the establishment of 18 very large councils, that it should consider the creation of seven 'strong Joint Organisations' as an alternative. The scope of these organisations and the extent to which they would be mandatory is not fully explained, but the Panel understands that they would be responsible for somewhat more than sub-regional planning.

It has acknowledged that these probably would need to have different boundaries from the planning and advocacy RJOs. As described in the Panel's report:

Proposed boundaries are aligned with, or nested within, those to be used for delivery of the State Plan, for regional coordination amongst State agencies, and for preparation of Regional Growth Plans by the Department of Planning and Infrastructure.

The failure to spell out the scope of these Strong Joint Organisations (SJOs) makes it difficult to respond, but presumably, the intention is that they would have a much larger role in the delivery of shared services. In many ways, they seem to resemble the general purpose county councils discussed by the Review Panel in its interim report.

If they are not to be a fourth layer of government, then presumably it is intended that, over time, the SJOs will take over more functions of local government. However, given the paucity of information, it is difficult to know."

The Panel's report suggests that each Joint Organisation would be established by "individual proclamations" that specify their area and functions as well as governance and operations it does recommend that a "flexible and enabling framework ... has great merit: it can facilitate negotiated approach to the establishment of robust organisations tailored to the particular circumstances and needs of different group of Councils".

What the Panel is trying to achieve can be done with a number of legislative changes, which SSROC submissions have previously highlighted. The Panel's "flexible and enabling framework" can be achieved without adding another level of bureaucracy. As SSROC has submitted previously, a regional organisations responsibilities should not be prescribed in detail, but rather any legislative changes should be enabling in nature and allow for flexibility to meet differing requirements of member Councils. The member Councils should determine what the precise role of their ROC should be. Activities, programs and possibly even structure should be determined by member Councils and not prescribed by the State government.

Some of the enabling changes that would need to implemented are outlined in the following section 4, **A Council of Mayors model**.

It is important to note that whatever change occurs in relation to regional bodies, their success is reliant on three main factors:

- I. Commitment of the State Government and its agencies to meaningful consultation and cooperative approaches facilitating a two- way effective partnership.
- II. Commitment of their members to regional collaboration and a clear understanding of what that involves.
- III. The regional organisation needs to be appropriately resourced to meet their members requirements.

If the State government gets number i) correct, ii) and iii) will follow.

Local government does not need an overly prescribed model. Simply drawing lines on maps as the Panel has done will not achieve those outcomes. As identified by Professor Sturges on page 8 of his report *"The creation of super councils, mandatory RJOs or SJOs will have the effect of undermining contestability, by narrowing the scope for benchmarking and the prospect of alternative provision in the case of under-performance. The state government should be seeking to establish a system that has in-built incentives for innovation and productivity improvement, rather than seeking to drive these initiatives from above."*

The final comment relates to the funding arrangements proposed for Joint Organisations. There is an unnecessary recommendation that a redistribution of part of the general purpose federal financial assistance grants be made to Joint organisations, or Councils of Mayors in our proposed model. This should not be supported for several reasons. Firstly, despite the Panel's comments to the contrary, this suggestion is in effect assisting in the creation of a fourth tier of government. Also with the potential for redistribution of FAGs from metro to rural areas, it would further decrease metro Councils' revenue.

Recommendation 32

Legislate a revised process for considering potential amalgamations and boundary changes through a reconstituted and more independent Boundaries Commission

Comment

Not supported - Another way of forcing amalgamations

Recommendation 33

Encourage voluntary mergers of councils through measures to lower barriers and provide professional and financial support

Comment

Not supported – a waste of resources again designed to meet a preconceived outcome

4. A Council of Mayors Model

There needs to be a fundamental commitment on the part of state government to work with regional organisations. The recognition and access will encourage councils to work through the Council of Mayors.

The challenges and potential solutions to regional collaboration are shown in the table below:

Challenge	Solution
Preservation of flexibility, diversity and ability to learn in regional collaboration	Choice over boundaries, membership and functions through a Council of Mayors
How to overcome problems of variances in participation in regional projects	Appropriate legislative framework Membership mandatory for 5 or 10 years once committed Earlier commitment by Councils in shared services and procurement
Commitment from the State Government and its agencies to meaningful engagement in planning and policy	Establish compact with local government MOU for each individual Council of Mayors
Address capability issues in shared services	State Government works in collaboration with Council of Mayors Internal structure of Council of Mayors amended to acquire skills to develop effective “commissioning” of shared services
How and to address the hard questions in shared services	Openly acknowledge and address strategically, not project by project

The following sections show the type of structure that will assist in achieving the solutions identified above; what are some of the underlying fundamental principles to facilitate success; and outlines a new approach to shared services.

Structure

Under the Council of Mayors model representation on the board would be confined to the mayors or their deputies as alternates. This legitimises the board as a group of regional leaders.

The model includes the option for Councillors from member Councils to participate in committees established to assist in developing regional strategies.

The board would focus on advocacy and strategic representation, with support from a formally constituted General Managers Group. This group would oversee the development of joint position papers and resource sharing initiatives, and along with executive staff, undertake detailed consultations and negotiations with state departments and agencies. It is fundamental for the success of the model that formalisation of the General Managers Group is the de facto executive of the Council of Mayors. The group that would develop the shared vision of the organisation developing the shared services agenda, and establishing the organisation as a successful "commissioner" of such services. Upon them would rest the responsibility for developing the capability to engage with state and federal governments in advocating positions of common concern to the member councils.

Of course, the responsibility for strategic leadership and the overall success of the organisation must lie with the mayors working together in the board of the Council of Mayors, and the work of the General Managers Group must be directed to securing the endorsement of that forum.

There should also be the option in the model for the Council of Mayors and General managers group to include commercial /technical experts as advisors and to establish shared services entities, or as described by Professor Sturgess on page 51 of his report "shared service providers" owned by the regional organisation.

The internal structure of the regional organisation may also need a "commissioning" section to encourage a diverse and evolutionary approach to shared services with member Council which would working closely with the state government to develop innovative approaches to the benefit of both parties.

Fundamental Principles

The fundamental principles to achieve success that need to be both recognised and initiated have been highlighted elsewhere in this submission include:

- Appropriate legislation recognition in the Local Government Act
- The Local government Act amendments to allow ROCs to call and award tenders and to apply and receive grants; and
- The removal of limitations to incorporate.
- The Local Government Act would be amended to enable regional groupings of local authorities to establish themselves as Councils of Mayors or similar bodies.
- The state government would enter into a 'compact' with local government, as described above.
- The state government would enter into a separate memorandum of understanding with the member councils of each proposed Council of Mayors (or equivalent).

- Boundaries and membership would be decided by the member councils, but there would be legislative constraints on withdrawal within a period of five to ten years.
- In the formulation of the memorandum of understanding with state government, member councils would agree to work closely together on issues of regional and sub-regional planning.
- While the Councils of Mayors would be the primary vehicle for regional advocacy and planning, this would not preclude councils from coming together in other sub-regional and cross-regional groupings to deal with issues of particular concern to individual councils
- Each Council of Mayors would arrive at its own agreement on the range of services that would be commissioned and/or provided exclusively through that body, with members bound for the duration of the business plan say, ten years.

Facilitating Improved Shared Services in a Council Of Mayors Model

As identified above, in developing shared services in local government, under a more contestable regime, the state government and the proposed Councils of Mayors will need to address several important capability issues. There is currently very little benchmarking of local services in NSW, and local and state governments will need to collaborate in the development of such a system, which is fundamental to effective contestability. There is also a need for improved capability in the design and execution of shared service solutions – the state government has as much difficulty with this as local government, and both parties need to work together in progressing this agenda.

Some of the changes identified by Professor Sturges (see Page 41) include:

- Changes to the Division of Local Government’s Standard Contract for General Managers and Senior Staff to facilitate employment arrangements involving multiple employers;
- Amendment of the Local Government Act to make it easier for councils to establish or participate in an entity for the purpose of sharing staff, to facilitate the transfer of senior staff in inter-council staffing arrangements, and to allow temporary appointments for periods of longer than 12 months;
- The development of guidelines that would provide confidence and clarity to the local government industry in the way in which councils enter into legal arrangements for the sharing of staff;
- The provision of resources and training to local authorities to assist them in establishing inter-council contractual arrangements for sharing staff.

In addition the internal structure of Council of Mayor’s organisation needs to incorporate an expanded role for the General Managers group involving developing the shared services agenda, and establishing the organisation as a successful “commissioner” of such services. The regional organisation needs to be resourced appropriately.

The table and diagram below provide an overview of the model:

Council of Mayors Model

Objective:	To create a model of regional collaboration established by member councils under new appropriate state legislation, with clear authority, access and clarity of purpose and facilitating a two- way effective partnership with the State Government.
Key Features	Membership established by Councils Increased emphasis on the role of mayors and a strategic focus by councils with greater emphasis on regional collaboration
Key Organisation	Council of Mayors or similar
Legislation	Requires enabling legislation that establishes a requirement for participation in regional activities as identified above under "Fundamental Principles".
Incorporation options	A Council of Mayors model with a Mayor/delegate of each council.
Governance	A delegate from each Council Committees as required to focus on identified regional issues A formally constituted General Managers Group Options to access independent advisors with appropriate technical /commercial/professional skills
Participation	Boundaries and membership to be decided by the member councils, but there would be legislative constraints on withdrawal within a period of five to ten years.
Structure	Structure to contain: <ul style="list-style-type: none"> • Representation on the board would be confined to the mayors or their deputies as alternates to focus on advocacy and strategic representation • Councillors with a particular interest in regional matters could still participate in the committees. • Regional sub groups or joint organisations for strategic planning and specific projects • A formally constituted General Managers Group which would oversee the development of joint position papers and resource sharing initiatives, and along with executive staff, undertake detailed consultations and negotiations with state departments and agencies. • An administration body • Option to establish shared services entities • The General Managers group develops the shared services agenda, and establishes the organisation as a successful "commissioner" of such services. The regional organisation needs to be resourced appropriately

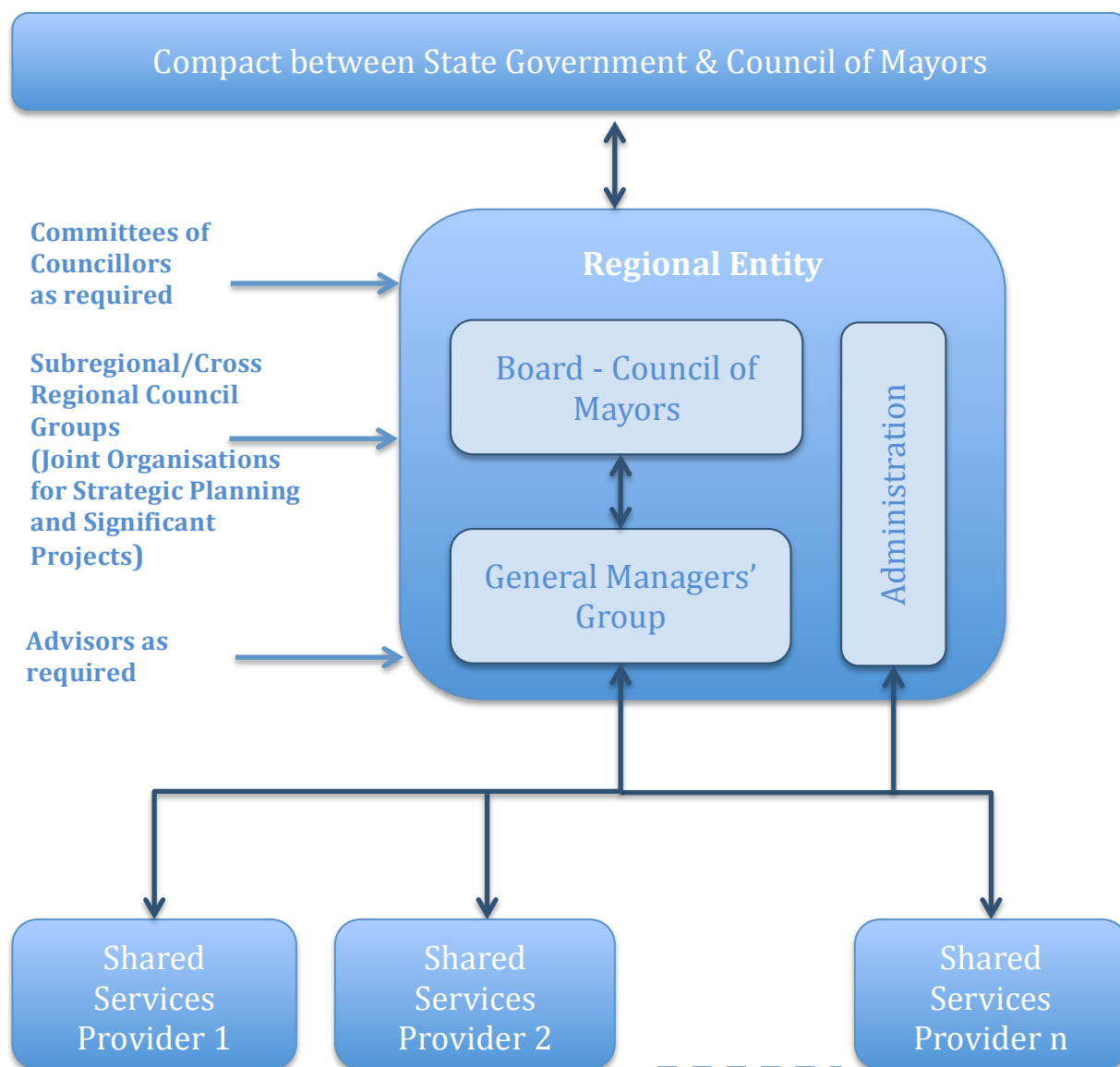
Shared Services

- The State government and Council of Mayors work together to develop innovative cooperative approaches to shared services.
- Service delivery units established as required
- Participation in a shared service mandatory for 5 years once committed
- Changes to Local Government Act and Senior staff contracts employment arrangements involving multiple employers

Government Relations

Crucial to success of the model is the state government entering into a 'compact' with local government to ensure high level of consultation and cooperation with a Council of Mayors with relevant government agencies facilitating a two- way effective partnership.

A pictorial summary of the proposal is shown below:



5. Conclusion and Next Steps

SSROC's position is summed up in the statement of Professor Sturgess:

The proposed Council of Mayors draws on many of the insights identified by the Review Panel in its final report, whilst rejecting the particular structural solutions recommended in that document. In the author's view, this would overcome most of the problems associated with the current ROCs, whilst avoiding the loss of flexibility and local responsiveness implicit in the Panel's preferred solutions. There are much better ways of finding the efficient boundaries of local government than through forced amalgamations and mandatory regionalisation

SSROC therefore proposes that it works closely with the State government to further develop the model identified in this submission which it believes will deliver outcomes that will assist the State Government in its objective of improving the performance of local government, in particular on a regional basis.

It is SSROC's view that the proposal has potential benefits for both the State Government and member Councils. Accordingly SSROC requests the opportunity for representatives of SSROC and Professor Gary Sturgess to meet with the Premier and Minister for Local Government to:

- **Progress how the proposed Council of Mayors model, and sub regional or joint organisations for strategic planning and specific projects, might be further developed to provide the flexibility and responsiveness that the State Government is seeking as an outcome of the review process.**
- **Establish the framework of a proposed "compact" between the State and Local Government**
- **A strategy for implementation of a pilot program.**

Attachment

Efficient Boundaries

Collaboration, Integration and Amalgamation in the Sydney Metropolitan Area

A Paper for the South Sydney Regional Organisation of Councils

by

Gary L. Sturgess

25 February 2014

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Executive Summary

In its final report to the state government, the Independent Local Government Review Panel has criticised the scale and competence of a number of local governments and recommended widespread forced amalgamations across the Sydney Metropolitan Area, which would leave no more than 18 councils in the region. The report is also critical of the existing Regional Organisations of Councils (ROCs), particularly in relation to the delivery of shared services.

The Review Panel has recommended the establishment of five centrally-mandated 'Regional Joint Organisations' (RJOs) across the metropolis which would have a monopoly on sub-regional advocacy and planning. The boundaries of these RJOs would be designed to reflect state and federal administrative and planning structures. Membership and boundaries, and certain of the functions of these RJOs would be mandated by state government, but member councils would have the freedom to negotiate over non-core functions, structure and governance, among other things.

As an alternative to the suggested amalgamations, if the state government is not prepared to proceed with forced amalgamations, the Review Panel has proposed the creation of seven 'strong Joint Organisations' (SJOs) across the region that would have somewhat broader mandatory functions. The range of functions of these SJOs are not spelled out in any detail, but they seem to involve at least some shared services.

This report, which has been commissioned by the South Sydney Regional Organisation of Councils (SSROC), argues that forced amalgamations are both unnecessary and undesirable. In place of RJOs and SJOs, it recommends that the member councils of SSROC submit a proposal to the state government, offering to work closely in the establishment of a Council of Mayors for the region covered by the ROC. Under this model:

- The *Local Government Act* would be amended to enable regional groupings of local authorities to establish themselves as Councils of Mayors or similar bodies.
- The state government would enter into a 'compact' with local government, specifying the obligations on both sides in relation to intergovernmental relations. In particular, the government would commit to agreed protocols governing consultation on policy and planning, including an undertaking that

consultation would take place primarily through the Councils of Mayors (or their equivalents). The Department of Premier and Cabinet would be the custodian of this agreement from the perspective of state government.

- The state government would enter into a separate memorandum of understanding with the member councils of each proposed Council of Mayors (or equivalent).
- Boundaries and membership would be decided by the member councils, but there would be legislative constraints on withdrawal within a period of five to ten years, or alternatively, a comparable notice period. This would severely limit the scope for gaming behaviour on the part of individual councils.
- In the formulation of the memorandum of understanding with state government, member councils would agree to work closely together on issues of regional and sub-regional planning. The state government should use the memorandum of understanding to ensure that councils continue to collaborate and develop their collective capabilities in relation to regional planning.
- While the Councils of Mayors would be the primary vehicle for regional advocacy and planning, this would not preclude councils from coming together in other sub-regional and cross-regional groupings to deal with issues of particular concern to individual councils (as is presently the case).
- Each Council of Mayors would arrive at its own agreement on the range of services that would be commissioned and/or provided exclusively through that body, with members bound for the duration of the business plan (say, ten years). Member councils would still collaborate in joint commissioning of goods and services case by case, as is presently done through SSROC, and in that case, participants would be committed for the duration of the contract.

The mayors of the member councils would constitute the board of the Council of Mayors. This would be a meeting of mayors not just council delegates, with deputy mayors attending as their alternates on exceptional occasions. Councillors with a particular interest in regional matters could still participate in the committees of the Council of Mayors, but representation on the board would be confined to the mayors or their deputies as alternates. The board would focus on advocacy and strategic representation, with support from a formally constituted General Managers Group which would oversee the development of joint position papers and resource sharing initiatives, and along with executive staff, undertake detailed consultations and negotiations with state departments and agencies.

The search for efficient boundaries – The evidence of economies of scale and scope in local services is, at best mixed, and the Review Panel has failed to provide a clear

case for forced amalgamations or for the establishment of Strong Joint Organisations with mandatory powers over shared services. It is not that there are no scale economies, but that they are difficult to identify and they differ from service to service. For this reason, any reforms that seek to exploit the scale economies in the delivery of public services should recognise the need for diversity in the range of solutions and allow for exploration and learning over time. Forced amalgamations and the establishment of regional organisations with mandatory boundaries and membership will prevent government from discovering the 'efficient boundaries' of local services.

It is unlikely that the RJOs could accommodate the diversity of interests that exists across the Sydney region, so there would still be need for sub-regional and cross-regional planning and advocacy forums. Eight SSROC councils are also members of a special purpose ROC, the Sydney Coastal Councils Group; five belong to the Cooks River Alliance; and another five have investigated the possibility of establishing a special purpose county council to coordinate planning issues associated with the redevelopment of Parramatta Road. If the councils adjacent to Botany Bay were broken into two separate RJOs, as proposed by the Review Panel, then there would be need for another cross-regional advocacy forum to represent their shared concerns about transport planning and environmental management issues.

It is because of this diversity and the need to experiment with different scale economies over time, that this report proposes that the membership, boundaries and functions of the Councils of Mayors, and the decision as to whether or not to join an individual shared services club should remain a matter of choice for individual councils.

Overcoming gaming – However, too much voluntarism in regional organisation will make it difficult to secure agreement on joint procurement and the sharing of services, since some councils may game the system by threatening to hold out or withdraw at a late stage in negotiations. The Review Panel makes a good case for some form of binding commitment in the formation of regional organisations, but in the interest of encouraging an ongoing search for 'efficient boundaries', it is essential that there is no more coercion than absolutely necessary.

This report recommends that once councils have agreed to join a Council of Mayors, they should be prevented from withdrawing from membership for a period of five to ten years. Likewise in the conduct of joint procurements, it is proposed the law should be changed so that councils are obliged to make a decision on participation relatively early in the process, so they cannot use the threat of holdout at a late stage to their own advantage.

The economics of voice – The Review Panel had failed to give serious consideration to the economies of scale in the consumption of local services, which are closely

related to the identification of community preferences. The establishment of super councils will result in some community preferences being overlooked. Once again, the solution lies in councils exploring the 'efficient boundaries' of political organisation themselves.

Regional planning and advocacy – One of the principal difficulties with the proposal to establish RJOs that are consistent with state and federal planning boundaries is that assumes that departments and agencies are interested in, or capable of giving a binding commitment to maintain these boundaries as primary administrative divisions and to work closely with the RJOs. Based on past performance, these are heroic assumptions. The key to resolution lies in a commitment on the part of state government to work with those regional organisations that local governments have established. Recognition and access will encourage councils to work through the Council of Mayors, not the establishment of mandatory RJOs or SJOs.

Contestability – The creation of super councils, mandatory RJOs or SJOs will have the effect of undermining contestability, by narrowing the scope for benchmarking and the prospect of alternative provision in the case of under-performance. The state government should be seeking to establish a system that has in-built incentives for innovation and productivity improvement, rather than seeking to drive these initiatives from above.

Capability – In developing shared services in local government, under a more contestable regime, the state government and the proposed Councils of Mayors will need to address several important capability issues. There is currently very little benchmarking of local services in NSW, and local and state governments will need to collaborate in the development of such a system, which is fundamental to effective contestability. There is also a need for improved capability in the design and execution of shared service solutions – the state government has as much difficulty with this as local government, and both parties need to work together in progressing this agenda.

Strategic resolution of key issues – There are a number of obstacles to effective regional cooperation and the development of a shared services agenda, that will be difficult to resolve if they are not discussed openly among member councils, and resolved at a strategic level when it is still unclear who the specific winners and losers will be. The political differences among the various councils and mayors is one of these, and the challenges involved in the transition of staff when services are sourced from an external provider (public or private) are another.

1. Background

This paper has been commissioned by the South Sydney Regional Organisation of Councils (SSROC), to respond to the proposals of the NSW Independent Local Government Review Panel and to suggest a workable basis for collaboration at regional level. There has been interest for some time in reviewing the constitution of SSROC, and in exploring how the organisation's strengths might be leveraged in the current economic and political environment, but the project brief specifically directed the author to take into consideration the findings of the Review Panel, appointed by the NSW government to make recommendations on the future of local government in the state.

The final report of the Review Panel was released to the public in January 2014. In an interim report published in April 2013, it proposed a radical reconstruction of local government, with widespread amalgamations and the possible creation of 15 super councils across the Greater Sydney area. While the interim report was somewhat guarded on the question of whether these amalgamations should be forced, it is evident from the final report that the Review Panel is committed to a mandatory process.

The state government has made it clear that there will be no forced amalgamations prior to the next state election, and while the Panel acknowledges this commitment, it proposes significant mandatory boundary changes within the metropolitan area, with a recommendation that would leave only 18 councils and five or seven regional organisations in the Greater Sydney Area.

The author was asked to consider a new regional model for local government in the SSROC area, with particular attention to three issues:

1. A Council of Mayors;
2. Efficiency;
3. Participatory democracy.

This report was not principally concerned with amalgamations and boundary changes, but it is evident from a close reading of the Panel's final report, that it is relying on amalgamations to deliver economies of scale and greater strategic capability in the delivery of local services. In the Sydney Metropolitan Area, the Review Panel is proposing widespread rationalisation, with a number of local authorities being merged into much larger councils.

And in spite of some criticism of the ROCs for their inability to advance the shared services agenda, the Panel has proposed new 'Regional Joint Organisations' (RJOs), membership of which would be mandatory, that would be primarily

concerned with regional planning and advocacy in relations policymaking. For this reason, and because the underlying principles are the same, this report addresses amalgamation as well as the place for regional collaboration.

Sections 2 to 4 of this report are principally concerned with the pursuit of efficient boundaries and the case against forced amalgamations. Section 5 discusses the structure and operation of SSROC. The remainder of the document addresses the benefits and disbenefits of ROCs and RJOs, concluding with a preferred solution.

Methodology: The author has reviewed the recent Australian and international literature on amalgamation, consolidation and shared local government services. The SSROC constitution and minutes, reports and submissions have been accessed, as well as submissions made by member councils and groups of councils to the Review Panel. Interviews were conducted with mayors and general managers from all but one of the SSROC member councils, and with the general manager of the ROC. Conversations were also held with some state officials.

2. The Case for Amalgamation

The interim report of the Independent Local Government Review Panel, published in April 2013, raised the prospect of widespread council amalgamations across New South Wales, observing that it is very rare that communities are so different or so independent 'that forcing them to share a local council is probably unwise'. Indeed, the Review Panel concluded that 'the number of local councils in the Sydney basin should be significantly reduced' – indicating its preference for no more than 15 councils across the metropolis and possibly less, with local boards to represent continued community identity (although only as a temporary or transitional measure).¹

Whilst using somewhat more nuanced language, the Review Panel has not changed its position in the final report, which was handed to the state government in October 2013 but released in January 2014: 'Australia's global city is still divided amongst forty-one councils, many of which lack the scale and resources to play an important role in metropolitan affairs'.²

Whilst arguing that the question of boundaries (and thus amalgamations) should usually be left to an independent Boundaries Commission, the Review Panel has persisted in the view that 'the number of local councils in the Sydney basin should be significantly reduced'. It claims that there is unnecessary duplication in planning and service delivery and scarce resources are not being used to their full potential. In its final report, the Panel recommends substantial amalgamations across metropolitan councils, leaving behind 18 councils and five RJOs, or if these amalgamations do not occur, the establishment of seven Strong Joint Organisations, the details of which are not spelled out.³

Because of the substantial changes involved in the metropolitan region, the Panel recommends deferring the establishment of Regional Joint Organisations which would have a regional planning and advocacy role, but Map 3 indicates that it anticipates the Greater Sydney Basin would have around five such bodies.⁴ However, the report has left open the possibility that these RJOs might be given much broader responsibilities, in which case, it favours seven 'strong Joint Organisations', which (it seems) would subsume many of the functions of the member councils.

In the metropolitan area at least, the final report of the Review Panel is unashamedly about forced amalgamations, and this report is written with those recommendations in mind.

The case for amalgamation rests on a number of different arguments:

- Economies of scale: a multitude of small councils leads to a duplication of services and contributes to higher costs. Regional collaboration in the sharing of services has thus far been 'patchy and uneven', and stronger organisations are vital to ensure increased resource sharing.
- Strategic capacity: local government does more than deliver services; it must also plan effectively for the future of localities. Larger councils and mandatory collaboration at regional level will increase their capacity to work closely with state and federal governments.
- Valued partners with state and federal governments: larger councils and strong regional organisations will be able to interface more effectively with government in state and regional planning and to make a better contribution in the development of policy.
- Voice: councils need scale if they are to have a strong voice in advocating and negotiating effectively on behalf of their communities.
- The global city: many Sydney councils currently lack credibility as a significant partner in metropolitan planning – 'There are simply too many voices striving to be heard'.
- Equity: there is a need for a more equitable pattern of local government across the metropolitan area. This refers both to average population numbers across individual councils, and to the relative revenue-raising capabilities of the 'privileged east' and the 'struggling west'.
- Financial sustainability: amalgamations would increase the capacity of councils to manage their assets and operations on a sustainable basis.
- Revenue-raising capacity – local authorities in relatively affluent areas, with under-utilised revenue potential could contribute more to the task of managing growth and change. Amalgamations would facilitate transfers from more affluent areas.

There is some interest in some SSROC councils in the principle of amalgamation, but no enthusiasm for forced amalgamation, and among the mayors and general managers interviewed for this report, there was no support for the super councils proposed by the Review Panel in its interim report and discussed under another guise in the final report.

This was reflected in submissions made by individual councils and groups of councils to the Review Panel. A joint submission by six of the seven councils that fall within the boundaries of a proposed super council for the central Sydney area, made in May 2013, was firmly opposed to any such merger, largely based on a commitment to local control.⁵ The mayors of Ashfield, Burwood, Canada Bay and Strathfield also made a joint submission, advising that their communities had no interest in amalgamation or a multi-purpose county council model.⁶ SSROC's submissions have argued against bigger councils and that amalgamation should not

be identified as a solution without exploring other options for structural change. Again, this was strongly based on the need to maintain communities of interest, and to keep the local in local government.⁷ In the course of this review, a number of councils also reported having conducted a survey of residents, reporting overwhelming opposition to amalgamation.

Efficient Boundaries

This review argues that the ‘efficient boundaries’ of local government are somewhat more complex than the Review Panel has recognised. As discussed below, the evidence concerning economies of scale and scope in local services is not strong, and they differ from service to service. Moreover, the efficient size of a council may differ between its political (or representative) functions and its production functions.

In the private sector, a great deal of time and money is invested in a search for the ‘efficient boundaries’ of firms. Organisational economists have described the ongoing process of aggregation and disaggregation of service offerings, the acquisition and divestment that takes place in capital markets, and the contracting out and the in-sourcing that organisations undertake, as part of the search for optimal scale and scope. Unless we assume that individuals and firms are irrational in their investments, we must conclude that there is significant value to be gained from this ongoing investment.⁸

While there is not the same need for such flexibility in the political boundaries of local government, this report argues that voluntary regional structures such as ROCs, special purpose county councils and locally-mandated Councils of Mayors are likely to be more efficient in capturing economies of scale and scope than forced amalgamations and compulsory membership of centrally-mandated regional organisations. However, there are good reasons why councils should pursue much greater flexibility in the production of local services, through joint commissioning and the development of shared service solutions.

The search for the ‘efficient boundaries’ of local government cannot be reduced to a simple set of principles capable of being driven through in a one-off reform agenda.

3. The Case against Amalgamation

3.1 Economies of Scale and Scope

The case for amalgamation traditionally rests on the alleged efficiencies that are said to flow from larger organisational units – so-called economies of scale. The Review Panel is careful to acknowledge that ‘there is no simple relationship between council size and efficiency, and hence no guarantee amalgamations will produce the benefits sought, especially cost savings’. However, the report glosses over the complexity of the linkages between scale and efficiency, seeking to justify the case for amalgamations (and in the metropolitan area, forced amalgamations) through the usual criticisms of ‘fragmentation of resources’ and ‘duplication of effort’, and reliance on studies that are said to demonstrate the *potential* for amalgamations to generate both efficiencies and economies of scale and scope. The Review Panel says nothing about the potential for diseconomies of scale, which suggests that its stance is not as firmly based in the evidence as it claims.⁹

Studies of the Australian and international research over the years have concluded that the evidence on economies of scale in municipal services is mixed, at best. Most of these studies use population as a proxy for output, when there is no reason why the two should be positively correlated. There are problems with the measurement of cost, in part because of the allocation of overheads, and a lack of comparative accounting approaches across different councils. The studies generally fail to take account of quality, so that higher costs in smaller municipalities may simply reflect a demand by local citizens for more or better services. And they rarely take account of population density: smaller councils in remote and rural areas will typically be more expensive to operate because services are delivered to a more dispersed population.¹⁰

One Australian survey of the literature concluded:

Evidence concerning the achievement of economies of scale and financial efficiency appears to be grounded far more in prediction rather than actuality. This perhaps reflects an agenda where the potential justification for proceeding down the amalgamation path has been given greater priority than ascertaining actual proof of financial success.¹¹

It is unsurprising then that the savings promised from amalgamation rarely materialise. Allan concluded that council amalgamations in Victoria in the 1990s delivered savings in the order of 8.5 percent (compared with the promised 20 percent), but these principally came through a programme of competitive tendering which accompanied the mergers. In South Australia, cost reductions of 17.4 percent

were promised from amalgamation, with a subsequent review only being able to identify average savings of 2.3 percent.¹² The South Australian review concluded ‘fewer, larger councils are not the instant or easy fix that many would like to believe. . . amalgamation brings with it significant costs and often exaggerated benefits’.¹³

Of course, there *are* economies of scale in local services: the difficulty is that we have little information about where they lie and the conditions under which diseconomies of scale emerge. This challenge is compounded by the fact that different services have different scale economies, and large structural solutions are not usually flexible enough to accommodate the differences.

As the same time, there are potential ‘economies of scope’ in the organisation of local services – cost reductions that flow from co-production of two or more different goods or services that draw on common inputs. In principle, there is the *potential* for economies of scope in many public services – providing one public service should result in lower costs for the same unit of government in delivering additional services – but professional cultures, bureaucratic silos and inter-governmental rivalry prevent these savings from being realised.

Supporters of local government amalgamation have sometimes drawn on the supposed economies of scope – ‘larger councils have the critical mass to provide the broader range of services expected of a modern local government without the need to impose higher rates’.¹⁴ However, there has been even less research on the economies of scope in local services than there has been on the economies of scale.

It follows that the case for the amalgamation of local authorities in NSW cannot rest upon a bald assertion that bigger has the potential to be better. If the state government is interested in identifying the economies of scale and scope in the delivery of local services (and avoiding the diseconomies), then it must establish an exploratory process that will generate much better understanding of the efficient boundaries that apply to individual services in different localities across the state. And it must find a way of encouraging local authorities to capture those efficiencies.

The Review Panel’s preferred solution is a Boundaries Commission, which would assemble the evidence for and against boundary changes and amalgamation, and engage in an extensive process of consultation with electors. Given the weight which the public seems to place on efficiency arguments when weighing up the case for amalgamation, this would need to include a discussion of the evidence relating to economies and diseconomies of scale and scope. Quite how the proposed Boundaries Commission would accomplish this task, given the lack of success in the past, is not addressed in the final report.¹⁵

However, in the case of the Sydney Metropolitan Area, the Panel did not feel that it needed to wait for the findings of the Boundaries Commission on questions of scale and scope, arriving at its own recommendations for the forced amalgamation of local authorities, and in the alternative, proposing the establishment of seven strong

regional councils (referred to generically as 'Joint Organisations') that would subsume many of the functions of councils.

3.2 The Economics of Voice

In listing the qualities of an effective system of local government, the Review Panel includes the following: 'Councils with the scale, resources, and strategic capacity to government effectively and to provide a strong voice for their communities.'¹⁶ Of course, this is an argument for amalgamation, the assumption being that only larger councils are capable of being heard in the corridors of state and federal government. (If this is so, then it does not augur well for small and medium enterprises which, on this logic, must accommodate themselves to being taken over by large corporations in order to have their voice heard in state and federal government.)

However, the economics of voice are more complex than this statement implies – even if larger councils were to have a louder voice, they would not necessarily have a clearer voice – they would not necessarily be more effective in discerning and giving voice to the disparate concerns of their constituents.

Arguments for the amalgamation of councils based on supposed economies of scale often confuse the efficient boundaries of *production* units with the most appropriate *political* boundaries. In the public economy as in the private economy, we can think of the supply side and the demand side as separate domains, with different economies of scale and scope on both sides. Through grants or contracts, a national government may commission services from a small local authority or not-for-profit, and a small local government might purchase services from a large multinational.

The public economy is different from the private economy in that demand is usually organised through collective consumption units rather than being undertaken by individuals. The supply side of the public service sector in Australia is a mixed economy, with around one-third of services being delivered by private or not-for-profit providers. The demand side is dominated by governments. While there are examples of collective goods being commissioned through private institutions (such as insurance companies and friendly societies, condominiums and homeowner associations), the vast majority of collective consumption must be organised through democratically-elected governments, local, state and federal.

Very little has been written about the economies of scale and scope in consumption, but the proposition that there are efficiencies to be gained from organising political representation at different levels, and permitting some degree of experimentation and competition between governments, is widely acknowledged in federal systems. Regrettably, in Australia, the debate over federalism is usually confined to conflict and cooperation between state and federal governments. In North America, local, regional and even sub-local governments are also seen as important features of the federal system. The Review Panel briefly acknowledges the importance of having different kinds of voice when it writes that local government is a 'government of

places and communities' and recognises the advantages of sub-local governance such as Community Boards. However, the vast majority of the report is given over to simplistic arguments for amalgamation and scale.¹⁷

It is evident that many of the scale economies in the consumption of collective services arise out of the cost of gathering information about public preferences. When councils oppose amalgamation based on local voice and community of interest, they are arguing that, for local services, the economies of scale in collective consumption are relatively small. Political units that are closer to their communities will better be able to discern the subtle differences among user preferences.

Forced amalgamation would weaken the capacity of local communities to signal their preferences for a different quality and quantity of services and may well undermine the exploration of efficient boundaries on the supply side, with larger councils being less reluctant to cooperate with other municipalities in the pursuit of different scale economies in production.

ROCs that are heavily engaged in commissioning services at a regional level (such as SSROC) have contributed to the separation of production and consumption, enabling member councils to optimise economies of scale in both supply and demand.

The potential gains from having different scale in politics and production have long been recognised in the study of local government, including analyses of the Lakewood Plan cities of southern California that emerged following the Second World War. In that case, the separation of supply and demand arose because new communities emerged within the political boundaries of Los Angeles County that wished to establish their own political identity through incorporation. The politics of the day favoured fragmentation rather than amalgamation.

3.2.1 The Lakewood Plan

Throughout the 1950s and 1960s, around 30 cities in Los Angeles County were established under an arrangement known as the Lakewood Plan, where most of their public services, including policing, were purchased under contract from the county. Lakewood was the first community to incorporate under this scheme.¹⁸

The Lakewood model was contestable because cities retained the right to contract with other municipalities or with private providers, and they could collaborate with neighbouring cities in negotiating with the county on a collective basis. Negotiations seemed to focus on three services – street maintenance, police protection and engineering.

One study examined sixty-four cities in Los Angeles County, one-third of which were established under the Lakewood Plan. The remaining cities delivered the vast majority of their services themselves. The distinction between the two groups of cities was stark: 'most "purchasing" cities spent over 20 per cent of budgeted outlays

on county contracts, while none of the “producing” cities [allocated] more than 3 per cent to such purchases.’ This study concluded:

Purchasing municipalities spend about 86 per cent as much on all services as do their producing counterparts. Figures for police protection and street maintenance are 58 per cent and 70 per cent respectively. . .

If observed expenditure differences on street maintenance were entirely due to cost factors (i.e. if demand differences were absent) then the point estimate would indicate that competitive supply of street maintenance services is about half as expensive as bureaucratic supply.

With police protection, however, the only significant seller of services is a public enterprise, although potential competition from city departments certainly exists. Thus, the magnitude of the estimated expenditure difference for this service is surprisingly large. . .¹⁹

Another group of scholars hypothesised that one of the consequences of periodic contract negotiation would be that when faced with the prospect of competition, provider councils would have a much clearer understanding of the true cost of producing services, and that this would be reflected in their expenditure on services such as policing. The sample consisted of 53 counties in California, 15 of which supplied a significant amount of law enforcement services to municipalities under contract. They found that average costs were 9-20 percent lower in the supplier counties.²⁰

So even where competitive tendering and outsourcing are not employed, the separation of supply and demand through contracting can contribute to efficiency improvements where there is robust benchmarking and the credible threat of competition.

3.2.2 A Lakewood Plan for NSW?

If the NSW government was confident that there were scale economies in the delivery of particular local services, then it might mandate a Lakewood Plan for councils under a certain size. This would enable the scale economies to be captured without compromising the political identity of the communities in question. Regional bodies such as ROCs or RJOs would be the ideal vehicles for the implementation of such a policy, particularly if councils were concerned to avoid the need for outsourcing.

However, such a model would only work if it were offered as an alternative to forced amalgamation.

3.3 Contestability

The project brief directs this review to consider contestability as a potential component of a preferred model of regional organisation, ‘in terms of comparison between local government and the private sector’.

It is important to note that contestability is not the same as outsourcing – it is often defined as the credible threat of competition. Economists have recognised that it is not necessary for services to be outsourced to an external provider – if the barriers to market entry and exit are sufficiently low, a monopolistic supplier will behave as though it is subject to competition.²¹

Where public service providers are able to undertake robust benchmarking of the quality and cost of their back office and front office services, the threat of competition from external providers, public or private, can create an incentive for underperforming service units to reform. In many cases, there will be no need for the services to be actually tested through competition. While shared service solutions offer the prospect of scale economies, in the absence of benchmarking and contestability, there is no guarantee that the promised benefits will be delivered.

This is relevant to the current review, since forced amalgamations and the formation of Regional Joint Organisations with responsibility for shared services might well result in a *less* contestable environment for local services. There is some evidence to suggest that larger organisations tend to deliver more of their services in-house, and in the absence of compensating policies, this will reduce the extent to which they are contestable.²²

Conversely, SSROC has acted as a powerful tool for pursuing economies of scale through a process that is inherently contestable. Even where councils choose not to participate in joint procurements or shared service initiatives, the process of developing a business plan and testing the market generates vital information which challenges councils to question the value that in-house providers are delivering. Since councils are not obliged to participate, the very process of commissioning the services is itself made contestable.

3.3.1 Benchmarking with Consequences

Contestability offers a vehicle through which the state government might ensure that councils (large and small) benchmark their services to ensure that they are delivering value-for-money. Councils that fail to meet an industry benchmark might be obliged to market-test them or to commission them through a ROC or RJO that is able to demonstrate best practice.

Of course, this assumes that there are industry benchmarks that are sufficiently robust to enable the performance of individual councils to be meaningfully compared. As the NSW Auditor General observed in 2012 and the Review Panel noted in its final report, there is a lack of reliable, timely and comparable performance data for councils in NSW. The Office of Water publishes detailed performance benchmarking data on urban water and sewerage utilities, based on a national methodology, but there is no equivalent methodology or data set for the performance of local authorities more broadly.²³

Some care would need to be exercised in the development of any state-wide benchmarking regime, since the characteristics of local services can differ significantly from one council to another. The state government should work with local authorities to develop a robust methodology which takes into account local and regional differences.

In the early years, while the methodology is tested and refined, it would be unwise to publish such data. One interim solution would be to establish a data club, with the benchmarked information being published without the identification of individual councils. Councils would be privately informed of their identifier, so that they could measure their performance against their peers. There is at least one data club operating in the local government sector in Australia, Yardstick, which undertakes benchmarking in parks and leisure, although councils have claimed that the data is not sufficiently detailed. The ROCs could play an important role in the development of robust benchmarking regimes and thus contributing to a more contestable environment.

3.3.2 Benchmarking and Scale

There is evidence from international studies that public service monopolies are more sensitive to benchmark competition where service units can be readily compared with their peers, and where service providers are physically clustered close together so that comparisons can be more easily made.²⁴

Water utilities: Walstein and Kosec studied more than 53,000 community water systems in the United States, comparing contaminant violations and monitoring and reporting violations under the EPA's Safe Drinking Water Information System from 1997 to 2003. Their report concluded:

We find that water systems in counties in which each water system tends to serve a smaller share of the county population have fewer violations. Likewise, regulatory compliance with respect to contaminant violations is better when water systems are required to disclose test results to consumers and consumers can easily compare performance to nearby systems.²⁵

Secondary schools: Bradley et al looked at school efficiency, as measured by school performance tables, including exam results and truancy rates, of all English secondary schools over the period 1993-1998. They were interested in the determinants of efficiency and change in efficiency over time. One of their strongest findings was the impact of competition (measured by the number of rivals within a two kilometre radius). They concluded:

. . . as the number of schools in the immediate neighbourhood increases, so the efficiency of the school under observation also increases during the period. . . More proximate rivals exert a stronger effect on efficiency compared to their more distant rivals. Compared to county schools, grant maintained and voluntary assisted schools have experienced the greatest increase in

relative efficiency, which may be a reflection of their greater independence over resource allocation and admissions policies.²⁶

Public hospitals: In 2010, Bloom et al studied 100 acute hospital trusts in England, comparing data from a management survey and information about hospital performance with a competition measure based on geographic proximity (the number of hospitals per person within a defined catchment). They found that management quality was ‘strongly correlated with financial and clinical outcomes such as survival rates and emergency heart attack admissions’, and ‘that higher competition (as indicated by a greater number of neighbouring hospitals) is positively correlated with increased management quality. . . Adding another rival hospital increases the index of management quality by one third of a standard deviation and leads to a 10.7% reduction in heart-attack mortality rates’. In their discussion of the mechanisms through which this might have occurred, they considered the impact of yardstick competition, the possibility that there was greater competition for patients in these hospitals and that there might have been a more attractive labour market.²⁷

In short, the evidence seems to suggest that the public are better able to compare the efficiency and effectiveness of public services where there are a number of providers clustered closely together, and that this has the effect of driving up service quality. This suggests that contestability will be greatest where service units are no larger than necessary. A programme of amalgamation that resulted in the establishment of 18 councils or seven Strong Joint Organisations across the Sydney metropolitan area could well reduce the contestability of local services through weakening the public’s capacity to benchmark.²⁸

3.3.3 Voting with their Feet

Contestability is heightened when residents and ratepayers (including business ratepayers) are able to exercise choice – to ‘vote with their feet’.²⁹ Some political scientists and economists have questioned whether residents and businesses take into account the quality of public services and the scale of the local tax burden when making decisions about where to reside or to locate their premises. The recent bankruptcy of Detroit city is a stark reminder of what can happen in extreme cases, but studies in Australia and overseas suggest that the level of taxation and the perceived quality of certain services do have an impact on the decision to relocate.³⁰

Council amalgamations on the scale proposed by the Review Panel would significantly reduce the capacity of residents, businesses and ratepayers to choose among a range of different municipalities – to vote with their feet – and to that extent, it would weaken the extent of contestability in NSW local government.

3.4 Diversity in Production

There is already a great deal of experimentation with scale and scope in the delivery of local services in NSW. Formal and informal shared service agreements have operated in NSW since the 1950s, although they have become more commonplace

in recent years. Councils collaborate in a variety of different ways in service delivery – corporations, companies limited by guarantee, incorporated associations, joint ventures, service contracts, alliance partnerships and single purpose county councils. This diversity of solutions has arisen in response to a variety of different needs and capabilities over time.³¹

Local Government NSW also organises joint procurement on behalf of local authorities and not-for-profit organisations through a wholly-owned subsidiary, Local Government Procurement Pty Ltd (LGP). SSROC has recently commenced a project in collaboration with LGP. And councils can also purchase through NSW Procurement, the state government's procurement hub and Procurement Australia. The latter was a collaborator in SSROC's highly successful large sites electricity tender.

Small groups of councils within the SSROC boundaries also collaborate in the sharing of services. A number were identified in the course of this review:

- One SSROC council provides dog pound facilities for another;
- Several councils collaborate in the provision of 'Meals on Wheels';
- Three have worked together on waste management over several years;
- Two SSROC members are proposing to undertake a pilot in the joint management of payroll services, with others showing some interest in participating;
- Another two councils are exploring the possibility of sharing childcare provision, based on the strength of this service in one of the councils;
- There have been some conversations between councils about sharing works depots;
- Probably the most significant project undertaken by the ROC is eight councils have entered into long-term contract for the treatment of household waste that will keep tens of thousands of tonnes of waste away from landfill every year. The contract is expected to see up to a 60% reduction in waste to landfill across Greater Southern Sydney. Combined with their other recycling collection programs, the Councils will meet the State Government target of a 66% reduction in waste diversion from landfill by 2014.

While it might be argued that councils have not used these collective commissioning arrangements enough, it is not reasonable to criticise these efforts are 'patchy and uneven', as the Review Panel does in its report.³² 'Patchy' is precisely what one would expect when the economies of scale and scope are unknown, and councils are searching for the efficient boundaries of individual services in different localities.

If we think of public services such as water supply and drainage, environmental management, childcare and libraries, as part of the national economy (albeit with distinguishing characteristics of 'public good'), then a diversity of solutions is not surprising. Different services and different geographies have different needs, and

just as in the private sector. Councils have elected to use different legal and governance arrangements to commission and to meet their needs. Diversity and asymmetry are an inevitable and desirable response to the variety and complexity in the service environment.

As presently constituted, SSROC makes an important contribution to the diversity of the supply arrangements for local government in the region. SSROC specialises in commissioning collective goods and services on behalf of its members. However, in some cases its contracting arrangements extend to councils outside of the ROC (in the case of the street lighting improvement programme, to 18 non-member councils), whilst in others (such as library RFID systems) it has brought together a small subset of ROC members. While there is a need to strengthen commissioning capabilities and to change the approvals process so that member councils cannot withdraw at a late stage in the procurement, this diversity should be seen as one of the strengths of the ROC, reflecting its capacity to search for efficient scale and scope in the production of different local services.

Opportunities are being pursued for further integration. For example, a number of councils are looking at sharing services in relation to swimming pool inspections, although one of the councils is so large that it will probably not benefit from a shared capability and some of the inner city councils have very few swimming pools, so the take-up of these services are likely to be very mixed. In short, there are good reasons why integration of such a service will be asymmetric.

3.5 Diversity in Consumption

The current system of local government in NSW also permits a great deal more exploration and diversity in the organisation of collective consumption units than would be possible under the Review Panel's suggested model of large councils. In its final report, it does allow for some experimentation in regional and sub-local governance: 'the Panel sees no need for uniform structures and processes across all regions provided there is a consistent framework'. Councils could make decisions as to the functions, governance and staffing of their RJOs and the payment of dividends, and in principle, they could still retain their ROCs or other cooperative arrangements not within the scope of their RJO.

However, activities of the RJO are to be conducted within a single, pre-defined set of regional boundaries, membership will be mandatory, and as a general rule, each council could only belong to one RJO. This significantly reduces the flexibility that the councils would enjoy in the establishment of these organisations, particularly in the search for the most efficient geographic boundaries. This matters.

Where many of the beneficiaries of a particular service fall outside the boundaries of the local authority that funds it, then it is likely that the service will be underprovided (since many of those who benefit from the service would not vote for the council and make no contribution to its funding).

The same will occur where a political unit is too large and a service is preferred by only a small subset of the local authority catchment. If a majority of the residents of a very large council or 'strong Joint Organisation' do not share the same values as a local community, then it is likely that the associated services will be underfunded or not funded at all. For this reason, forced amalgamation on the scale proposed by the Review Panel is likely to result in less innovation in public services, and in the under-provision of services that are highly valued by particular neighbourhoods or communities.

This has been referred to as the principle of 'correspondence' ('each tier of government should have revenue raising and regulatory powers commensurate with its responsibilities'³³), or 'fiscal equivalence' ('there is a need for a separate governmental institution for every collective good with a unique boundary, so that there can be a match between those who receive the benefits and those who pay for it'³⁴).

One of the ways in which the challenge of fiscal equivalence can be addressed is through the establishment of special purpose governments, such as county councils. Of course, there are limits to the number of special purpose governments that can be created, and establishment costs and economies of scope will tend to constrain the multiplication of jurisdictions. Nevertheless, where the preferences of different communities diverge significantly and the values in question are of such importance to the constituents that they are prepared to shoulder the governance costs, then the establishment of a special purpose county council might serve to enhance public welfare.

The Review Panel's recommended model for the Regional Joint Organisation would significantly reduce the scope for experimentation of this kind. On the other hand, their proposal to allow the creation of elected or appointed sub-local structures such as Community Boards reflects a willingness to permit diversity in consumption at that level.

3.5.1 Special Purpose Governments

Over the past few decades, Australia has largely abandoned the tradition of directly- and indirectly-elected special purpose governments that were established in the nineteenth century to deliver particular public services – county councils responsible for electricity generation, distribution and supply, boards responsible for water supply, sewerage and drainage in metropolitan areas, and for irrigation in rural areas. Livestock Health and Pest Authorities (formerly Rural Lands Protection Boards, in the process of being transformed into Local Land Services) are one of the few remaining examples of directly-elected special purpose governments in NSW.

There are currently 14 special purpose county councils in NSW, delivering water and sewerage services, floodplain management and noxious weed control, although they are not directly-elected and none has been established in the past two decades.

The Review Panel is dismissive of special purpose county councils, proposing to replace them with RJOs. In fact, special purpose governments offer a convenient solution where the economic and geographic scales of different services differ radically. They offer an alternative and arguably more effective means of pursuing economies of scale.

There is clear evidence of the ongoing relevance of special purpose government in the discussions currently underway between five inner city councils – Ashfield, Burwood, Canada Bay, Marrickville and Strathfield – concerning a sub-regional approach to the development of the Parramatta Road corridor. The integration driver in this case was the state government's determination to proceed with the WestConnex motorway, which would impact directly on the communities served by these five councils. Among other things, they have been considering the delegation of planning powers to 'an appropriate decision-making vehicle' such as a special purpose county council to represent the interests of affected communities.³⁵

North America has done a great deal more with special purpose governments than Australia. There are said to be around 80,000 'special district governments' in the USA, and they extend to a much wider range of services than traditionally was the case in NSW – schooling, housing, parks, bridges and highways. These organisations are financially and administratively independent from other governments. They are usually directly elected and thus have a high degree of public accountability. They exist in perpetual succession, and they have rights to sue and be sued, to make contracts and to own and dispose of property. This means that they are a governmental unit, as opposed to being an administrative unit of some other state or local government.

It is a valid criticism of special purpose governments that the public finds them difficult to understand. In part this is because Australia does not have a strong tradition of direct election to or public accountability by such bodies, and in metropolitan areas (though possibly not in rural areas), the public are no doubt more familiar with state-owned corporations or agencies that report directly to Ministers. In the absence of direct election, there are other forms of citizen engagement: in the digital age, it is possible to create new forms of democratic accountability that provide ratepayers and service users with direct engagement with those responsible for the management of these entities.

Evidence of the capacity to combine special purpose governments with new forms of participatory democracy is found in the proposals being considered by the five councils that will be affected by the changes to Parramatta Road. In that case, consideration is being given to the employment of a citizens' jury to assist in developing a plan for the corridor.

3.5.2 Sub-Local Governance

One of the most striking examples of experimentation with fiscal equivalence in recent decades were the 'Business Improvement Districts' (or BID) that emerged in

North American cities in the 1980s. BIDS are a form of sub-local governance, established to provide supplementary services in retail and commercial precincts. The US National League of Cities defined special assessment districts (such as BIDs) as ‘distinct geographical areas created within a political jurisdiction in order to raise funds from property owners for stated needs.’³⁶

In these cases, businesses and residents were prepared to pay higher taxes (through a surcharge on the property tax) in order to fund a higher standard of local services – security, street cleaning and capital improvements. They were particularly effective in helping to turn around the safety and the visual amenity of New York City throughout the 1980s and 1990s, most famously (though by no means exclusively) in Times Square.

Business Improvement Districts have not been adopted in Australia, although the Mainstreet Project in Crow’s Nest in the 1990s bore many of the same characteristics and resulted in the rejuvenation of what had been a busy through-street and the creation of a successful dining and shopping precinct. It was financed through developer contributions and a special levy on shop-owners, with the active support of local businesses. New York’s experience with BIDs demonstrates that special purpose governments can emerge in large-scale municipal governments, helping local communities to find a solution to the problem of fiscal equivalence.

As long as they are used flexibly, and not as a kind of compensation for forced amalgamation, Community Boards could offer a new way of introducing greater diversity into local government, and better representing community need.

3.5.3 Voluntary Amalgamations

There is currently some discussion about the possibility for local authority amalgamations within several sub-regions of SSROC, most notably in the eastern suburbs, although in the interviews conducted for this report, mayors and general managers in one other sub-region also indicated an interest.

Unsurprisingly, interest in voluntary amalgamation is most evident in councils with strong commonality of interests. With appropriate encouragement by the state government, it is possible that some voluntary amalgamations might proceed. Given the diversity of local authorities within SSROC and across the metropolis more generally, untidiness of this kind is to be expected and desired.

3.6 Partnership with State and Federal Governments

In its final report, the Panel places a great deal of emphasis on the need for amalgamations in the Greater Sydney Area and the establishment of five well-defined sub-regions across the metropolis in order to facilitate collaboration and cooperation between the different levels of government. For example:

In the metropolitan area, amalgamations and more effective sub-regional arrangements will be needed to establish a system of local government that

has the capacity to be a real partner of State and federal governments in addressing the challenges of growth and change well into the mid-21st Century. . .³⁷

There will be little disagreement with the proposition that there should be more effective cooperation between the different levels of government – indeed, local government has been pleading for this for decades. But in order to lay down a framework for collaboration and consultation, one must form a view as to what kind of institution local government is meant to be. As the great American political scientist, Aaron Wildavsky pointed out some years ago, 'if we relax the assumption that a common purpose is involved. . . and admit the possibility (indeed, the likelihood) of conflict over goals, then coordination becomes another term for coercion'.³⁸

If local government is just another kind of general purpose government, then it is obvious that it must be restructured so that it can function in a close partnership with other general purpose governments. And if local government is primarily a maker of strategic plans and wide-ranging policies, then it is self-evident that it is not presently staffed or structured to undertake this role.

But what if local government is neither of these things? What if local government is primarily concerned with the management of place, with the development and exploitation of social capital in local communities? What if it is concerned much more with service delivery than policy development? In that case, restructuring, repurposing and restaffing designed to make it more responsive to the policy agendas of state and federal governments would destroy the very qualities that we most value in local government.

It is not difficult to see why policymakers in state and federal government would like local government to look more like them, but that does not mean that local government should be transformed to meet their expectations. The Panel recognises that state agencies impose a great deal of 'red tape' on local government, and it sees great merit in a project to reduce the overall compliance and reporting burden imposed on councils. But the rest of the report seeks to resolve the mismatch between the policy culture of state government and the delivery culture of local government by insisting that community be assimilated by bureaucracy.

The situation is much the same among the front-line service delivery agencies of state government – schools, hospitals, local area police commands and so on – where local managers struggle to cope with the demands of state government regulators and policymakers.

Forthcoming research by the author of this report into the managers of front line services has found that they have very different priorities from policymakers and head office staff, even in the same departments or agencies. Front-line service units are structured to optimise the delivery of services to beneficiaries, and managers find

it difficult to make a timely contribution to the development of state government policy. Front line managers never have enough resources to meet all of the demands upon their services, and they know that they never will. And the world as they experience it day-by-day, never resembles the world as the policymaker imagined it.³⁹

The Review Panel seems to assume that amalgamation will enable local government to do both. Given the deep gulf which exists between policy and delivery in state agencies, this is a bold assumption, which needs to be tested rather than just asserted. In a world of scarce resources, it is probable that the focus on delivery may suffer through an increased emphasis on policy.

And it runs counter to the pattern of efficiency reform in recent years, where governments have expressly focused on public servants working at the customer interface, with a reduction in the number of staff dedicated to policy and administration. If municipal governments are primarily concerned with the delivery of services to the residents of their communities, then it would be inconsistent, to say the least, for the state government now to pursue amalgamation with the explicit purpose of increasing the number of staff involved in policy and administration.

Research into the corporate overheads of local government, undertaken in 2005 for the Local Government and Shires Association of NSW, concluded that ‘the corporate efficiency of NSW Councils of all sizes, populations and locations is at least comparable to, and possibly better than, equivalent seized State Government agencies’. This finding does not necessarily mean that local government was more efficient than state government (at least in relation to corporate overheads). The report observed that these results might indicate that local government had not made an adequate investment in meeting the clerical, supervisory, policy and strategic demands of modern government.⁴⁰ However, there is an alternative explanation: it is possible that the different levels of corporate support reflect the fact that municipal governments in Australia are primarily service delivery agencies and that they have not needed to acquire the same policy capabilities as the departments of state government.

The Panel does not seriously canvass the possibility that it is state and federal governments that must change to simplify the regulatory and planning environment within which front line service agencies, including local governments, operate. The report operates on the assumption that it is local government that must be transformed.

3.7 Other Arguments for Amalgamation

3.7.1 Strategic Capacity

The final report of the Review Panel argues that the focus of government policy should lie in strengthening ‘strategic capacity’. This is defined as developing the ‘right structures, government models, skills and resources to discharge its

responsibilities and realise its potential'.⁴¹ This term is liberally sprinkled through the report, although it seems have a variety of different meanings. For example, the word 'strategic' is used in the following passage as though it were identical with economies of scale:

. . . the need for councils to shift their focus towards a more strategic view of their operations; to have the ability to respond to the diverse and changing needs of different communities; and to take on new functions or deliver improve services in order to meet those needs. This implies a move to larger, more robust organisations that can generate increased resources through economies of scale and scope, and then 'plough back' efficiency gains into infrastructure, services and other benefits for their communities.⁴²

It is possible that what the Review Panel means is that larger organisations will attract better quality managers and that they will be capable of supporting more staff trained in strategic policy and planning. But as discussed earlier in this report, all of this depends on what kind of institution local government is supposed to be. There is little doubt that planners and policymakers in state and federal governments would like local government employees to look and sound more like them, but it is far from clear that this is what the public want, or that it would result in better public services. And there is certainly no evidence that would suggest that larger municipalities are better managed or more innovative than smaller ones.

3.7.2 The Global City

As Randwick City Council argued in its submission, the Review Panel employed the term 'global city' in an entirely new way, and its use of that concept to support the case for amalgamation is at odds with the Metropolitan Strategy. Randwick maintained that Sydney is already recognised as a global city, and argues that the expansion of the political boundaries of the City of Sydney to incorporate Woollahra, Waverly and Randwick local government areas was unlikely to make a great deal of difference.⁴³

As the term has been most commonly employed in recent years, the 'global city' refers to a crescent-shaped economic corridor which reaches from Port Botany and Sydney Airport, northwest through the city and out to Macquarie University and beyond. There is nothing in the interim report of the Review Panel that would improve the governance of this intensely-globalised sub-set of the greater metropolitan area.

Alternatively, if one were to focus on the Sydney basin in terms of the infrastructure investments needed to prepare Australia for the 'Asian century', in particular, the transportation gateways and corridors, then one would pay attention to the governance of Greater Sydney, or perhaps the Newcastle-Sydney-Wollongong conurbation. But there is nothing in the interim report which addresses the global city in that sense either.

Once again, the optimal solution is likely to emerge through experimentation rather than mandatory amalgamation. The formation of the Sydney Metropolitan Mayors Association in mid-2013 might provide the foundation for a mature and ongoing conversation between the state government and the councils that make up the Sydney metropolitan area. SSROC member councils are well represented on the Metropolitan Mayors Association, and as presently constituted, it does not compete with the ROCs. It demonstrates the advantages that can flow from an organic and asymmetric approach to collaboration, integration and amalgamation.

3.7.3 Equity

The Review Panel asserts that the differences in size of councils between the east and west of the greater metropolitan area are inequitable. This concept is not otherwise explained, except perhaps in the sense that the larger councils of western Sydney have a greater capacity to contribute to strategic planning and state-local collaboration. Elsewhere in its report, the Panel acknowledges that government should not pursue a 'one size fits all' approach, recognising the benefits of diversity and evolution.⁴⁴ And yet, it persists in the line of argument that the standardisation of local authority size is an acceptable reason for amalgamation.

A more substantial criticism is what it claims is a 'deepening divide between a privileged east and a struggling west'.⁴⁵ To the extent that this is an argument for amalgamations, it would appear to refer to the issues raised in 3.7.5 below.

3.7.4 Financial Sustainability

Greater weight was given in the final report to an argument that amalgamation was essential to the financial sustainability of NSW councils, implying without ever directly saying that smaller councils performed worse in the NSW Treasury Corporation's rankings.

In the interviews for this report, SSROC councils firmly dismissed this line of argument. Many of the councils within the region rank well in the report published by the NSW Treasury Corporation and a number of them have strongly challenged the methodology adopted in that report.⁴⁶ Mayors insisted that the fundamental problems with local authority finances are rate-capping, grant formulae and cost-shifting on the part of state and federal governments, combined with growing expectations amongst local residents. None of these would be rectified through the creation of super councils in the metropolitan region.

Several councils noted that some of the proposed mergers would result in the amalgamation of two or more councils with broadly similar financial problems. In these cases, consolidation would do nothing to improve financial sustainability, and to the extent that the new political boundaries were to be influenced by this factor, it would undermine any claim that they were based on a concern for shared communities of interest.

3.7.5 Revenue-Raising Capacity

Another issue that was raised (somewhat cautiously) in the final report was the contribution that amalgamation could make in 'maximising available resources'. The argument is that councils to the east of Parramatta are under-utilizing their rating base because they enjoy established infrastructure and services and do not need the additional revenue. Property owners in the east and north of Sydney pay low rates as a proportion of land value.

While this has much broader significance than amalgamations, the report does suggest that mergers in the eastern half of the city would enable the state to make more of the revenue potential from high land values. This raises major social policy issues that demand much broader discussion and debate. It is not clear that they are best addressed through larger local authority areas.

4. An Evolutionary Approach to Consolidation

In its 2011 report on consolidation in local government, the Australian Centre of Excellence for Local Government concluded that it was not always easy to determine which form of consolidation, if any, would be most appropriate, and that in most cases the costs of change and dislocation were underestimated: 'It follows that moves to consolidation of whatever form should not be rushed.'⁴⁷ This is not only because of the benefits that flow from consultation and deliberation, but also (as outlined above) the need to explore the economies of scale and scope and to build common systems and capability.

This report differs fundamentally from the Review Panel in arguing for an evolutionary approach to the integration of local government, based on the uncertainty that surrounds the economies of scale and scope, and the need to respect the complexity of user preferences for place-based services. The state government should be wary of consolidation that is not variegated and asymmetric in its outcomes.

As the Destination 2036 process revealed and the Review Panel acknowledges, there is some acceptance amongst local authorities of the need for ongoing consolidation in the years ahead. However, there is also a strong sentiment in local government, acknowledged but not properly developed by the Panel, that 'one size does not fit all', and a recognition of the importance of local voice and communities of interest. As one mayor expressed it in an interview for this report, super councils would be 'little more than a state government utility' – the government should not support local and regional structures that do not have 'community blood in them'.

It is unsurprising to find that there is some interest in voluntary amalgamations in several sub-regions within the SSROC area where there are obvious communities of interest. It is also unsurprising that amalgamation is not the preferred solution. The City of Sydney and the Canada Bay councils have recent experience with amalgamation – they made clear in their interviews for this report, that it is an expensive option and it is highly disruptive over the short to medium term. It takes time for political divisions to be overcome, and it takes several years for the different organisational cultures to be integrated.

Some of the SSROC councils are also interested in collaborating in other ways, including special purpose governments, to improve their capacity for working with the state government. This could well provide the foundation for more wide-ranging collaboration, and the government should recognise and encourage such initiatives.

The discussions that have recently taken place between five inner city councils concerning the possible establishment of a special purpose county council for the coordination of planning issues associated with the Parramatta Road redevelopment, demonstrates the flexibility that is needed in the organisation of councils at a regional level.

Sydney also has a special purpose ROC, the Sydney Coastal Councils Group, which has operated since 1989, with eight SSROC councils maintaining memberships of both ROCs. None of the mayors or general managers interviewed for this review saw this as a threat to SSROC.

And five of the SSROC councils belong to the Cooks River Alliance, which was formed in September 2011, to address the complex planning and management issues associated with that catchment.

On the supply side, there is a great deal of bilateral sharing of services, which is often essential in building confidence amongst councils about the costs and benefits of collaboration. But even where SSROC has facilitated shared commissioning, the results are mixed, with different numbers of councils being involved in different arrangements over time. In some cases, the SSROC contracts have been so successful that they include councils from outside the boundaries of the ROC. This is an outcome that is surely to be welcomed by state government.

Amalgamation might well have the effect of discouraging the separation of the supply side and the demand side of the local service economy, and weakening the contestability of local services, since large councils may be less inclined to cooperate with other councils in joint commissioning from external providers. This provides yet another reason why the state government should be seeking exploratory and asymmetric forms of collaboration and integration.

5. What is the South Sydney ROC?

ROCs are an organic institution, having been developed by local government, rather than being mandated by the state, and as a result, a variety of different models have emerged. Some are primarily advocacy clubs, lobbying on behalf of member councils with state and federal governments. One is based on the shared planning and policy challenges of coastal councils and member councils are not geographically contiguous. Some, like SSROC, are procurement clubs, principally concerned with commissioning services from member councils or from private providers. Others, such as Hunter Councils, have become significant shared service providers in their own right.

There is not one 'right' model – councils have invested in collaboration for a variety of different reasons. This review is concerned with SSROC and thus an initial understanding is required of what it is in order to explore what it might become.

5.1 A Brief Profile of the ROC

SSROC is an incorporated association representing sixteen councils in the east, south and inner west of Sydney. This represents some 1.6 million residents – around one quarter of the population of the Greater Sydney metropolitan region. In terms of both membership and population, it is the largest ROC in the Greater Sydney area – the only other metropolitan ROC that comes close in terms of scale and complexity is WSROC which covers a slightly smaller population but has a membership of only ten councils. The ROC has expanded in membership from twelve councils to sixteen in the past five years. This included one council that had previously left SSROC and returned.

The constitution of South Sydney ROC is a formal document and declares the objectives of the organisation to be as follows:

- i. To consider and assess the needs, disadvantages and opportunities of member Councils and of the Southern Sydney Region; to make representations, submissions and promotions relative to meet such needs, disadvantages and opportunities to Commonwealth and State Governments and Departments, Statutory Authorities and other appropriate bodies or individuals;
- ii. To submit to such Governments and other appropriate bodies, requests for financial assistance, policy changes and additional resources for the region or for member Councils;
- iii. To strengthen the role of Local Government in regional affairs, particularly where the region may be affected by Australian or NSW Government policy;

- iv. To facilitate a co-operative approach to the problems, opportunities and challenges of the region and to projects which benefit the region;
- v. To facilitate the exchange of ideas and experience between elected members and professional and technical staff to enable a joint approach to the development of skills and expertise within member Councils; and
- vi. To advance the interests of the region.

SSROC was established in 1986, following a meeting called by Sutherland Council which was concerned at changes to planning in the Botany Bay region being imposed without consultation with councils. Six councils – Canterbury, Hurstville, Kogarah, Marrickville, Rockdale and Sutherland – subsequently formed the Regional Organisation of Councils with the principal intent of lobbying state and federal governments.

While it has continued to develop regional strategies and make submissions and representations to state and federal governments on issues of common interest, the success of SSROC has been primarily associated with its role as a commissioner of goods and services on behalf of its members.

The board of SSROC consists of two delegates appointed from each council, usually the mayor and deputy mayor. Under the constitution, ordinary meetings of the delegates are supposed to be held four times a year, with an annual general meeting in November, although meetings are not always held that often.

An executive is elected each year, consisting of a president and two vice presidents, and the chairs of the two committees, the Program Delivery Committee, responsible for procurement and shared services among other things, and the Sustainability Program Committee, responsible for planning and environmental management issues. The committees are traditionally chaired by the vice presidents.

General managers meet ten times a year, although this extremely important forum, which considers all significant matters referred to meetings of delegates, has no formal status under the constitution. Delegates' meeting papers do record when a matter has been endorsed by general managers. General managers also consider operational matters that will not usually be referred to delegates.

There has also been a semi-official executive of general managers, known as the G5 steering group, who have caucused on complex matters outside of meetings. They have not met for around nine months, although they continue to communicate by phone on important issues. While the G5 is mentioned in some SSROC papers, membership of this group seems to have been determined by the president. Over the past year, some general managers have questioned its status and the means through which it is appointed.

SSROC has an annual budget of around \$2.5 million, employing a general manager and a small staff. Around one-third of income is derived from membership fees, with

the remainder coming from service fees and procurement rebates. Membership fees are the same for all member councils regardless of size, currently approximately \$60,000 per annum.

5.2 Commissioner of Goods and Services

SSROC has been a highly successful commissioner of goods and services on behalf of its members and other participating councils. For legal reasons, the ROC is unable to call tenders in its own right, so that they are officially hosted by one of the member councils. Individual councils are obliged to formally accept tenders at the end of procurement process – this results in significant complexity, although it does not appear to have been fatal to any of the tenders or other commissioning projects of SSROC.

Local government in NSW has traditionally drawn a distinction between procurements, where councils source goods and services from the private and not-for-profit sectors, and shared service projects, where they jointly commission services from each other or from jointly-owned providers. The term ‘shared services’ has been defined as ‘two or more local government authorities jointly planning, employing staff, undertaking management, business and/or regulatory activities, delivering and/or maintaining infrastructure, or providing services to their communities’.⁴⁸

This is not a meaningful distinction. If we think of public services as being commissioned from external public, private or not-for-profit providers, or from partnerships or joint ventures of the same, rather than simply being procured from or outsourced to the private sector, then shared services are simply one of the alternative ways in which councils can access provision from outside their own organisations and explore economies of scale.

The important question is not whether the provider is public or private, but whether the arrangement is contestable, in the sense of being subject to robust performance benchmarking and the prospect of competition in case of underperformance. Personnel issues such as staff numbers, redundancies and the protection of terms and conditions must be addressed whenever services are jointly commissioned from any external provider, public or private.

SSROC currently has 29 contracts including basic commodities such as stationery, playground equipment and ready-mixed concrete, and significant services such as:

- Electricity supply to large sites – SSROC has organised joint tenders for large sites and public lighting, with a contract that now covers 12 member councils and 6 non-members. In the 2012 tender, this resulted in a 6 to 9 percent reduction in councils’ electricity costs, a collective saving of around \$1.3 million.
- Waste treatment – eight member councils have used SSROC to manage tenders for a new alternative waste treatment facility and interim landfill

arrangements. It is estimated that these councils will avoid millions of dollars in waste levies in the first year alone.

It is estimated that collective procurement saved participating councils \$20.7 million last year, and well over \$100 million over the past decade. In the coming year, member councils will share an \$180,000 rebate based on their participation in SSROC procurements and other projects. For a council that was involved in all 39 contracts and projects, this would represent a rebate of around \$14,000. Tenders are currently underway for:

- Stormwater decontamination systems, with 11 councils participating;
- Plant and equipment hire, involving 13 councils;
- Asphalt and road-making services, in conjunction with Local Government Procurement, with 12 councils having expressed an interest.

One of the ROC's most successful programs has been its street lighting improvement program which includes 18 non-member councils. Through collective representations to regulators, SSROC has been able to secure savings of more than \$20 million from Ausgrid in the 2003/04 and 2008/10 reviews. The ROC has also attracted grant funding to finance the replacement of low efficiency lighting on main roads, and has been leading negotiations over the replacement of existing lighting with less energy-intensive technologies.

There are also a number of shared services projects already established or in train, although SSROC acknowledges that collaboration on shared service projects is often difficult for some of its member councils. In several cases, the ROC serves as the shared service provider, and currently employs senior internal audit staff providing services for seven councils; and strategic procurement coordinators for three member councils.

In these cases, there were no existing council staff providing these services and no real prospect of them being delivered in-house, or experienced staff were retiring and it was difficult to find suitable replacements. Attention is currently being given to other shared services, including:

- A regional approach to certain specialist services, including pool inspections, legal services and project management. A number of councils have expressed support for a shared service solution for pool inspections.
- Several councils are working on aligning their payroll systems, and the ROC is examining the feasibility of standardising these services across the region.
- An audit is to be undertaken of the types of training and development undertaken by member councils to ascertain areas of common interest.

5.3 Research and Advocacy

SSROC undertakes and commissions research on issues of regional significance, which is used in the preparation of strategic planning documents and in

correspondence with and submissions to a variety of state and federal government departments, agencies and inquiries. This is the principal reason why the ROC was originally established, and it is reflected in the stated objectives spelled out in the constitution.

Over the past twelve months, SSROC has made fifteen submissions contributing to state and federal consultation processes on state planning, metropolitan strategy, public transport, freight and ports, electricity transmission and distribution, renewable energy, urban water, waste management and environmental management policies, and, of course, the work of the Independent Local Government Review Panel.

There is recognition that the ROC has significant expertise in the preparation of professional and well-written reports and submissions on issues of common interest.

5.4 Strategic Planning and Infrastructure Development

Whatever the theoretical merits of the ROCs engaging in regional planning and initiating infrastructure development, in practice it would be difficult for them to make any significant contribution without the active engagement of state government departments and agencies. While SSROC does undertake planning at a strategic level, it tends to be focused on research and advocacy.

As with joint commissioning, many planning and infrastructure issues will be pursued most actively at a sub-regional level. Examples include the cycleways policy developed by the Inner City Mayors Forum, which is of very little interest to (say) Sutherland Council, and the Randwick light rail initiative, which has been pursued by that council in conjunction with the City of Sydney, but is of no interest more broadly.

Transport is a particularly important issue for the SSROC, which over the past two years has been developing a Regional Transport Plan. Infrastructure priorities have been agreed and individual council plans are being reviewed to identify common themes and differences. SSROC is also investigating the possibility of regional delivery models for 'Wheels on Meals' when the current federal government funding arrangements expire in 2015.

5.5 Information Sharing and Practice Networks

The role of the ROC in facilitating the exchange of ideas and experience between elected members and professional and technical staff is included among the objectives in SSROC's constitution. This was mentioned in several of the interviews conducted for this review. For example, recent work on asset management has provided an opportunity to share experiences in dealing with specific challenges. The working groups are also seen as a way of developing technical issues and raising them with general managers that might otherwise be difficult.

6. Limitations of the ROC Model

The Review Panel concludes that the performance of the ROCs has been ‘patchy and uneven, especially in the delivery of shared services’, and while it does not exclude their ongoing use, it proposes that the primary instrument of regional cooperation should be ‘Regional Joint Organisations’ (which might be called by a variety of names), membership of which would be compulsory.⁴⁹

In fact, the final report does not offer a solution to the challenge of commissioning shared services – amalgamations are likely to work against this kind of collaboration between councils, and the proposed RJOs would be principally concerned with regional advocacy and planning. Very little is said about how the patchy and uneven performance of the ROCs might be addressed. In that light, it becomes important to understand the limitations of the model and what might done.

6.1 Legislative Impediments

Criticism of the ROCs for failing to achieve their potential in the commissioning of shared services is somewhat unfair, given that (as the Review Panel readily admits) there are significant legislative impediments to closer collaboration. These do not arise out of inherent flaws in the ROC model but from the state government’s failure to provide them with an appropriate legislative framework.

Prior to making a decision about alternative models that would significantly alter the structure of local government in NSW, the state government needs to consider whether legislative amendment might not address concerns about the ROCs’ effectiveness.

6.1.1 Legislative Recognition

Regional Organisations of Councils currently have no formal standing under the *Local Government Act*, or within the sector’s peak association, Local Government NSW. At present, they are mentioned only once in the *Local Government Act*, in section 355, which states that a council may exercise its functions jointly by other councils or by a delegate of the council including Voluntary Regional Organisations of Councils. In general, the Act does not encourage formal collaboration – section 358, for example, states that a council must not participate in the formation of a corporation or other entity without the consent of the Minister (with the exception of cooperative societies and companies limited by guarantee and licensed not to use the word ‘Limited’ in its name).

The fact that ROCs are so widely used across New South Wales, and that SSROC has been so successful as a joint commissioner of services despite this lack of formal recognition, is evidence of the benefits from collaboration across council

boundaries, and the willingness and the capacity of councils to work in conjunction with their peers. Other Australian states have been prepared to recognise and authorise regional collaboration in legislative form.

In Western Australia, legislation allows regional councils or regional local governments to be established for purposes determined by member councils. While two regional councils undertake regional planning and advocacy, they are primarily used to deliver waste management services, and are thus more akin to NSW county councils. Western Australia also has voluntary regional organisations of councils which are much less formalised than in NSW.⁵⁰

In South Australia, the legislation permits councils to form a 'regional subsidiary' to provide a specified service or services, to carry out a specified activity or perform the functions of a council under the Act. A regional subsidiary may be formed to perform a regulatory activity, but it may not also perform a significant and related service activity. However, Ministerial approval is required for the conferral of corporate status under the Act. A separate schedule of the Act prescribes detailed regulations for the establishment and governance of the regional subsidiaries, including the application of the principles of competitive neutrality.⁵¹

If the NSW government were interested in encouraging more formal collaboration among councils at a regional level, then it might start with legislative recognition in the *Local Government Act*. This should be permissive rather than prescriptive. SSROC has taken the view that the ROCs' responsibilities should not be prescribed in detail, but rather 'any legislative changes should be enabling in nature and allow for flexibility to meet differing requirements of member Councils'.⁵²

6.1.2 Legal Status

As an unincorporated association, SSROC can sign contracts and employ staff. It cannot distribute profits to members, although to the present, this has not been a significant constraint, since financial benefits have been distributed through rebates to membership fees. However, it is not difficult to imagine circumstances under which this might cause difficulties.

There is also a \$2 million limit on income, assets and expenditure, which is a more serious constraint on growth – and a number of ROCs seem to have exceeded this limit. And as the law currently stands, no regulatory functions can be delegated to the ROCs.⁵³

SSROC has argued for amendments to the *Associations Act* to exempt ROCs from restrictions on trading or securing pecuniary gain for members. A comprehensive review of the role of the ROCs would include consideration of possible delegation of regulatory powers, as in the South Australian legislation.

6.1.3 Sharing of Services

Section 377 of the *Local Government Act* has the effect of preventing ROCs from accepting tenders on behalf of their member councils: each council is required to individually adopt the tender. Thus while the ROC can act as an agent on behalf of participating councils throughout the procurement in coordinating the process, from a legal perspective, it is as though each council were conducting its own tender, with a formal resolution from each council at the end. With complex procurements that have tight timetables, this can be challenging, requiring councils to schedule extraordinary meetings to accept the tenders in time.

One solution would lie in an amendment to section 377 of the *Local Government Act*. Another view is that it might be resolved by having the ROC prescribed under section 55(3) of the Act (in the same way as NSW Procurement and Local Government Procurement Pty Ltd). In the past, the Division of Local Government has taken the view that this might breach the provisions of the *Incorporation Act*, which prohibits incorporated associations from providing pecuniary gain for their members. SSROC has obtained legal advice which offers a different interpretation.

The author was also advised in the course of this review that SSROC was unable to undertake a joint procurement of waste management without approval from the Australian Competition and Consumer Commission (ACCC). No other level of government would be required to seek ACCC approval before initiating a joint competitive tender. This is yet another matter that is deserving of consideration by the state government if it is serious about encouraging the ROCs to make a significant contribution to the shared commissioning of services.

There are a number of other changes that the state government might make that would assist councils in collaborating in the sharing of services. These were identified in a paper published in May 2013 by a committee of Local Government Managers Australia, following a resolution at Destination 2036. It is not necessary to repeat the findings of that paper in detail here, but in broad terms, they included:

- Changes to the Division of Local Government's Standard Contract for General Managers and Senior Staff to facilitate employment arrangements involving multiple employers;
- Amendment of the Local Government Act to make it easier for councils to establish or participate in an entity for the purpose of sharing staff, to facilitate the transfer of senior staff in inter-council staffing arrangements, and to allow temporary appointments for periods of longer than 12 months;
- The development of guidelines that would provide confidence and clarity to the local government industry in the way in which councils enter into legal arrangements for the sharing of staff;
- The provision of resources and training to local authorities to assist them in establishing inter-council contractual arrangements for sharing staff.⁵⁴

6.2 Lack of Recognition

Apart from their legislative standing, the status of the ROCs will be largely determined by the formal and informal recognition they are given by the state government in its planning and policymaking processes. In the course of this review, mayors and general managers also reported that they were not given adequate recognition in the deliberations of Local Government NSW, which also arises out of their standing with government.

Councils will be much more willing to invest money, time and effort in regional organisations if they are perceived to be one of the principal vehicles for state and federal consultation with local government. The Review Panel acknowledges this, although its principal recommendations are directed to the transformation of local government, rather than a fundamental change in the behaviour of state government.

A significant amount could be accomplished through a formal statement of government policy, perhaps in the form of a compact or memorandum of understanding between state and local government, and leadership on the part of the Premier and the central agencies of state government, especially the Department of Premier and Cabinet which (for the present at least) houses the Division of Local Government.

It is not necessary that there should be a forced rationalisation of the structure of local government, either through amalgamation of councils or through a reduction in the number and variety of regional institutions. In much the same way that the state and federal governments must cope with the complexity and changeability of private firms and not-for-profit providers, large and small, they must accommodate themselves to the diverse patterns of organisation that will (and should) emerge from the local government sector. While it would certainly be more convenient for the planners and policymakers of the NSW government if the institutions of local government mirrored their own structures and processes, this would weaken community responsiveness and reduce the amount of innovation in the sector.

It should also be noted that the managers of front line public service units – hospital general managers, school principals, local area police commanders and the like, who are directly responsible to state government departments – also complain of a lack of consultation in the development and amendment of policy. It is probable that even if the functions of local government were taken over by the departments and agencies of the state, the challenge of effective consultation would remain. The primary responsibility for change rests with those in the senior echelons of state government.

6.3 Institutional Limitations

ROCs suffer from a significant institutional limitation in being voluntary, so that individual councils have the capacity to exercise undue influence by holding out or

threatening to withdraw from joint arrangements. This was recognised by a number of the mayors and general managers in the course of this review, and it was also acknowledged in some of the submissions to the Review Panel, which concluded that membership of Regional Joint Organisations should be geographically defined and mandatory.⁵⁵

There are a number of ways in which this challenge of ‘holdout’ might be overcome, short of passing legislation to require that all councils within a defined geographic area must belong to a Regional Joint Organisation. At the other end of the spectrum, SSROC already insists on a mandatory notice period of several years before a council can withdraw from membership – but there is a range of options in-between. The challenge lies in understanding the extent of institutional failure caused by voluntary membership, the kind of mandate required to overcome that failure, and the costs involved in taking away the diversity and choice that presently exist.

In some cases, councils may choose not to join a ROC, or to participate in a particular shared service arrangement because there is no advantage for local residents in doing so. Voluntarism is another word for ‘choice’, and one of the great benefits of voluntary organisations is that they are obliged to serve their members in order to retain their patronage. There are significant costs involved in negotiating new agreements with different members in relation to emerging shared service opportunities, but this results in better outcomes and a stronger commitment from the councils concerned. In short, the use of mandatory elements in the design of regional institutions should be optimised not maximised.

The Review Panel leaves open the possibility of variation in structure and governance of the Regional Joint Organisations, and to some extent in the range of functions, and by permitting councils to form ROCs and other regional bodies for other purposes, it has ensured that there is still some scope for variety and experimentation. But in recommending the establishment of general purpose regional bodies with such a strong mandate, the Panel has significantly narrowed the amount of diversity and the extent to which local and regional institutions can innovate and adjust over time.

6.4 Capability

Criticism of the ROCs for their failure to advance a shared services agenda seems unfair when the state government has also struggled to develop effective solutions for the sharing of services – and unlike local councils, the departments and agencies of state government are subject to the direction of Cabinet and long-established coordination processes of the central agencies. It would appear that this is one form of strategic capability where central control and coordination provides no guarantee of success.

There is significant concern among SSROC members about their ability to undertake complex shared service arrangements, including payroll, human resources and ICT.

These concerns have been reinforced by some notable failures on the part of Australian state governments in the delivery of complex share service solutions.

It is vital that these concerns are addressed if a shared services agenda is to be progressed, whether by super councils, county councils, RJOs or ROCs. Given the importance that the state government has placed on the pursuit of efficiency gains through joint procurement and the sharing of services, there would be significant benefits to be gained from the Division of Local Government, perhaps in conjunction with the Department of Finance and Services, working closely with local governments (and particularly the ROCs) in the development of suitable frameworks and capabilities.

It is more difficult to address the desire of state government to have local government acquire sophisticated policy and planning skills. As noted elsewhere in this report – to the extent that local councils are responsible for service delivery, we should expect that their senior executives should have experience and expertise in the management of services. Of course, local councils also have responsibility for planning and policy issues, but these tend to be highly practical in nature. Without a significant investment of additional resources, ROCs are not going to develop the abstract planning and policy capabilities so highly valued in state and federal departments. And serious questions need to be asked as to whether such a change would improve the quality of local services.

7. Options for Reform

SSROC councils have expressed their hope that their ROC might be used as a model for local government reform in the greater metropolitan area in place of the forced amalgamations and other structural reforms proposed by the Review Panel. If that hope were to be realised, it would be necessary to articulate a vision of how a restructured ROC might assist the state government in delivering its dreams.

But what reforms might member councils undertake to improve the effectiveness of SSROC, even if the state government refused to implement the reforms suggested in Section 6? What are the prospects for serious reform if the state government does not formally recognise the ROC?

7.1 Drivers of Reform

There is a widespread belief among member councils that the ROC has not fulfilled its potential, although this sentiment is by no means universal. There is a hope that if a stronger form of regional organisation, such as a Council of Mayors, were established, the Premier and Minister for Local Government might agree to meet with mayors on a regular basis. In the interviews for this review, there was a shared concern about forced amalgamation, although at that time that threat was still too vague to serve as a driver of reform. And while member councils are facing some financial pressures, there has not been sufficient stress to cause them to consider a radical structuring of their affairs. So while there is some interest in revitalising the ROC, the drivers of internal reform are not clear.

The serious prospect of forced amalgamations and the establishment of new regional structures amount to a political threat to SSROC's existence. While it is still unclear whether the state government intends to proceed with forced amalgamations, the Review Panel's recommendations provide a 'burning platform' upon which the member councils might construct a programme of reform.

However, it will be difficult (if not impossible) to negotiate agreement on a specific suite of internal reforms without a shared view about the problem and a shared vision of the ROC's future, and this would demand a structured conversation among the mayors and general managers of SSROC. Any such process of reform must include a dialogue with the state government and with local communities about the anticipated benefits. It must take account of the different political complexions of the different councils and the different communities which they serve. It must accommodate the need for a process of integration that is evolutionary and asymmetric, and it must communicate the benefits of such a process to member councils and to government.

The creation of a bold shared services model across three west London councils over the past three years demonstrates the benefits that a shared sense of threat (in that case, a financial threat) and a clear statement of vision can bring.

7.1.1 London's Tri-borough

In February 2011, three west London councils, Westminster City Council, the Royal Borough of Kensington and Chelsea and the London Borough of Hammersmith and Fulham published a joint consultation paper which proposed the merger of a wide range of services across the three authorities.

Local autonomy would be maintained through a 'sovereignty guarantee', with each authority maintaining its own constitution, retaining control over service specification, scrutinising the results and delegating legal authority. Mayors insisted on retaining the discretion to deliver local solutions. Nevertheless, the document laid down a bold vision of integrated services within the 'tri-borough', starting with back office services such as ICT and front line services such as adults' and children's services.

These reforms were driven by the financial austerity faced by central and local government in the UK, and an expectation that this will continue for some years to come. They were reinforced by a willingness on the part of central government to adopt alternative service models, and a commitment to breaking down the traditional boundaries between central government agencies and local government in an attempt to deliver joined-up services and reduce overlap. They built on a decade of experimentation with shared services. But they could not have been imagined or realised without the vision and leadership of the three mayors and three chief executives.⁵⁶

The proposal for sharing such a wide range of services was based on a commitment 'to reduce the cost of bureaucratic overheads and save management costs' through capturing economies of scale. While significant financial benefits have already been delivered, they plan to achieve savings of £40m a year from 2015/16.

Since October 2011, Kensington and Chelsea and Hammersmith and Fulham have been managed by a single chief executive. Westminster elected not to join this arrangement, taking the view that the complexity of its affairs required a dedicated chief executive. Kensington and Chelsea and Hammersmith and Fulham also established a single treasury and pensions team, and a shared environment and leisure team.

Some corporate services have been combined across all three councils. In April 2012, children's services, adult social care and library services were brought together to create a shared Tri-borough service, each headed by a single executive director and a shared management team. They have launched an employee-led mutual to provide management and ICT-support services to schools. They are currently sharing fostering placements and exploring a social impact bond for troubled families across the Tri-borough area.

In January 2013, Tri-borough announced a shared services agreement with BT for human and financial services across the three services. Over the next three years, they are proposing to create a shared IT facility and a Total Facilities Management Service. A shared public health function, headed by a single director, has recently been appointed, and the councils have launched a shared initiative to work with offenders across their region with the objective of reducing reoffending.⁵⁷

It is not suggested that the vision embraced by the Tri-borough councils is appropriate for SSROC. They are faced with a much greater financial challenge, and there are three councils with similar profiles rather than 16 with a somewhat greater diversity of interests. On the other hand, English councils deliver a wider range of more complex functions than local authorities in NSW, and the challenges involved in establishing joint service models are thus much greater.

The Tri-borough model demonstrates the importance of leadership, and the role that a clear statement of vision can play in negotiating an agreed process of service integration and, indeed, amalgamation.

7.2 The Constitution

SSROC's constitution is a formal document which reflects the objectives of the organisation when it was created more than quarter of a century ago. At present it is unsupported by a statement of vision and as a result it plays a passive role in the operation of the organisation. Apart from any structural changes, it is vital that this document is refreshed, so that it reflects the purpose and operation of the ROC today and in the years ahead. In particular, the statement of objectives must include its role as a shared service commissioner.

It is understood that a review of the constitution had been contemplated prior to the recent debate over structural reform, and that a decision was taken to defer the same until the future of the organisation was clarified.

7.3 Legal Structure

Around one-third of NSW ROCs have been established as incorporated associations. WSROC was set up as a company, and the Hunter Councils group employed two institutional forms, an unincorporated association and a corporation (the latter for service delivery). Even if the state government declines to make substantial changes to the *Local Government Act* to formalise the role of ROCs or to establish Regional Joint Organisations, SSROC should pursue the option of incorporation for the delivery of its shared services agenda, as a company limited by guarantee or as a corporation under the *Corporations Act*. A corporation would be able to enter into contracts in its own right and to undertake other business transactions, and (unlike the incorporated association and the company limited by guarantee) any profits could be distributed to the member councils.

However, given the variability in SSROC's various procurement arrangements, which have memberships that are both larger and smaller than the membership of the ROC and which fluctuate over time, the benefits of incorporation should not be overstated.

7.4 Brand

One simple way of giving the ROC a stronger sense of identity would be to change its name. 'South Sydney Regional Organisation of Councils' and 'SSROC' have the virtue of accuracy, but they are unlikely to inspire councillors or the public at large to think of the organisation as a substantial player in the governance of Sydney. This might be one of the advantages of converting the ROC into a Council of Mayors, a concept with is perhaps easier for the general public to understand.

7.5 Shared Commissioning

SSROC's strength lies in the great success that it has had over a number of years with collective procurement. In the interviews conducted with mayors and general managers for this review, it was this quality above all that was mentioned as the foundation of its success. A new vision and organisational structure must build on that foundation.

In practice, SSROC has found this difficult to do. Very few of the joint procurements have been taken up by all of the councils, and shared service projects have proven much more difficult to negotiate. It is evident that these challenges would have to be addressed if SSROC were to be more actively involved in commissioning shared services.

7.5.1 The Challenge

Engagement in collective procurement and the take-up of shared service projects have been uneven. With the electricity contract, the negotiations have been so favourable that the ROC has been able to attract a significant number of non-member councils. In other cases, some member councils have been unable to participate because they were already committed to existing contractual arrangements. One of the larger councils reported that they had declined to participate in some of the tenders because there were no financial benefits for them under the terms of the contract as negotiated. It was argued elsewhere that in some public services, such as the maintenance of footpaths, road resurfacing and garbage collection, joint services are difficult to maintain because of differences in street use, most notably on-street parking.

With some of the specialist services currently being commissioned through the ROC (such as internal audit), smaller councils are seeking expertise that cannot be maintained in-house on a full-time basis, a condition that does not apply to larger councils. In other cases (such as swimming pool inspectors), some councils have indicated they will not be involved because they have few swimming pools in their municipalities.

All of these are legitimate reasons why councils might elect not to join a collective commissioning arrangement: they are a reminder of why shared services arrangements within the ROC must remain flexible. In conversations with SSROC staff, this review sought to understand the conditions under which joint procurements and service provision had been successful in the past. The following factors seem to have been significant:

- Where the services in question were not already being delivered by existing council staff;
- Where the service in question was relatively technical in nature, and the relevant expertise was not held among the member councils (such as electricity and street lighting);
- Where the ROC had recognised expertise beyond that which was available to the individual councils (electricity and street lighting);
- Where several councils lacked the capability in question and did not expect that they would be able to recruit an individual with the required level of expertise (such as internal auditors);
- Where there was already a well-established market for the goods or services in question;
- Where a commodity was being procured so that there was no question of internal provision;
- Where there was a high level of confidence that there would be significant savings, based on good comparative data;
- Where delivery of the service had a similar cost structure across the participating councils;
- Where the ROC underwrote a feasibility study or obtained legal advice, and participating councils each made an additional contribution.

These factors must be kept in mind in the design of joint procurements, but the ROC cannot allow itself to be confined by these conditions. To do that would be to deny SSROC the opportunity of expanding into the delivery of shared services. During the course of 2012, a range of services capable of joint commissioning were canvassed amongst ROC members. They were found to be more complex than originally envisaged:

- Rates processing – constraints included existing contracts, concerns about the need for a seamless customer interface, a perception that this is a complex function with the potential for high impact if there is service failure, a concern at duplication since council would still need to maintain a property database;
- Payroll processing – there was little support for a sharing of services, due to complexity and the prospect of limited savings due to the small number of staff so employed;

- Depots/plant & equipment – there was some agreement that this could be done on a sub-regional basis;
- ICT – there was no interest at this stage;
- Human resources – councils shared SSROC's position that this was not generally commissioned externally even in the private sector;
- Legal services – there was some interest in legal services for routine matters.

In reviewing the evidence, there seem to have been several reasons why the negotiation of shared service agreements has proved more difficult:

- Whilst not necessarily being core business, some services are closely intertwined with processes that are central to the successful operation of the council, and thus demand different skills from the collective procurement of basic goods and services;
- There is evidence from various Australian state governments of just how difficult shared service arrangements can be, raising questions around capability; and
- Shared service arrangements are much more likely to involve existing staff, and thus to raise difficult transitional questions of downsizing, redundancies, union coverage and terms and conditions.

If SSROC is to mature into a more closely integrated commissioner of shared services, then it is fundamental that these challenges are openly discussed among member councils and addressed at a strategic level.

7.5.2 Mandatory Shared Services

One possible solution raised by several councils in the course of this review was to mandate the sharing of certain non-core services, and to make this a condition of membership. In the author's view, this is both unnecessary and undesirable.

A mandatory approach is not necessary for the successful amalgamation of complex service functions, as the West London Tri-borough demonstrates, although the austerity measures confronting those councils were an important pre-condition for their collaboration. On the other hand, the services in the Tri-borough were much more complex and the challenges of negotiating a shared services regime here are not as great.

Nevertheless, identifying a list of non-core services to be mandated would be difficult. And obliging all member councils to participate in all mandated shared service arrangements would deprive the ROC of the flexibility that has contributed so much to its past success in joint procurement.

Given that there are significant unresolved concerns, simply mandating a list of supposedly non-core services would be deeply divisive and place the new structure under significant stress from the outset. It would be particularly problematic if councils were permitted to exercise choice in the decision as to whether to join or

leave the ROC. And it is probable that without extensive public consultation, such a model would face significant opposition in local communities, undermining its legitimacy.

Under a system of internal reform, the SSROC councils would need to negotiate an acceptable shared services model and resolving their concerns. Mandating a list of supposed non-core services would not address those concerns, and would make it more difficult to progress to more complex services.

There is also widespread concern within the ROC about the manner in which procurements are currently conducted, where councils are able to withdraw at a late stage in the process. This is a different question, the resolution of which is discussed below.

7.5.3 Shared Services Provider

SSROC currently performs several different roles in the development of shared services in the region. On the one hand, it serves as a facilitator, seeking to identify councils' interest in the sharing of particular services, and exploring alternative options for provision. On the other hand, it is a provider of shared services, employing a small number of internal audit and strategic procurement specialists, who work for different councils on a part-time basis.

Some NSW ROCs, most notably Hunter Councils, have developed highly successful businesses supplying services to their members, and it must be asked whether, in seeking to develop the shared services agenda within its region, SSROC should not seek to become a major supplier of such services. Potential conflicts of interest and competitive neutrality issues could be addressed by delivering these services through an arms-length corporation, as Hunter Councils have done.

The major benefit of such an approach is that it would provide member councils with a third party supplier that was owned by them collectively. It would enable the ROC to develop a more formal contractual framework for shared services, and as long as use of the supplier's services were not mandated, it would ensure that the model was contestable, not unlike the Lakewood Plan. A shared service provider owned by the ROC would help to overcome (but not fully resolve) the perception that some councils were succeeding at the expense of others, and it might be more reassuring to councils and their staff, with greater scope for negotiating the complexities associated with transition. This might be made even easier if existing staff were seconded rather than transferred to the new SSROC-owned provider, although it would be necessary to be absolutely clear that SSROC had managerial authority over these staff.

The principal risk associated with the ROC becoming a major shared service provider is that it would detract from its responsibilities for commissioning, and the need to focus on building the required capabilities, many of which do not presently exist. For reasons that have been canvassed above, shared service solutions often

develop through bilateral negotiations between two or more councils, and if it were to become a centre of excellence in shared commissioning, SSROC could play an important role in the evolution of these arrangements. There is a risk that the shared service agenda will not progress unless there is a clear focus on the development of these commissioning capabilities.

7.5.4 Shared Services Commissioner

The term 'commissioning' refers to the process of establishing social need, selecting and prioritising service outcomes, choosing among models of delivery, negotiating a performance agreement with management and monitoring ongoing performance. It involves a great deal more than just procurement, and applies (or should apply) as much to in-house delivery as it does to the purchase of services from external providers.

In the context of the shared services agenda, it involves the identification of the services that councils might possibly share and establishing the benefits that might be obtained through joint provision. In some cases, this will necessitate some standardisation of systems and processes so that cost and performance can be benchmarked, and services can successfully be integrated and accountability to the participating councils maintained.

It is probable that councils would want to experiment with shared service arrangements on a bilateral basis before progressing to more complex solutions involving all or most of the SSROC members. As a commissioning specialist, the ROC would take an active interest in these experiments, offering its expertise to facilitate their negotiation, and disseminating the learning across the region more broadly. In short, as a commissioner, SSROC could encourage a diverse and evolutionary approach to the development of shared services.

Effective commissioners draw upon a diverse range of tools, including some of the alternative service delivery models that have emerged in Australia, New Zealand and the UK in recent years, enabling them to develop different solutions to the variety of challenges that emerge. These models might include public service mutuals, where employees are assisted in establishing a social enterprise with some measure of employee ownership, and public-private joint ventures, where government retains a stake in the supplier rather than simply outsourcing.

Commissioners will need have on hand the capabilities and the case studies to reassure councils that services can be safely delivered by external providers (whether public or private). While there have been some notable failures in the past, there have also been a great many successes in the delivery of shared services, and if a comprehensive shared services agenda is to develop, then it is vital that the ROC knows how to access these models and learn from them.

The 'elephant in the room', of course, is the question of existing staff. Mayors and general managers reported that joint commissioning projects have sometimes been

defeated by specialist staff within individual councils who have been able to mount a successful rear-guard action against integration and consolidation. This should be capable of being addressed through good research and political leadership.

However, there are also complex issues associated with the transition of staff – reduction in workforce numbers within the council area; the management of redundancies, if any; and the terms and conditions of workers under the new arrangements. These issues are fundamental to the success of a shared services agenda, and they must be explicitly resolved at a strategic level well in advance of any individual project where the winners and losers can be clearly identified.

As a joint commissioner, SSROC would also need to assist its member councils in developing accountability mechanisms to ensure that providers deliver services as promised, and that there was appropriate reporting to the commissioning councils. And while it may seem a mundane matter, the ROC would need to play a role in ensuring that accounts were paid on time and that differences were promptly resolved.

The real challenge will lie not in the actual delivery of services, but in developing the expertise that enables councils to work together in joint commissioning. This expertise is not presently to be found within state government, which despite the theoretical possibility of resolving these challenges through a mandate from central agencies, also struggles with cross-agency collaboration on shared services.

7.5.5 Standardisation and Benchmarking

As already mentioned, one of the principal obstacles to the development of shared services across the region and the establishment of a robust contestability framework is the lack of comparable data for the purposes of benchmarking. SSROC has been engaged in the benchmarking of corporate services across the region for several years, but there is a significant and ongoing role in the standardisation of policies and processes and in the coordination of reporting protocols. Recent projects include:

- Asset management cycles – 12 of the 16 councils have agreed to adopt a standardised approach to asset life cycles. Discussions are being held with the other four member councils. Of necessity, this will include a conversation with local communities about acceptable asset standards.
- Work has commenced on the development of a common approach to depreciation.

While the state government has an important role to play in the development of such standards, it will inevitably be an iterative process, and one in which the councils must be intimately involved. As a result, the ROCs can make a significant contribution to make to the standardisation of detailed policies and processes, which are necessary for closer collaboration in service delivery and the development of a more comprehensive benchmarking and contestability framework. As noted

elsewhere in this report, it would be best if this were done on a collaborative basis in the first instance, using data clubs, rather than adopting a 'name and shame' approach.

7.5.6 The Structure of Commitment

There is a strong view across the ROC councils that procurement processes should be reformed so that councils are not able to opt out part way through a tender. Where a tender has been conducted on the basis that a certain quantity of goods and services will be purchased, late withdrawal may cause the process to collapse, or prevent the remaining councils from capturing the full measure of the expected benefits. Some councils suggested that it might be resolved by mandating participation in tenders, but such an extreme response is neither necessary nor desirable. The challenge, as one general manager described it, lies in 'the structure of commitment'.

This is a problem, in part, because councils are not empowered to delegate the formal acceptance of a tender to the ROC, so that if there is a change among elected officials or council officers, then an earlier commitment might be reversed. As discussed above, the answer to this lies in a legislative amendment that allows councils to delegate to the ROC the authority to accept tenders.

Of course, the problem might also arise if, in the course of the procurement, it were to emerge that the tendered price was not as low as the council might have secured on its own. In that case, the solution lies in reform of the tender process to enable soft-market testing prior to initiation of the formal procurement.

7.6 Joint Advocacy

Advocacy is the principal reason why SSROC was established in 1986, and it is regarded as one of the most significant benefits that might be secured from closer integration. The potential advantages for councils from improved engagement with state and federal governments on issues of common concern are obvious, and if the ROC were to become the principal vehicle through which the state government communicated with councils in the region, it would undoubtedly strengthen the incentives for councils to invest money, time and effort in regional collaboration.

However, as noted earlier in this report, this is heavily dependent on an assumption that the state government and its respective departments and agencies would be willing to engage with the ROCs in this way. The challenge for the ROC is to find a structure that might make it more likely that the state government would be prepared to make that kind of commitment.

8. Regional Joint Organisations

8.1 Proposal 1: Amalgamations and RJOs

The Review Panel has rejected the ROC as the foundation for regional cooperation in the future. It does so on the basis that their performance has been ‘patchy and uneven’, especially in the delivery of shared services. This is said to have been caused by the disparate size, number and wealth of the participating councils, as well as variations in commitment and leadership. The report does acknowledge, however, that there have also been legislative impediments to collaboration.⁵⁸

8.1.1 Structure

While not excluding ROCs entirely, the Panel recommends the establishment of around five ‘Regional Joint Organisations’ in the Sydney Metropolitan Area that would primarily be responsible for regional advocacy and planning. RJOs are a generic concept that might be implemented in a variety of different ways. Central to these new organisations, however, would be the principle of mandatory membership. While the boundary between compulsion and choice is not fully spelled out, it would seem that the panel has proposed that the following elements should be mandatory:

- Membership and ongoing participation;
- Geographic boundaries (with limited exceptions);
- Membership of no more than one RJO (with limited exceptions);
- Core functions, including regional and sub-regional planning, intergovernmental relations and regional advocacy, road network planning and ‘strategic procurement’ (a term that is not explained);
- The development of a ‘proclamation’ spelling out roles and responsibilities, and a 10-year strategic business plan.

There would be scope for negotiation over the following issues, albeit under the guidance of experts appointed by state government:

- The name – ‘Regional Joint Organisation’ is regarded as a generic descriptor and councils might, for example, call their RJO a ‘Council of Mayors’ or ‘XYZ Councils’;
- Non-core functions, including regional library services and ‘high level’ corporate services or ‘back office’ functions;
- The scope of shared services, which would be negotiated among member councils and laid down in a negotiated ‘proclamation’. Councils would not need to participate in all shared services laid down in the proclamation, but having opted in, there would be no opting out for the duration of the business plan (i.e. at least 10 years);

- Structures and processes within a consistent framework;
- Governance and staffing;
- The establishment of subsidiaries to deliver specific functions;
- The maintenance of ROCs or other cooperative arrangements covering functions not within the remit of the RJO.

In the selection of regional boundaries, the Panel was heavily influenced by strategic planning considerations, and the facilitation of cooperation between federal, state and local governments in planning and policymaking. While the principal criticism of the ROCs was that they had failed in the delivery of shared services, the proposed RJOs have not been designed to address that problem. Rather, the Panel has proposed the creation of a rather different organisation, designed to ensure that local governments are much more closely integrated into state and federal planning processes. Nevertheless, there is scope for RJOs to become involved in joint commissioning and service delivery, and it would seem that the Panel is hopeful that they might take on much broader responsibilities.

However, it is likely that, over time, regional collaboration will tend to cluster around these proposed RJOs, if only because of the money, time and effort that would be involved in maintaining parallel arrangements to deal with joint procurement. Mandatory RJOs for regional advocacy and planning will break the region into two separate organisations and thus undermine the authority of SSROC.

8.1.2 Regional Boundaries

The report has defined the geographic boundaries of these new organisations, although in the Sydney Metropolitan Area it has recommended that the final decision on this question should await decisions about council amalgamations and boundary changes. A side box listed the following factors as having influenced the definition of the boundaries:

- Manageable geographic area and suitable scale for strategic planning;
- Regional or sub-regional communities of interest, reflected in the current arrangements, including existing ROCs;
- Alignment as far as possible with key state and federal agencies for strategic planning purposes;
- Alignment with sub-regional boundaries proposed for the metropolitan strategy;
- Strong socio-economic links identified by the Panel through 'cluster-factor' analysis.⁵⁹

The proposed model does allow for councils to make other arrangements for the sharing of services, so that as long as the relevant RJOs did not agree to incorporate certain of these services in their 'proclamations', SSROC might continue to operate as a regional commissioner of these goods and services. One option might be for

SSROC to undertake this function on behalf of the proposed Central Sydney and South Sydney RJOs, although this would result in additional complexity.

One of the difficulties with the proposal to establish RJOs that are consistent with state and federal planning boundaries is that assumes that departments and agencies are interested in, or capable of giving a binding commitment to maintain these boundaries as primary administrative divisions and to work closely with the RJOs. Based on past performance, these are heroic assumptions. Of course, if such a commitment was capable of being maintained, then RJOs might well provide the foundation for a new system of regional government that would transform the political landscape for both state and local governments.

It is also unclear why it would be in the interest of local government to be assimilated into state government policy and planning processes in this way. While there are obvious benefits in collaboration between federal, state and local governments, their interests are not always aligned. Our federal system is (and ought to be) competitive as well as collaborative, a principle the state government well understands in its dealings with the federal government. Relax the assumption of a common purpose, and coordination becomes another term for coercion.

In any case, it is unlikely that the RJOs could accommodate the diversity of interests that exists across the Sydney region. While the Panel seems to discount the possibility, there would still need to be sub-regional and cross-regional planning and advocacy forums. As noted previously, eight SSROC councils are also members of a special purpose ROC, the Sydney Coastal Councils Group; five belong to the Cooks River Alliance; and another five have investigated the possibility of establishing a special purpose county council to coordinate planning issues associated with the redevelopment of Parramatta Road. If the councils adjoining Botany Bay were broken into two separate RJOs, as proposed by the Review Panel, then there would be need for another cross-regional advocacy forum to represent their shared concerns about transport planning and environmental management issues.

In spite of the superficial elegance of the RJO concept, there is significant doubt about how it would work in practice. Before embracing the recommendations of the Review Panel, SSROC councils should insist on clarity about how these arrangements will work in practice, what their impact will be on local government over the long term and whether, on balance, they will benefit the residents of their communities.

8.1.2 Mandatory/Voluntary

While participation in the proposed RJOs would be mandatory in relation to regional planning and advocacy, the model is permissive when it comes to services, at least in principle. Councils might elect to use the RJO to overcome the problem of 'holdout', but they are able to do so on a voluntary basis – councils would have the freedom to opt-in to an arrangement that was mandatory for agreed services for the life of the strategic business plan (which seems to be 10 years).

In the course of this review, several mayors and general managers expressed their support for a model where membership of a ROC was mandatory and the sharing of certain non-core services was a condition of membership. However, SSROC has traditionally taken the view that membership should not be compulsory, the success of the model being due, in part, to the voluntary nature of participation. For reasons that have been identified above, it is doubtful that a mandatory approach to service amalgamation would work, even for so-called non-core services, and it would make it difficult to explore the 'efficient boundaries' of local and regional services over time.

However, as the Review Panel recognises, this level of mandatory commitment is probably not necessary to overcome the holdout problem. The ROC might still be the vehicle for a number of different commissioning clubs (for individual procurements and shared services, each involving a different mix of councils), as it is now, and membership of a club would be mandatory for the duration of the associated business plan.

This would still require the ROC to identify the benefits of membership in a commissioning club and to sell these benefits to member councils, which would ensure that the process remained contestable and councils were not obliged to join purchasing arrangements that were of negative or marginal value to their residents.

In practice, the establishment of a number of super councils and two or more RJOs in the area presently covered by SSROC would have a significant impact on group dynamics, and it is unclear whether the organisation would survive, or in what form. Amalgamation and mandatory RJOs could well have the effect of reducing the extent of joint commissioning across the region, and making local services less contestable.

8.2 Proposal 2: Strong Joint Organisations

In its list of proposed changes to local authority boundaries in the Sydney region, the report recommended that if the state government did not proceed with forced amalgamations resulting in the establishment of 18 very large councils, that it should consider the creation of seven 'strong Joint Organisations' as an alternative. The scope of these organisations and the extent to which they would be mandatory is not fully explained, but the Panel understands that they would be responsible for somewhat more than sub-regional planning.⁶⁰

It has acknowledged that these probably would need to have different boundaries from the planning and advocacy RJOs. As described in the Panel's report:

Proposed boundaries are aligned with, or nested within, those to be used for delivery of the State Plan, for regional coordination amongst State agencies, and for preparation of Regional Growth Plans by the Department of Planning and Infrastructure.

The failure to spell out the scope of these Strong Joint Organisations (SJOs) makes it difficult to respond, but presumably, the intention is that they would have a much

larger role in the delivery of shared services. In many ways, they seem to resemble the general purpose county councils discussed by the Review Panel in its interim report.

If they are not to be a fourth layer of government, then presumably it is intended that, over time, the SJOs will take over more functions of local government. However, given the paucity of information, it is difficult to know. However, it is difficult to how what SSROC would benefit from such a model.

9. A Council of Mayors

There is significant interest within SSROC in the possibility of establishing a Council of Mayors, which, in addition to pursuing a shared services agenda, it was hoped might meet with the Premier on a bimonthly basis to address key objectives of the State Plan, regional issues and policy development. There has been a desire to establish a 'two-way effective partnership' with the state government, with councils making a much earlier contribution to the development of state policies.

If they were to deliver on their promise, the Regional Joint Organisations proposed by the Review Panel would meet this need, albeit not on the scale presently encompassed by SSROC. Indeed, the report's recommendations are based in part on a paper dealing with the concept of a Council of Mayors developed for the Panel by Gooding Davies, and the final report acknowledges that RJOs might well be called by that name.⁶¹

Confusingly, the Panel also uses this term in discussing metropolitan-level governance. With fewer councils across the Sydney Basin, it is argued, it would be possible to form a 'Metropolitan Council of Mayors' similar to the South East Queensland Council of Mayors.⁶²

The Council of Mayors referred in this section is one that would be established by the member councils of SSROC under state legislation, with the authority, access and clarity of purpose envisaged for the RJOs. However, it would retain the advantages of flexibility and choice discussed earlier in this report/

9.1 Alternative Models

There are currently a number of somewhat different models for the Council of Mayors:

9.1.1 Council of Mayors South East Queensland (COMSEQ)

The prototype is COMSEQ, which represents 11 councils across south-east Queensland. It was established in 2005, and built on a regional forum, the South East Regional Organisation of Councils, originally established in 1991, and a Regional Framework for Growth Management established several years later, which enabled local governments to work with state government in regional land use planning. It is incorporated as a company, with the 11 councils as shareholders and the mayors as directors.

COMSEQ is an advocacy and coordination body, concerned with regional planning, infrastructure provision and environmental management issues. It does not

commission or provide shared services on behalf of its members, in part because of the size of its member councils, but also because of the vast distances involved.⁶³

In this sense, COMSEQ is similar to the minimalist version of the RJOs.

9.1.2 The Gooding Davies Model

In their report on regional collaboration, commissioned by the Review Panel, Gooding Davies canvassed two options – one incremental, the other structural. Unlike the COMSEQ model, Gooding Davies envisaged a Council of Mayors that was concerned with much more than advocacy – in their model, the Council would play a significant role in the development of shared services as well as regional capacity building. They described it as a modified general-purpose county council.

They envisaged two possible approaches – one where the Councils of Mayors were the only model for regional collaboration; and another where they would be established in areas where regional cooperation met specific criteria, with more incremental solutions operating in other parts of the state. Membership would be mandatory, but Gooding and Davies envisaged that councils might withdraw after providing 12 months' notice.

Mayors would be the participating councils' only delegates, with deputy mayors as alternates, although other councillors might be involved through committees. Under their model, the *Local Government Act* would specify a core set of common functions. They did not spell out what these might be, offering participation in regional strategic planning as the only example. In practice, Gooding Davies contemplated these bodies making a contribution to regional planning that would be led by the state government; they did not propose that the state government relinquish its current dominance of regional planning in favour of these new organisations. Each Council of Mayors could build on these core functions to reflect the priorities of the constituent councils. They envisaged shared service providers being established as subsidiary organisations.

The role of general managers was to be formalised under this approach. A Board of Mayors would oversee advocacy, lobbying, representation and broad strategic direction. A General Managers Group would oversee the development of resource sharing and other operational matters.

Gooding Davies argued that such a fundamental intervention in the system of local government would require the creation of 'cohesive regions, preferably aligned with State government planning boundaries' and with sufficient scale to deliver effective outcomes. They did acknowledge that scale would probably vary in different regions across the state.

They also recognised that such a model would not work unless the state government agencies were to give a binding commitment to work collaboratively at a regional level through the Councils of Mayors.⁶⁴

9.1.3 Proposed Hunter Regional Council of Mayors

In mid-2013, the councils in the Hunter region published their proposal for a Council of Mayors model, heavily based on the Gooding Davies model. They proposed that legislation should be passed mandating a role for the Council of Mayors in the development of policies, plans and strategies affecting the Hunter Region. While the details are not clear, it would seem that the Hunter Councils favour a model where local councils would decide on membership rather than the state government.

Unsurprisingly, given the Hunter Councils' traditional focus on the delivery of certain services in the region, their proposal placed a greater emphasis on that aspect of service sharing. It was proposed that Hunter Councils Ltd, the company through which the ROC has jointly delivered and procured its services, would continue to operate as a corporation subsidiary to the Council of Mayors, with the board being comprised of the respective general managers. Services would continue to be provided on an opt-in/opt-out model, with shared service delivery based on 'natural service catchments rather than statutory/legislated catchments'.⁶⁵

9.1.4 A South Sydney Council of Mayors

SSROC's proposal for a Council of Mayors has not been fully developed, and it was not possible to elicit detailed views about its purpose and governance in discussions with the mayors and general managers.

Support for this model within the ROC seems to be closely associated with a desire to strengthen the organisation as an advocate on issues of regional concern. It is hoped that if the state government were to commit to strategic and high-level engagement with a South Sydney Council of Mayors, this would provide mayors with the motivation to make a more substantial commitment to regional collaboration, including a deeper investment of capability building, resulting in them having significantly greater influence on the development of state planning and policymaking processes.

Given SSROC's traditional emphasis on joint procurement and shared services, there is also hope that a Council of Mayors might be structured in such a way to overcome some of the holdout and withdrawal problems that have been evident in the past.

8.2 Proposal 3: A Council of Mayors

It is recommended that SSROC make a formal submission to the state government, rejecting the Review Panel's preferred proposal for forced amalgamations and the establishment of five RJOs, and its alternative proposal for seven SJOs in the Greater Metropolitan Area, on the basis that they are both unnecessary and undesirable for the reasons outlined above.

As an alternative, SSROC councils should propose that it would work closely with the state government in the establishment of a Council of Mayors that would overcome many of the problems with the existing arrangements (identified by the

Review Panel in its report), whilst avoiding the political pain and the new problems that would be created by forced amalgamations and the establishment of RJOs or SJOs. This might be delivered in the following ways:

- The *Local Government Act* would be amended to enable regional groupings of local authorities to establish themselves as Councils of Mayors or similar bodies.
- The state government would enter into a 'compact' with local government, which specifies the obligations on both sides in relation to intergovernmental relations. In particular, the government would commit to agreed protocols governing consultation on policy and planning, including an undertaking that consultation would take place primarily through the Councils of Mayors (or their equivalents). The Department of Premier and Cabinet would be the custodian of this agreement from the perspective of the state government.
- Consideration should also be given to a specific memorandum of understanding between the state government and the member councils of each proposed Council of Mayors.
- Boundaries and membership would be decided by the member councils, but with legislative constraints on withdrawal within a period of five to ten years, or alternatively, by requiring a comparable notice period. This would severely limit the scope for gaming behaviour in relation to particular issues through holdout or the threat to withdraw.
- In the formulation of the memorandum of understanding with state government, member councils would agree to work more closely together on issues of regional and sub-regional planning. For the reasons outlined elsewhere in this report, it would not be desirable to mandate specific structures, however, the state government should use the memorandum of understanding to ensure that councils continue to collaborate and develop their capabilities in relation to regional planning.
- While the Councils of Mayors would be the primary vehicle for regional advocacy and planning, this would not preclude councils from coming together in other sub-regional and cross-regional groupings to deal with issues of particular concern to individual councils (as is presently the case).
- Each Council of Mayors would arrive at its own agreement on the range of services that would be commissioned and/or provided exclusively through that body, with members bound for the duration of the business plan (say, ten years). Member councils would still collaborate in joint commissioning of

goods and services case by case, as is presently done through SSROC, and in that case, participants would be committed for the duration of the contract.

This version of the Council of Mayors (Proposal 3) would permit diversity and flexibility in relation to these various boundaries, whilst delivering a level of mandatory commitment that would severely limit gaming behaviour on the part of individual councils.

Much of the value of a Council of Mayors, as opposed to a ROC, lies in the authority which it would bestow on the board of the regional body. It would be a meeting of mayors, not just council delegates, with deputy mayors attending as their alternates on exceptional occasions. There is concern on the part of some SSROC member councils at the instability that this might create in representation from councils where the mayoralty changes between elections, leading some to favour direct election of mayors. Councillors with a particular interest in regional matters could still participate in the committees of the Council of Mayors, but representation on the board would be confined to the mayors or their deputies as alternates.

As proposed by Gooding Davies, the board would focus on advocacy and strategic representation. This should be supported by a formally constituted General Managers Group which would oversee the development of joint position papers and resource sharing initiatives.

In the consultations for this report, one of the councils raised the possibility of a smaller number of mayors operating as a 'cabinet', possibly with mayors drawn from each of the sub-regions. The author is doubtful about the wisdom of such an institution. The success of a representative body with a diverse membership is that all board members feel that they are a part of decision-making processes.

A number of the councils spoke of the difficult politics of the region. It is essential to the success of a stronger advocacy body that political differences are openly acknowledged and respectfully managed. The success of a cabinet would depend very heavily on the individuals involved, the conventions that are developed and the willingness of members to park short-term personal and political agendas and work for the collective good. To a considerable extent, the constraints on this must be normative – councils must develop a set of conventions that regulate such behaviour, however the way in which state politicians and public servants engage with the Council of Mayors will have a major impact on how these conventions develop.

The Metropolitan Mayors Association has adopted a super-majority approvals clause requiring 75 percent support for shared initiatives. If this were combined with a convention whereby the Council of Mayors routinely took up the cause of sub-regional groupings of councils, then it would serve to unite the mayors in a common cause.

Another way of reducing political and sub-regional differences across the group might be to provide for the chair of the council to rotate on a regular basis. Of course, this would create the need for a strong and trusted secretariat, and place much greater responsibility on the general managers to function as the executive.

At present, general managers do not have a formal role in the decision-making processes of the ROC, although in practice, their meetings are the key forum through which initiatives are negotiated. Formalisation of the General Managers Group as the de facto executive of the Council of Mayors would be essential to its success.

In practice, it will be that group that would develop the shared vision of the organisation. They would be charged with the responsibility for developing the shared services agenda, and converting the organisation into a respected commissioner of such services. Upon them would rest the responsibility for developing the capability to engage with state and federal governments in advocating positions of common concern to the member councils.

Of course, the responsibility for strategic leadership and the overall success of the organisation must lie with the mayors working together in the board of the Council of Mayors, and the work of the General Managers Group must be directed to securing the endorsement of that forum. Regardless of what other changes are made, it is essential that mayors and general managers work much more closely together in the development of the ROC and its agenda.

There may still be a need for a smaller executive group within the General Managers Group, a 'G5' as it were, however it must be appointed from amongst the general managers in an open and transparent manner which ensures that it enjoys legitimacy within the larger group.

8.3 Citizen Engagement

Given the approach recommended in this report, the question of participatory democracy is much less salient. If the existing councils retain their dominance within the ROC or the Council of Mayors, and if they retain the freedom to elect what services will be jointly commissioned, then the need for additional measures to protect the interests of citizens is much less urgent.

Indeed, by strengthening the processes through which services are commissioned, rather than continuing to focus on production, the recommended reforms offer the opportunity for councils to enhance the quality of citizen engagement.

The challenge of participatory democracy can be addressed in three different ways: how governments inform their citizens; how they consult with the public; and how they involve the citizenry in political processes and in other aspects of government.

Informing Citizens

Information is the most basic element of participatory democracy – citizens need information from government so that they can form opinions about policy initiatives and decide how to respond. Advances in technology offer governments with new ways of keeping their citizens informed. Governments still have a responsibility to initiate the process of communication, but increasingly data can be personalised to individual needs and interests, and the process of communication can be interactive.

Some local authorities around the world now broadcast council proceedings and make the details of committee meetings available to citizens over the internet. SSROC proceedings are readily available on the website, although not in a form which particularly encourages citizen engagement. More sophisticated services offer the public the option of deciding how much, how often and what kind of information they will receive.

A number of local governments now also provide their residents with up-to-date information about road construction works, local traffic conditions, and accessible material about policy, planning and projects, including contracts. Indeed, private organisations have increasingly provided this kind of information about public services. Communication approaches such as this might be of great value in enabling local citizens to remain informed about shared services delivered on a regional or sub-regional basis.

The proposal to create a Council of Mayors must include arrangements to keep local councillors and local citizens better informed as to ongoing initiatives, particularly in respect of advocacy and planning.

Consulting Citizens

Technology has also expanded the available range of consultative tools, making it easier for special purpose and intermediate governments to seek the opinions of the public at large. The most sophisticated consultation tools also provide citizens with information about the results of these consultation processes.

For example, online dialogues greatly facilitate this process of consultation, setting problems and enabling citizens to respond, and allowing decision-makers to monitor and analyse the feedback. Cloud-based consultation hubs are being used which access the public through Facebook and Twitter (among other means), and include sophisticated survey and analysis tools, and means of readily linking results and actions to council websites. Again, the value of such approaches to intermediate and indirectly elected instruments of governance such as ROCs is obvious.

Involving Citizens

While technological innovation has made it easier for citizens to be directly engaged in the democratic process, through e-petitions and the like, some of the important initiatives, involve face-to-face interaction.

Initiatives such as ClickFix and FixMyStreet enable residents to report potholes, graffiti or sidewalks requiring repairs, and track councils' responses, using interactive maps. Local councils in NSW have recently been exploring the use of citizen juries and citizen panels to engage their citizens in their deliberative processes. Willoughby City Council is using a citizens' panel to assist in long-term planning of asset expenditure. The Canada Bay City Council is using a citizens' jury to advise on the priorities and levels of local services. And the five inner city councils affected by the proposed Parramatta Road redevelopment are investigating the possibility of using a citizens' panel to engage with their citizens on the planning issues associated with that project.

Local governments have also been experimenting for several years with deliberative budgeting, engaging citizens in the decision over spending priorities. Budget simulators enable citizens to easily ascertain the cost of particular services, and experiment with how they would prefer to allocate spending. This enables them to be used as an instrument of participatory budgeting.

In order to establish its legitimacy with local communities and with state and federal governments, it would be important for a Council of Mayors to draw upon these techniques and technologies in informing, consulting and engaging citizens.

The proposed Council of Mayors draws on many of the insights identified by the Review Panel in its final report, whilst rejecting the particular structural solutions recommended in that document. In the author's view, this would overcome most of the problems associated with the current ROCs, whilst avoiding the loss of flexibility and local responsiveness implicit in the Panel's preferred solutions. There are much better ways of finding the efficient boundaries of local government than through forced amalgamations and mandatory regionalisation.

Endnotes

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- ¹ Independent Local Government Review Panel, 'Future Directions for NSW Local Government', April 2013, pp.10 & 44.
- ² Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, p.7.
- ³ Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, pp.98, 104-106.
- ⁴ Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, pp.82, 89.
- ⁵ Mayors of Botany Bay, Leichhardt, Randwick, Sydney, Waverley, Woollahra Councils, 'Joint Submission to the Independent Local Government Review Panel', May 2013.
- ⁶ Mayors of Ashfield Council, Burwood, Council, City of Canada Bay and Strathfield Council, 'Joint Submission to the Independent Local Government Review Panel', June 2013.
- ⁷ SSROC, 'Submission on "Strengthening Your Community" Consultation Paper', 13 September 2012; 'Submission on "Stronger Local Government" Consultation Paper', 21 March 2013.
- ⁸ The term 'efficient boundaries' was first used by William G. Ouchi in 1980, and popularised by Oliver Williamson – William G. Ouchi, 'Efficient Boundaries', Los Angeles: University of California, Mimeographed, 1980; Oliver E. Williamson, *The Economic Institutions of Capitalism*, New York: The Free Press, 1985, pp.96-98.
- ⁹ Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, pp.72 & 73.
- ¹⁰ Joel Byrnes and Brian Dollery, 'Do Economies of Scale Exist in Australian Local Government: A Review of the Evidence', *Urban Policy and Research*, (2002) 20:4, pp.391-414; Brian Dollery, Lin Crase and Andrew Johnson, *Australian Local Government Economics*, Sydney: UNSW Press, 2006, Chapters 9 & 10; 'Are Councils Sustainable? Independent Inquiry into the Financial Sustainability of NSW Local Government', Final Report, Local Government and Shires Association of NSW, May 2006, pp.257-262; Brian Dollery, Joel Byrnes and Lin Crase, 'Australian Local Government Amalgamation: A Conceptual Analysis. Population Size and Scale Economies in Municipal Service Provision', *Australasian Journal of Regional Studies*, (2008) 14:2, pp.167-175; Chris Aulich et al, 'Consolidation in Local Government: A Fresh Look', Australian Centre of Excellence for Local Government, University of Technology Sydney, May 2011, Vol.1, pp.10, 14, 39, Vol.2, pp.12-14.
- ¹¹ Paul May, 'Amalgamation and Virtual Local Government', in Brian Dollery, Neil Marshall and Andrew Worthington (eds.), *Reshaping Australian Local Government*, Sydney: UNSW Press, 2003, at p.96.
- ¹² 'Are Councils Sustainable? Independent Inquiry into the Financial Sustainability of NSW Local Government', Final Report, Local Government and Shires Association of NSW, May 2006, p.259.
- ¹³ Brian Dollery and Joel Byrnes, 'Is Bigger Better? Local Government Amalgamation and the South Australian *Rising to the Challenge Inquiry*', *Economic Analysis & Policy*, (2007) 37:1, pp.1-14, at p.12.
- ¹⁴ Ibid, p.88, paraphrasing a conclusion of Percy Allen in his 2001 manifesto on secession of Balmain Council.
- ¹⁵ Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, p.75.
- ¹⁶ Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, p.31.
- ¹⁷ Independent Local Government Review Panel, 'Revitalising Local Government', October 2013, pp.21, 93-94.
- ¹⁸ On background to the Lakewood Plan, see Gordon E. Misner, 'The Police Service Contract in California', *Journal of Criminal Law, Criminology and Police Science*, (1961), 52, pp.445-452; John J. Kirlin, 'The Impact of Contract Services Arrangements on the Los Angeles Sheriff's Department and Law Enforcement Services in Los Angeles County', *Public Policy*, (1973), 21:4, pp.553-584; Gary J. Miller, *Cities by Contract: The Politics of Municipal Incorporation*, Cambridge, Mass: The MIT Press, 1981; Martin J. Schiesl, 'The Politics of Contracting: Los Angeles County and the Lakewood Plan, 1954-1962', *Huntington Library Quarterly*, (1982), 45:3, pp.227-243.
- ¹⁹ Robert T. Deacon, 'The expenditure effects of alternative public supply institutions', *Public Choice* (1979) 34, pp.381-397.
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