



**Cootamundra Shire Council**

ABN 47 475 920 639  
Wallendoon Street  
PO Box 420  
Cootamundra NSW 2590  
Phone 02 6940 2100  
Fax 02 6940 2127  
Email [mail@cootamundra.nsw.gov.au](mailto:mail@cootamundra.nsw.gov.au)  
Web [www.cootamundra.nsw.gov.au](http://www.cootamundra.nsw.gov.au)



Ken Trethewey  
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Dr Peter J Boxall AO  
Chairman  
Independent Pricing and Regulatory Tribunal of NSW  
PO Box Q290  
QVB Post Office NSW 1230

Dear Dr Boxall

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**RE: Review of Funding Framework for Local Land Services NSW**

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Cootamundra Shire Council wishes to make a further submission in response to the Local Land Services Board of Chairs' (BoC) response to the IPART draft report Review of Funding Framework for Local Land Services (LLS).

In order to place this response in context I have included as an Appendix a submission made by Council to Local Government NSW (LGNSW) regarding the LLS proposals in December 2012.

As you will see Council was totally opposed to councils collecting any rates or fees or levy's on behalf of LLSs. Council remains totally opposed to having any role in the collection of any rates or fees or levy's on behalf of LLSs as suggested in Table 2 of the BoC submission for the same reasons as expressed in the submission to LGNSW.

Council was also supportive of the rateable land size being reduced to 2 hectares based on the same general risk principle being suggested by the BoC.

However, Council was and remains totally opposed to any land of less than 2 hectares being included as LLS rateable land as suggested by the BoC recommendation 2.

Council considers this to be unworkable when it is considered that the keeping of hens in a suburban property poses a risk to commercial bird growers and neglected fruit trees in the same suburban yard pose a risk to commercial fruit growers within fly and bird travel distances. Council is also at a loss to understand the logic of excluding commercial and industrial land when these often both create and attract risk. For example, stock feed processors on commercial land continuously moving seed and plant material in and out of rural areas.

Council contends that the proposed reduction from 10 hectares to 2 hectares properly addresses the real risk profile on an equitable basis.

Council is extremely concerned with the BoC recommendation 5a that the rate 'exemption for public landholders be removed'. Whilst Council can understand the logic being applied by the BoC Council is violently opposed to this recommendation.

This seems to fly in the face of the convention that one level of government does not tax another level of government. Councils are not entitled to rate Crown land such as that which will be the estate of LLSs, e.g. Travelling Stock Reserves, and would not wish to do so as the consequence of breaking the convention would be to create a costly money go round.

Council is concerned that this removal of the rate exemption implies that council roads, either as source or recipient of weeds, should be rateable land for LLS. This would be a ridiculous situation.

It could be reasonably argued that where a commercial use is the primary purpose of the land holding, for example State Forests, this would justify a rate being levied, as has been previously argued by LGSA/LGNSW in the local government context. In this regard the BoC recommendation would be justified if council's lands were being used for purely commercial purposes, for example, a council owned farming enterprise.

Should you require further information or wish to discuss the matter please contact the undersigned on (02) 6940-2100.

Yours faithfully

Ken Trethewey  
General Manager

11 December 2013

## APPENDICES

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### **RE: *Local Land Services Proposals***

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Thank you for your correspondence of 26 November 2012.

Council considered the proposals for Local Land Services (LLS) at its 10 December 2012 meeting and would offer the following comment to assist with the LGSA response to the proposals.

#### Background

LLS have arisen following the review of LHPAs conducted in 2011/12 known as the Ryan Review. The review included a series of consultation meetings and submissions and identified significant issues with overlap and duplication between LHPAs, CMAs and DPI services, and that DPI services needed to be changed and modernised.

Council, in its verbal submissions to the LHPA review, indicated that the plant and animal pest control services provided by LHPA could be delivered more effectively within the local government sector. Council did not support the discussion at that time related to an amalgamation of LHPAs and CMAs.

Council's basic rationale was that combining a tax/rate collecting agency (LHPA) with a grant/funding agency (CMA) would open up the possibility of increased cost and redistribution of funds, particularly given the high administrative costs of both organisations.

The statements of the NSW Government regarding the proposed LLS structure indicate the opposite view.

#### Specific Response to LGSA Questions

##### *Governance framework*

*How should these new organisations be governed?*

The governance structure proposed appears to create a new defacto government agency guided by and answerable to a single Minister via a Board of Chairs to whom local Boards will answer. The term semi-autonomous seems to sum up the relationship with the ultimate authority vested in the Minister and Board of Chairs. Given the nature of the enterprise and the ultimate control of the Minister this would seem a reasonable structure if one were seeking to create a defacto

government agency collecting its own level of taxes/rates for redistribution within NSW.

*Should the Chair be elected by the Board or appointed by the Minister?*

The Chair of the Board of Chairs, and in fact all of this Board, would logically be the appointment of the Minister. Regional Board chairs, assuming they are not to make up the Board of Chairs, which is not clear, should be locally/regionally elected.

*How many Board members should be skills-based appointments?*

The majority. Given the activity of the LLS is primarily professional advice both to landholders and to government and the collection of taxes/rates and allocation of funds the Board should be of equivalent or greater skill level than the staff component.

*How many should be elected?*

The minority. The LLS as proposed is not similar in nature to local government and is more akin to a state government agency. As such the relevance of popularly elected persons is hard to justify other than as a sop to the prospective tax/rate payers.

*Who should be eligible to vote and who should be eligible to stand for election?*

Tax/rate payers. LLS as proposed are essentially a fee for service government agency and as such the contributors should be entitled to representation.

*Should the Local Government election process be utilised in some way to elect LLS Board members?*

The local government process is costly and covers all persons over the age of 18. This would not be appropriate in a system where representation was restricted to the tax/rate payers. Whilst the NSW Electoral Commission may undertake the election on a fee for service basis the local government process would be overly cumbersome.

*Should the Minister have similar powers to the Minister for Local Government with respect to temporary administration?*

The LLS system as proposed would afford the Minister, via the Board of Chairs, ultimate control over the operation of each Board, particularly if the majority of each Board were appointments. As such there would be no need for similar powers.

*Does the current Local Government Review process have any implications for the development of LLS?*

Given that the NSW Government has already determined the make-up, functions and operation of LLS it would appear that the local government review would have little or no relevance to the set-up of LLS.

*Review of rates:*

*It is proposed that the LLS will have a 'broad rate base' to supplement state and federal government investment. Should all landholders (rural and urban) be rated to fund LLS?*

Again, given the specific nature of the services to be offered by LLS it would be unreasonable to require persons residing in urban areas to contribute to LLS. In that scenario the NSW Government would rightly be seen as simply imposing a new tax on the people of NSW rather than a tax/rate which was closer in nature to a fee for service to a sector rather than an individual. Tax/rates should be restricted to land zonings outside of urban areas.

*Will public perception about increased taxes have the potential to pose a risk to councils' own rate revenue base?*

Providing that LLS are advertised and seen as what they really are, that is a new NSW Government land management and agricultural agency, there should be no effect on local government income. This will rely on their being and remaining a different charter and minimal overlap between the activities of local government and LLS.

However, if the NSW Government attempt to draw a comparison with local government and attempt to portray LLS as something similar to local government the general perception of 'double dipping' could be a detriment to local government.

In this regard the overlap in the area of weed control could be problematic and if the existing overlap were to increase local government would be better placed to hand the weed function and present DPI funding to LLS.

*What impact will this have on existing and future Environmental Levies implemented by councils?*

This would be entirely dependent upon the nature of the levy and whether it was to undertake works overlapping the LLS responsibility. Many existing Environmental Levies would not overlap with present LHPA, CMA or DPI activities and are

conducted in an urban setting which should not be overlapped by LLS. However, some existing Environmental levies would overlap and could be seen as being the province of the LLS.

As the purpose of these levies is to address an environmental issue and not to make money for local government it would be reasonable for these to run their course and then the responsibility for any future program to be handed to LLS.

*What if rate revenue is 're-distributed' to other priority regions around the state (away from where it is collected)?*

The potential for redistribution of taxes/rates is in the nature of taxes/rates collected within a defined area and is in fact the acceptable and normal practice within local, state and federal governments. However, redistribution between local governments is not acceptable practice and redistribution between states by the Commonwealth is the cause of great angst amongst the states.

As stated previously LLS is not akin to local government and is more akin to a NSW Government agency. As such a general rule would be that funds remain within the LLS boundary whilst accepting that a reasonable case could be made for the redistribution of funds in emergencies or situations that have state or nationwide significance.

*Would councils be happy to collect rates on behalf of LLS? For fee-for-service?*

No. This would create the illusion that LLS had some relationship with local government and would draw local government into the inevitable arguments about the level of tax/rate levied by and level of service provided by LLS.

*Are councils in a position to collect the LLS rates system (potentially based on existing LHPA rating system)?*

No.

*Should LLS rates be collected by NSW Government through other frameworks (ie Office of State Revenue)?*

Yes. The LLS taxes/rates are a payment to the NSW Government and must be seen as totally separate to and having no relation with local government.

Core functions

*LLS are supposed to deliver the functions currently provided by the CMAs, LHPAs and the agriculture advisory services of Agriculture NSW. This includes agricultural advice; plant and animal pest control and biosecurity; natural resource management; and emergency and disaster assessment and response. Are all of these functions appropriate?*

Yes. Given that they are the functions presently provided by LHPA, CMA and DPI.

*Are these functions appropriate across all areas of the state?*

Yes. Given that they are the functions presently provided across the whole of the rural/agricultural sector of NSW.

*Are any of them redundant or un-necessary?*

To Councils knowledge all of the functions named are relevant to different extents at different times.

*Which functions are priorities?*

This would be a matter for the local Boards and Board of Chairs to determine. However, the issue of noxious weed control is always at the fore throughout the NSW agricultural production areas and would be expected to be given a high priority.

*Are councils better placed to deliver some of these functions?*

In Cootamundra's initial submission to the LHPA review Council proposed that the plant and animal pest control functions of the LHPA could be undertaken by local government, providing appropriate funding was made available through a transfer of the tax/rate income of LHPAs to local government. Council remains of the view that these two functions would and could be undertaken more efficiently if the same level of funding received by LHPAs was transferred to local government.

Given that neither the transfer of the functions nor the transfer of the tax/rate is included in the LLS proposal it would be more efficient to transfer the full noxious weed function presently held by local government to the LLS. This would place the responsibility with one agency and avoid the inevitable buck passing and blame shifting that will occur when the activity is not done to the satisfaction of the tax/rate payer.

In the case of Cootamundra this would mean the forfeiture of \$23,700 in weed funding from the DPI annually. Along with this forfeiture Council would cease to

have responsibility for inspection of private land and reporting to DPI as the total function would be passed to LLS.

Council would continue to allocate its additional \$68,100 in order to deal with noxious weeds on its own land as any other landholder and would then presumably pay taxes/rates to and be accountable to LLS as any other landowner.

*Does the current Local Government Review process have any implications for the allocation of functions?*

Yes, inasmuch as the transfer of the noxious weed function from local government to LLS could be achieved seamlessly at this time.

#### LLS Boundaries

The LLS regions proposed do appear to cover large areas of disparate land and do appear to have boundaries that cross areas of similar land. However, this would be the case regardless of where the boundaries are situated and as such the positioning of the boundaries is considered acceptable.