

17th September, 2009

Committee Members

IPART

1. I feel compelled to write to you in relation to your 'Review of the Revenue Framework for Local Government' and offer a layman's viewpoint on Council's revenue raising practices (or lack thereof) under operational conditions.
2. As a result of some very poor, indeed hazardous, planning decisions and what appears to be gross lack of proper management processes of some levels of local Government we have been observing several Councils over the past six to seven years
3. Despite legislative protocols requiring consultative processes between Councils and the community it is becoming increasingly more difficult to communicate effectively with Councils due to the planning approval decision making processes being devolved to employed staff rather than through the time honoured role of Elected Councillors
4. This delegation of authority and the instigation of Regional Review and other panels means that Elected Council has little work to do at Council Meetings other than to approve in one motion Development Applications that have been referred to them because of the number of objectors.
5. Where once Councillors met for several hours thrashing out the pros and cons of Development Applications, meetings are now taking only a couple of hours (including Public Forums) to resolve all of the issues on their agendas. The other items on the agenda merely require confirmation and/or adoption of reports prepared by employed Council Officers.
6. This is occurring in several Councils and at one particular Council the Meetings are being set one month apart effectively halving the time spent by Elected Council conferring publicly on issues effecting their community.
7. In short decisions are appearing to be made at the dinner table before the meeting rather than in open Council and under public viewing. Some Councils are working to remove the 'Public Forum' component from their meetings
8. If this practice is occurring throughout the Local Government Areas of NSW then clearly the community are being short changed particularly where there are the maximum number of fifteen Councillors . There is obviously a need to reconsider the structure and Functions of Councils rather than how they can get more money out of an already over taxed community.
9. It is obvious that the majority of Councils would prefer an unfettered approach to revenue raising because this would allow them to increase revenue to recover losses due to (in polite terms) poor judgement by Councils rather than through proper fiscal management processes.
10. It is said that at one Council at the 2008 Local Government Elections had a debt of \$90 million. It is now said the debt has now reached \$120 million.
11. While these issues may be outside of your 'Terms of Reference' there are a number of other issues that I believe need your attention and they are:-

WESTERN SYDNEY REGIONAL ORGANISATION OF COUNCILS

12. Over the past nineteen years a number of councils (10 to 11) in the western suburbs of Sydney have been paying annual fees to belong to a group calling itself the Western Sydney Regional Organisation of Councils (WSROC)
13. WSROC has its own staff but operates under the direction of a board of management made up of Mayors and Council Managers elected to the positions by the Mayors and Managers of its member councils.
14. While WSROC does operate an Apprenticeship Placement/Management Scheme its core business appears to be as a Lobby Group for its member Councils. While this may sound good in principle an examination of the basic facts make membership appear to be nothing more than an expensive duplication of the role and functions of member Councils not to mention an utter waste and misdirection of ratepayer dollars. Just go to any western Sydney council area and see the poor state of local roads etc.
15. Councils have elected Councillors numbering from seven to fifteen with the Leader and Spokesperson being either a community or a peer elected Mayor. Part of the Mayoral role is to Lobby on behalf of his Council.
16. In NSW the majority of Council Mayors are members of Political Parties and often move on from Mayor to Member of Parliament frequently using their political connections to lobby on behalf of their Council. A prime example would be Parramatta defying logic and being chosen as the second major Sydney CBD just a mere 24 kilometres from the major CBD.
17. With the advent of Regional Planning Panels and recent legal advising that Developers are better served by taking their development applications direct to the Department of Planning effective bypassing Councils decision making process. In fact some councils have found that council business has dropped so much that they now only require a couple of hours once a month to make local decisions.
18. General Managers or CEOs as they are now called are often vocal about issues affecting their Council and no doubt raise those issues through membership of their own Manger Associations. It is also not uncommon to read in the local papers the comments of lower level Council Managers regarding issues of concern.
19. The cost to western Sydney ratepayers over since WSROCs inception in 1993 can be derived from one councils response to public forum questions. This Council contributed \$806,117.90 to WSROC Ltd, the lobby group and \$34,975.49 to WSROC Group Apprentices making a total of **\$841,093.30** from just one Council.
20. There are eleven Councils involved in WSROC making the combined total contributions **\$9,252,027.29** just for the privilege of having single submission papers produce on behalf of member councils where submissions from each individual council would probably bear more weight.

WESTERN SYDNEY ALLIANCE

21. But wait there's more. In 1991 the then Federal Labor Government decided to build a small general purpose airport at Badgerys Creek in Western Sydney that was fully supported by the NSW State Labor Government following its election in 1995.
22. Not big enough was the cry from these councils and the State Government, We want a full blown International airport capable of operating 24 hours a day, seven days a week. The only problem was that they did not properly consult with the western Sydney Community who did not want an airport there.
23. In 1996 Federal Labor was given the flick by the community of western Sydney and the airport proposal was inherited by the new Federal Liberal Government. In 2000 after carrying out an extensive Environmental Impact Assessment this Government decided **not** to proceed with the Airport.

24. It appears that not long after the change of Federal Government the NSW State Government decided that an airport should not be built in western Sydney and that the 17000 hectares of land would be better used in residential and commercial development. Together with a number of labor controlled western Sydney Councils and State and Federal Politicians they embarked on an anti airport campaign.
25. To do this and under the auspices and fiscal management skills of the Western Sydney Regional Organisation of Councils another lobby group called the Western Sydney Alliance was set up in 1998. It included the Councillors and staff of the same WSROC member Councils using the resources and facilities of those Councils.
26. The focus for WSROC is to represent the interests of Western Sydney including Transport and opposition to the Badgerys Creek Airport. The focus of the WSA was Transport and opposition to the Badgerys Creek Airport a clear duplication.
27. While the initial objectives from 1998 to 2000 might be seen as a noble cause opposition to the airport strategy the continuation of the Western Sydney Alliance past the 2000 decision by the Government not to build the airport is incomprehensible until it is realised that there was a need for the Federal Labor Opposition to change from supporting the Badgerys Creek Airport to opposing the Badgerys Creek airport. This change in support did not occur until 2003.
28. The Western Sydney Alliance is still in existence despite some councils withdrawing from membership. Whether that discontinuance is due to fiscal responsibility or political expediency remains to be seen. Or are subscriptions still being taken and used for other Labor Strategies.
29. Membership of the Western Sydney Alliance required the payment of an annual subscription that varied year by year from a high of almost \$25,000 to low of \$4,000 and the total amount received by the WSA or WSROC can be calculated from Public Forum responses from a member council.
30. From 1997 to 2006 this member Council paid a total of \$140,144.52 to the WSA that included an amount of \$24,846.10 cited as 'Girraween industrial water contribution to the alliance'
31. On an equal share funding basis the WSA received a total of \$1,541,589.72 from all member Councils since 1997. This figure does not include any monies said to have been donated to the WSA by interested community, business and commercial groups.
32. When first asked about its contributions to the Western Sydney Alliance the response given was clearly contrary in terms of length of membership and amounts contributed to what was publicly known with the information being provided to council by a representative of Western Sydney Alliance that indicated a lack of knowledge or records within council of the Alliance.
33. While the Council employee had difficulty in obtaining membership tenure and contribution amounts then bear a thought for interested members of the community who were unable to find any reference to the WSROC or WSA membership and payments in any document produced by Council. The only apparent report document to member councils appears to have been an A4 size brief outline that appeared on the internet as a result of the online publication one council's meeting.
34. It is said that for one year the WSA required a budget of \$95,000.00 and while no details of exactly what the budget was spent on it is probable that the money was spent on expensive reports from supposed environmental and other experts. Some of the money is known to have been spent on Labor's election strategy.
35. While the initial WSA submission on Badgerys Creek to the Federal Government in 1998 was well researched and comprehensive and therefore probably expensive I have not found one later submission that could not have been compiled by any reasonable intelligent and competent person from information contained in the original submission. There is nothing new in later submissions maybe it was in the name of the submitter.

36. What was found was an apparent politically motivated strategy against the incumbent Federal Liberal Party as well as the NSW Liberal Party in the lead to State and Federal Elections. This strategy included the delivery of flyers to the homes of all residents of member Council areas with the delivery costs of these flyers being borne by each member Council. It was costed by one member Council as being an additional cost of \$1500 or, extrapolated to include all member councils another \$16,500.

37. Why is there any need at all for Lobby groups such as a Regional Organisations of Councils or sub lobby groups called Alliances when the Councils themselves can better apply the lobbying process through direct and other indirect means. These Councils are all members of and fully represented by the NSW Local Government and Shires Association formed for the express purposes of representing Councils and **'LOBBYING' Government on their behalf whether individual, regional or as a whole.**

COUNCIL ERRORS OF JUDGEMENT

37. One of the most obvious examples of poor management decision making by a council was highlighted in a recent decision of the High Court of Australia that a Council had entered an agreement with a Development Company to build a new City Centre on Council and other acquired properties with the express purpose of on selling the acquired properties to the developer at a profit.

38. It is now revealed that the agreement, planning and consultation processes continued based on a wrong assumption by Council that they could resume the properties involved if necessary.

39. Council discussions on these issues were held in confidential meetings with the community only being told of the benefits that would befall them when this might edifice was built. It is now apparent that the only benefit to the community will be a reduction in services and a rise in rates to cover the Court and compensatory costs to the property owners.

40. The questions that must be asked is simply "why did Council proceed to the extent it has without first having full or at the very least a guarantee of control of all properties involved" and as Council would have acted on legal advice from their own legal advisors 'Can the costs be recovered from the legal advisor who gave Council the wrong information in the first place?'

41. It is not rocket science there is over 200 years of Judicial decisions, advising and Judges rules that are available online or through the Bar Association and even methods of obtaining such information without resorting to court proceedings at great expense to the community. So the questions of cost recovery should at least be a consideration.

42. Another issue that requires due consideration is the High costs of using external Consultants, Lawyers and other Experts in Council decision making processes where that expertise could be employed, developed and nurtured in house as appears to occur within one or two NSW Councils.

43. An example of the high costs to the community can be shown through a recent Land and Environment Court Hearing where an expert called to give evidence on pollution issues received expenses totalling \$13,000 for his court attendance and evidence.

44. The evidence given appeared to have been based on outdated data from a deactivated monitoring site miles away from the site under consideration with completely different topographic and geographic features.

45. The assumptions arrived at were based on this outdated data passed through old RTA created software based on a different particulate measurement than the particulates in question. In this case Council and the Appellant paid a share of the costs of that expert. Also present there were other so called expert witnesses from the Design Review referral Panel whose expenses Council refused to publicly declare.

46. Public Forum questions also reveal that these Panels are being run at a financial Loss for the Council concerned and in some cases they do not have the expertise in some of the issues/objections raised. Despite this lack of expertise their decisions are accepted by Council without question.

47. Surely there is a need to revisit the old system of employing qualified professionals who can cover several elements of a Councils responsibilities rather than using numerous external consultants at a higher cost to the community. If the costs of employing the qualified professional are too high then the expertise and costs could be shared through adjoining Councils.

COUNCIL DINNERS, CATERING AND TRAVEL

48. I may also draw to your attention recent newspaper articles (D/T 14/9/09) dealing with the expenses incurred by some councils in providing meals to members of Councils attending regular Council Meetings with the excuse that those attending generally go straight from work to the meeting. One Council is reported to have exceeded \$106,000 for these dinners.

49. Our experience shows that this indulgence is spread throughout several Councils and at one Council there are in fact three sittings. One sitting where Councillors and Executive Staff appear to be the only diners about 6pm another during the coffee break and later at the end of the meeting where Councillors, staff and selected members of the Public, ie developers are invited to attend.

50. Attendees have frequently commented on the quality of food, wine, beer and liquor provided and the same faces regularly appear at these after meeting dinners. Whilst the 6pm meal is held on a different floor and in private it has been observed that not all Staff are provided with meals when arriving and departing during progress of the meeting. At some Councils members of the public have received special invitations to attend the after meeting dinner and to sample the fine food and 100 year old Port.

51. Many Councillors now are Developers in their own right It would not be unusual to hear of one arriving at Council Meetings after a long lunch with developer friends (some of who will have Applications before Council) to partake of a catered dinner with Council mates who will be determining those applications courtesy of the ratepayers.

52. Councillors are elected by the Community to represent the Community as a whole. Part of that role is to conduct regular meetings at which the community are invited to attend and even interact with Council. Elected Councillors attend approximately 30 to 40 Council Meetings per year for which they receive councillor remuneration as compensation for performing their civic duty. This works out at about \$600 per meeting for Councillors and over \$1000 for the Mayor.

53. A majority of Councillors are self employed, retired or in managerial positions that allow flexibility of working hours or they live locally in close proximity to Council chambers that would allow time for returning home for sustenance prior to attending the Meeting, a meeting for which they are paid compensation for attendance.

54. The only real issues are the number of Council employees attending Meetings, their reasons for attending and a responsibility of Council to provide sustenance for them. This issue is easily overcome by providing those called on to attend the meeting with an amount equivalent to the costs of a single course meal including a non alcoholic drink. Over time there would be a cost saving for Council.

55. The majority of Staff attending Council Meetings are senior management to provide details of issues affecting their area of control Some Councils require the attendance of junior employees such as town planners to explain issues relating to development applications.

56. The reason for their attendance escapes me as Councillors have a fully documented report at the meeting together with the senior Manager to explain any issues relating to that report. If the Manager cannot answer Councillor questions on issues effecting those reports then they are obviously not on top of their job. In most cases the application is passed without discussion.
57. Some Councils have a three day window before the meeting to view the agenda and reports and to nominate what reports or additional information they require. If they require the personal attendance of a junior employee then they should notify the General Manager who can arrange the employees personal attendance and the employees recompense for a meal.
58. Another cost saving strategy would be a reduction in the number of Councillors and the removal of Wards so that Elected Councillors are responsible to the community as a whole and not just a Councillors neighbourhood where results can be influence more on personality than on ability and competence.
59. Elected and Employed Council are duty bound to carry out their roles in a competent, efficient and cost effective manner and are answerable to the community for their actions. Recent Court decisions and legal advising support the view that the State Government and some local Councils are trying to remove the community from involvement in Council processes, particularly the Development Application process How the community evolves should as the community desires not as not donor and Councillor developers desire.
60. There appears to be a consensus amongst some Councillors that once elected by the community they are no longer answerable to the community but to their own particular party. The often rise to the top of the ballot paper not because of their managerial or fiscal ability but because of the number of donors they attract to the party. This lack of Managerial expertise and ability is often reflected at lower levels within Councils.
61. Excessive travel cost by Councillors and staff is another bone of contention whether taken through Council, the Regional Organisations of Councils or Councils own Insurance Groups the costs are still visited on the community.
62. The reason for this submission is that most of the contributors to your inquiry are Councils many of who appear to have a different perception of their operational and fiscal management to that of the community.
63. It is my belief that the current system should apply and before any application is received for a special rate increase that a full and proper inquiry be carried out to ensure that all possible options for requiring the special increase are considered. The principles behind this are obviously so that Councils will not be able to increase rates to cover the costs of losses through poor decisions or mismanagement .

Kind Regards

Brian Gray