

# Future Directions for NSW Local Government

## Twenty Essential Steps

**Urban Development  
Institute of Australia (NSW)  
Response**



**June 2013**

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## 1.0 EXECUTIVE SUMMARY

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The Urban Development Institute of Australia New South Wales (UDIA NSW) welcomes the opportunity to provide comment on Future Directions for NSW Local Government – Twenty Essential Steps (The Report).

UDIA NSW is the leading industry organisation for the property development sector of NSW. We represent over 500 organisations and our members include developers, regulators, and leading professional advisors. Local councils, particularly growth area councils, are also active members of the institute.

Local government is the level of government that has the most interaction with the property development community. Councils play a significant role in creating local communities – whether managing regulatory affairs, providing social infrastructure or seeking planning approval. It is vitally important that NSW has a financially sustainable and effective level of local government to ensure that the property development sector is competitive nationally.

UDIA NSW believes that a financially viable and appropriately skilled local government sector is essential to the delivery of many of the NSW Government’s planning and development objectives.

As correctly highlighted in The Report, there are some concerns with respect to the financial sustainability of many local councils in NSW. UDIA NSW members advise that typically the larger councils that have sufficient resources provide the best level and range of service.

However, the situation that NSW local government finds itself in, now, is largely not of its own doing. Rate pegging has largely been responsible for the financial malaise of many councils in NSW. Corporate governance within councils has also played a part. The size of councils, while in itself is not an issue, must be looked at if the broader reforms to local government are to be effective.

The UDIA NSW applauds the Independent Review Panel for the work done to date and looks forward to seeing breakthrough changes to the operation of local government in our State. UDIA NSW makes the following recommendations in support of the review:

### **Recommendation 1**

**The amalgamation of councils is supported in the context of the broader reforms presented in The Report. It is important that the costs and benefits of any amalgamations are considered and regularly monitored throughout the reform process.**

### **Recommendation 2**

**Rate pegging of NSW councils should be removed immediately. Rate pegging should be replaced with a system that transparently benchmarks rates and this information should be made available to the general public.**

### **Recommendation 3**

Provide councils with an option to use unimproved land value and/or improved capital value rating bases. Both have different purposes and the flexibility may enable councils to get a better yield on their infrastructure investments.

### **Recommendation 4**

Development contribution plans can create substantial financial risks for local government. They should not be seen as a source of revenue. UDIA NSW would welcome the opportunity to discuss this issue with the Independent Review Panel.

### **Recommendation 5**

The UDIA NSW supports the concept of issues based performance audits being conducted by the Auditor General, and particularly with respect to fees and charges and development contributions.

### **Recommendation 6**

Councillors should be subjected to the same requirements as directors under *Corporations Act 2001 (Cth)* and these requirements should be imported into the *Local Government Act*.

### **Recommendation 7**

Should Councillors be subjected to requirements similar to those of the *Corporations Act 2001 (Cth)*, they should be appropriately remunerated.

### **Recommendation 8**

Professional development must be mandatory, especially if serious consideration is given to making Councillors subject to same rules as company directors under *Corporations Act 2001 (Cth)*. As a first step, Councillors should be provided training by the Australian Institute of Company Directors.

### **Recommendation 9**

UDIA NSW does not support forced amalgamations of Councils. Proposed amalgamations or the establishment of County Councils should align with the subregions as outlined in the Sydney Metropolitan Strategy (Draft 2013) or the relevant Regional/Sub-Regional Plans for areas outside the Sydney metropolitan area.

## 2.0 INTRODUCTION

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Local government is the interface between community and commerce. As an organisation it is at the coalface managing conflicting interests, providing community services and in many cases having the responsibility for the budgets of a large corporation. Each local council has different pressures. This review into local government is the first comprehensive review in NSW in almost a generation. The pressures experienced in the 1970's are markedly different to those experienced today in the 2010's. It is critical that this review creates a system of government that prepares businesses and communities for the future by improving the way that local government functions.

It is also critical that local government be appropriately structured, resourced and skilled to ensure it can fulfil its important role in delivering on the NSW Government's broader urban development objectives.

In its response to The Report, UDIA NSW has been selective in its analysis. This was done for the purposes of brevity and an acknowledgement that the review panel is a fair way along the reform journey.

As with any reforms, it is the whole package that matters and, from that perspective, the Review Panel has appropriately addressed the challenges facing the local government sector. Our view is that there are some minor changes that could be implemented that would not undermine the integrity of the reforms but would be catalysts for further change.

UDIA NSW has focussed on the following areas in making its recommendations:

- Create a Sustainable System
- Bolster the Revenue Base
- Improve Political Leadership
- Reshape Metropolitan Governance

### 3.0 A SUSTAINABLE SYSTEM

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The Review Panel is correct in saying the “amalgamations are not the panacea for local government’s problems. However ... they are an essential element of the wider reform packages” (p9).

Amalgamation of councils is often seen as the cure all for local government’s ills. However, amalgamations can create more problems than they resolve if not managed properly. Problems with council amalgamations have manifest themselves in Victoria and more recently in Queensland. In some instances, demergers have taken place.

Amalgamations can be costly and savings can be illusory as often the cost savings (and more) are absorbed in the very act of amalgamation. However, from a property development sector perspective larger councils are generally more efficient and provide better services than smaller councils. As the development industry deals with councils with high concentrations of new development, it is the larger growth area councils that typically deal best with growth pressures and provide the best town planning and engineering services. The basis of the industry’s support for amalgamations is the hope that some of the smaller councils will become as efficient as the larger councils.

This aside, amalgamations are definitely an integral part of the broader reform package. For example, with larger councils there will be a greater pool of talent to draw from when electing a council. If a council requires increased revenues the burden will fall less on each individual ratepayer as there will be more of them.

The general approach to amalgamations by the review panel is supported.

#### **Recommendation 1**

**The amalgamation of councils is supported in the context of the broader reforms presented in The Report. It is important that the costs and benefits of any amalgamations are considered and regularly monitored throughout the reform process.**

## 4.0 BOLSTER THE REVENUE BASE

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NSW is the only State in Australia that pegs rates. It also has a rating system that is based on the unimproved capital value of land. Both of these issues combine to create the substantial financial burden that the Review Panel references from TCorp.

### 4.1 Rate Pegging

Rate pegging was introduced by the Greiner Government to limit annual increases in rates. It has been particularly successful in serving its purpose – but it has left behind many organisations that are financially vulnerable and reliant of other charges and grants as a means to sustain their activities. The Sydney metropolitan councils have some of the lowest rates of any in Australia (although it is acknowledged there are different ranges of services provided between jurisdictions).

Rather than make modifications to rate pegging as suggested in the Review, it should be abolished immediately. Rate pegging stops councils from taxing at levels required to keep them financially viable. At the end of the day if the community does not support the rises they will vote the council out of office come election time. Appropriate oversight by the Division of Local Government will also ensure Councils manage the process of setting rates in a responsible manner. Freeing up the ability for councils to charge what they require to meet their obligations is far more efficient and transparent than an independent body (insulated from the electorate) making such decisions.

It is noted in The Report that private goods are referred to and that rates should not be used to fund those private goods (such as leisure centres). This is actually part of a broader discussion and should not be considered in relation to financing. Rather than use the distinction between public and private goods (which is fraught), and use this to increase charges, the real issue should be whether in fact a council should be involved in a service that could be provided in the market and charge market-based prices.

### Recommendation 2

**Rate pegging of NSW councils should be removed immediately. Rate pegging should be replaced with a system that transparently benchmarks rates and this information should be made available to the general public.**

### 4.2 The Rate Base

The review also alludes to the rating base – improved capital value or unimproved land value. There is no common methodology across Australia. Unimproved land value limits the ability of local government to capture the uplift from investments they make in improving a district or suburb. One of the downsides of applying improved capital value rating methodologies is that it creates a disincentive for the owners of the land to undertake substantial improvements as they will be subjected to additional taxes. The improved capital value rating system seems to work best overseas when there is a substantial urban rejuvenation program (e.g. upgrading derelict areas).

Changing the rating methodology cannot be done in isolation of other reforms. For instance, if the review found that local government could increase indebtedness to finance infrastructure then an improved capital value method would lend itself raising bonds (tax increment financing). If there are

no material changes to the way local government can raise finances and increase indebtedness then there may be no immediate need to change the rating system.

### **Recommendation 3**

**Provide councils with an option to use unimproved land value and/or improved capital value rating bases. Both have different purposes and the flexibility may enable councils to get a better yield on their infrastructure investments.**

#### **4.3 Development Contributions**

On page 18 of The Report, the Review Panel discusses development contributions. It is acknowledged that further discussion is required on this point and, given the introductory comments, this needs to occur. The period of record low production, after the year 2000 to now, has coincided with significant increases in section 94 and the introduction of GST and the SIC levy.

Development contributions are a far greater risk to local government financial stability than first appreciated. It is common that contribution plans can be in the order of hundreds of millions of dollars. This will increasingly be the case as Local Infrastructure Plans are prepared on a whole of local government area basis as part of the local plan initiatives proposed in the new planning system. Given their significance, higher levels of financial skill are required in their preparation. UDIA NSW has recommended to the NSW Government in its submission on the White Paper that a template Local Infrastructure Plan be prepared to complement other proposed reforms such as cost benchmarking. These changes will assist in ensuring that the planning and development assumptions in Section 94 plans are complemented by a higher level of financial analysis and risk management.

Major risks emerge when plans are drawn up, the quantum of the charges is set, and they are set at uneconomic levels, and development can't proceed. Councils are stuck with substantial unfunded liabilities as they have had to acquire open space for roads and infrastructure that will be unutilised because the charges themselves act as an impediment to development. We would welcome discussion with the Review Panel on this topic as we appreciate the constraints faced by local government and the development industry with respect to levies.

### **Recommendation 4**

**Development contribution plans can create substantial financial risks for local government. They should not be seen as a source of revenue. UDIA NSW would welcome the opportunity to discuss this issue with the Independent Review Panel.**

### **Recommendation 5**

**The UDIA NSW supports the concept of issues based performance audits being conducted by the Auditor General, and especially with respect to fees and charges and development contributions.**

## 5.0 IMPROVE POLITICAL LEADERSHIP

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The Review Panel is correct in focusing on political leadership. There are some exceptional leaders in local government and some are less exceptional. Like any organisation the success or failure of a council as an organisation is often a result of the leadership.

There is, however, a conflict in roles. Councillors while politicians are also leaders of the organisation making decisions on the operations of the business to a far greater degree than politicians at any other level of government. It is where the politics takes over that leadership becomes a problem for local councils as organisations.

For instance, in a meeting with a General Manager of a large NSW council UDIA NSW was told that his council was proud of the fact that they rejected the increases approved by IPART and kept rates at the same level for a period of four years. This created significant financial vulnerability for the organisation but it meant that the council would continue to be re-elected.

It is impossible to take the politics out of local government but similar to directors of companies they should have obligations to act in the interest of the organisation. There are already laws available to regulate the activity of directors in the private sector and there is little reason that these could not be adopted by local government.

The review panel might wish to consider making councillors subject to the same requirements as directors of public companies under the *Corporations Act 2001 (Cth)*. This would simplify the requirements in the *Local Government Act* and have substantial penalties for acting against the organisation's interests and conflicts of interest etc. It may be of benefit to include the requirements of Directors under the Corporations within the Local Government.

### **Recommendation 6**

**Councillors should be subjected to the same requirements as directors under *Corporations Act 2001 (Cth)* and these requirements should be imported into the *Local Government Act*.**

### **Recommendation 7**

**Should Councillors be subjected to requirements similar to those of the *Corporations Act 2001 (Cth)*, they should be appropriately remunerated.**

### **Recommendation 8**

**Professional development must be mandatory, especially if serious consideration is given to making Councillors subject to same rules as company directors under *Corporations Act 2001 (Cth)*. As a first step, Councillors should be provided training by the Australian Institute of Company Directors.**

## 6.0 RESHAPE METROPOLITAN GOVERNANCE

The Review Panel has suggested options for amalgamations, as stated earlier UDIA NSW supports amalgamations as part of a broader reform strategy.

While it is acknowledged that the amalgamations outlined in The Report make sense there is a significant conflict between the Sydney Metropolitan Strategy and the boundaries proposed in the paper. It is acknowledged that the Sydney Metropolitan Strategy's subregions are based on geographical location and the Review Panel's boundaries are based on socio-economic characteristics combined with geographic locations.

UDIA NSW has taken the subregions in the Sydney Metropolitan Strategy and has generally used the Review Panel's recommendations to develop a consistent structure between the strategies. These recommendations are illustrative and may be used as the basis for voluntary amalgamations or the formation of County Councils. UDIA recognises that a variety of amalgamation options exist but offers the following suggestions that would ensure a strong alignment with sub-regions proposed as the basis for sub-regional planning in the Metropolitan Strategy. These examples are included in the table and map below:

**TABLE 1: Illustrative Boundary Changes for County Councils or Possible Amalgamations**

| Sydney Metropolitan Strategy   | Amalgamation or County Council Recommendations   |
|--|--|
| <b>Central</b><br>Ashfield<br>Botany Bay<br>Burwood<br>Canada Bay<br>Hunters Hill<br>Lane Cove<br>Leichardt<br>Marrickville<br>Mosman<br>North Sydney<br>Randwick<br>Ryde<br>Strathfield<br>Sydney<br>Waverly<br>Willoughby<br>Woollahra | <b>C1.</b><br>Botany Bay<br>Randwick<br>Sydney<br>Waverley<br>Woollahra<br>Leichhardt<br>Marrickville<br><br><b>C2.</b><br>Hunters Hill<br>Lane Cove<br>Mosman<br>North Sydney<br>Willoughby<br>Ryde (East)* doesn't align with Metro Plan<br><br><b>C3.</b><br>Ashfield<br>Burwood<br>Canada Bay<br>Strathfield |
| <b>North</b><br>Hornsby<br>Ku-ring-gai<br>Manly  | <b>N1.</b><br>Hornsby<br>Ku-Ring-Gai<br>Ryde (West)  |

|   |   |
|---|---|
| Pittwater<br>Warringah  | <b>N2.</b><br>Manly<br>Pittwater<br>Warringah   |
| <b>West Central and North West</b><br>Auburn<br>Blacktown<br>Holroyd<br>Parramatta<br>The Hills   | <b>WCNW1.</b><br>Auburn<br>Holroyd<br>Parramatta<br><br><b>WCNW2.</b><br>The Hills (slight boundary change)<br><br><b>WCNW3.</b><br>Blacktown (slight boundary change)    |
| <b>West</b><br>Blue Mountains<br>Hawkesbury<br>Penrith  | <b>W1.</b><br>Penrith<br><br><b>W2.</b><br>Blue Mountains<br><br><b>W3.</b><br>Hawkesbury (slight boundary change)  |
| <b>South West</b><br>Bankstown<br>Camden<br>Campbelltown<br>Fairfield<br>Liverpool<br>Wollondilly | <b>SW1.</b><br>Fairfield<br>Bankstown<br><br><b>SW2.</b><br>Camden<br><br><b>SW 3.</b><br>Wollondilly<br><br><b>SW 4.</b><br>Liverpool<br><br><b>SW5.</b><br>Campbelltown |
| <b>South</b><br>Canterbury<br>Hurstville<br>Kogarah<br>Rockdale<br>Sutherland                     | <b>S1.</b><br>Canterbury<br>Hurstville<br>Kogarah<br>Rockdale<br><br><b>S2.</b><br>Sutherland   |

## **Recommendation 9**

**UDIA NSW does not support forced amalgamations of Councils. Proposed amalgamations or the establishment of County Councils should align with the subregions as outlined in the Sydney Metropolitan Strategy (Draft 2013) or the relevant Regional/Sub-Regional Plans for areas outside the Sydney metropolitan area.**

## 7.0 CONCLUSION

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Local government is the level of government that the property development sector has the most interaction with. It is critical that NSW has an efficient and effective system of local government to ensure the industry is competitive with other States.

In this regard, UDIA NSW welcomes the report Future Directions for NSW Local Government – Twenty Essential Steps undertaken by the Independent Local Government Review Panel. The general thrust of The Report is supported along with the recommendations.

There are some areas that UDIA NSW would be pleased to discuss with the Review Panel, such as amalgamations, rate pegging, developer contributions and governance. Should the Review Panel wish to discuss this submission further please contact Justin Drew, Policy Manager of UDIA NSW on [jdrew@udia-nsw.com.au](mailto:jdrew@udia-nsw.com.au)