

IPWEA (NSW Division)  
L12, 447 Kent St  
Sydney NSW 2000  
Tel 02 8267 3001

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Office of Local Government  
IPART – Local Government Regulatory Burdens  
Locked Bag 3015 Nowra NSW 2541

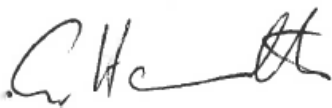
Email: [lgregburdens@olg.nsw.gov.au](mailto:lgregburdens@olg.nsw.gov.au)

**Submission on the IPART Review of Reporting and Compliance Burdens on Local Government**

The IPWEA NSW Roads & Transport Directorate appreciates the invitation to provide this submission to the Office of Local Government. The submission deals with each of the recommendations presented for comment based on a wide range of inputs. We would welcome the opportunity to address the Inquiry to provide further detail on the issues raised within this submission.

Please do not hesitate to contact Mick Savage on tel: 8267 3000 or email [mick.savage@ipweansw.org](mailto:mick.savage@ipweansw.org) in relation to this submission.

Yours faithfully,



Mr Garry Hemsworth  
Director IPWEA NSW Board



Mr Mick Savage  
Roads & Transport Directorate Manager

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# **IPART Recommendations on the Review of Reporting and Compliance Burdens on Local Government**

**Submission by**

**INSTITUTE OF PUBLIC WORKS ENGINEERING  
AUSTRALASIA  
(NSW Division) Roads & Transport Directorate**

**25 October 2019**

## Executive Summary

IPWEA NSW appreciates the opportunity to provide input to what would be the NSW Government's response to IPART's set of recommendations that seek to streamline the local government reporting process thus reducing the burden on councils.

IPWEA NSW fully recognises that regulation is a necessary function of all spheres of government and that it is intended to protect and advance the best interests of society/the community. However, all laws and regulations need to be subject to regular review of their relevance, necessity and efficacy. IPWEA NSW strongly supports the key elements of the Terms of Reference for this Inquiry:

- identify inefficient or unnecessary planning, reporting and compliance obligations imposed on councils by the NSW Government through legislation, policies or other means;
- develop options to improve the efficiency of local government by reducing or streamlining planning, reporting and compliance burdens; and collect evidence to establish the impacts on councils of reporting and compliance burdens, and to substantiate recommendations for reform

Policy improvements to the regulatory framework within the local government sector, with even minor adjustments, can have far-reaching benefits.

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## Introduction

The Institute of Public Works Engineering Australasia NSW Division (IPWEA NSW) is the leading professional association representing Engineers and Public Works Officers engaged in public works and engineering, with the majority of members working in, or providing services to, Local Government (and the NSW Government).

IPWEA (NSW) is a charity with the purpose of advancing the public works excellence in Australia, particularly in NSW by:

- conducting and publishing research into improvements to the processes used in public works and services to enhance NSW Communities
- working with government at all levels to ensure that the interests of the community are represented in regard to the public decision-making process relating to public works and services, and
- providing a forum for all people engaged in the public works to discuss best practice and enhancing the future of NSW Communities

IPWEA (NSW) has made it a mission to enhance the quality of life of NSW communities through excellence in public works and services. This is achieved through our professional association that effectively informs, connects, represents and leads public works professionals for NSW.

The Roads and Transport Directorate was established by IPWEA (NSW) in conjunction with Local Government NSW in 2004 to provide support to its members working in local government across the state. It is supported financially by membership contributions from local councils across NSW.

Its main purpose is to assist Local Government in NSW in the area of road infrastructure and transport related activities by:

- Assisting members in discharging their road management roles in the most effective manner consistent with current legal obligations and the most recent technical practices particularly in the critical area of consistent and cost effective asset management;
- Assisting the IPWEA (NSW), Local Government NSW, individual Councils and members in lobbying for a higher priority to be placed on road infrastructure provision and maintenance and for a more equitable share of resources and funding; and
- Providing for IPWEA members and Local Government a powerful technical and research resource on transport issues at regional, state and national level. The activities would be, as circumstances dictate, either proactive or reactive to achieve the optimum benefit for the region or state.

This submission has been prepared by the NSW Roads & Transport Directorate on behalf of the IPWEA NSW Board.

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## Background

In 2015, The NSW Government tasked IPART to review the reporting and compliance burdens on Local Government. This review is part of the NSW Government's broader local government reform program that commenced in 2011. The purpose of the review was to "identify inefficient, unnecessary, or excessive burdens placed on local government by the State in the form of planning, reporting and compliance obligations, and to make recommendations for how these burdens can be reduced."<sup>1</sup> The review, which was completed in 2016, set to achieve the following goals:

- To identify inefficient or unnecessary planning, reporting, and compliance obligations placed upon local government by the NSW Government through legislation, policy, or through other means;
- To develop options to improve the efficiency of local government by reducing or streamlining planning, reporting, and compliance burdens, and
- To collect evidence to establish the impacts on councils or reporting and compliance burdens, and to substantiate recommendations for reform.

In 2019, The NSW Government released the IPART recommendations and is now presenting interested stakeholders the opportunity to comment on specific recommendations to allow them to respond to the recommendations.

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<sup>1</sup> IPART Review of reporting and compliance burdens on Local Government – Final Report, April 2016

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## Response to IPART Recommendations

IPWEA NSW fully recognises that regulation is a necessary function of all spheres of government and that it is intended to protect and advance the best interests of society/the community. However, all laws and regulations need to be subject to regular review of their relevance, necessity and efficacy. Therefore IPWEA NSW strongly supports the key elements of the Terms of Reference for this Inquiry:

- identify inefficient or unnecessary planning, reporting and compliance obligations imposed on councils by the NSW Government through legislation, policies or other means;
- develop options to improve the efficiency of local government by reducing or streamlining planning, reporting and compliance burdens; and collect evidence to establish the impacts on councils of reporting and compliance burdens, and to substantiate recommendations for reform

The following are IPWEA NSW's responses to the recommendations presented for comment:

### Systemic Issues

1. That the Department of Finance, Services and Innovation revise the NSW Guide to Better Regulation to include requirements for State agencies developing regulations involving regulatory or other responsibilities for local government, as part of the regulation-making process, to:
  - consider whether a regulatory proposal involves responsibilities for local government;
  - clearly identify and delineate State and local government responsibilities;
  - consider the costs and benefits of regulatory options on local government;
  - assess the capacity and capability of local government to administer and implement the proposed responsibilities, including consideration of adequate cost recovery mechanisms for local government;
  - take a coordinated, whole-of-government approach to developing the regulatory proposal;
  - collaborate with local government to inform development of the regulatory proposal
  - if establishing a jointly provided service or function, reach agreement with local government as to the objectives, design, standards and shared funding arrangements, and
  - develop an implementation and compliance plan.

### OLG Comment:

*Treasury is currently developing a new regulatory policy guideline, which will provide guidance on undertaking proportional assessments of the costs and benefits of regulations, including the cost*



*impact on State and Local Government, consideration of alternatives, and engagement with all affected stakeholders to inform the development of regulatory policies. In December 2017, the Premier assigned responsibility for the NSW regulatory framework to the Treasurer. This means Treasury is now the lead agency for the whole-of-government regulatory initiatives (instead of DPC).*

## **Supported.**

IPWEA NSW is supportive of any proposal to streamline and delineate government responsibilities and allow for accountable cost recovery mechanisms.

To ensure appropriate management controls are implemented, IPWEA NSW recommends that:

- suitably qualified personnel, in particular, fully qualified and certified engineers and planners are employed.
- long-term funding frameworks and availability are developed
- integrated planning and reporting includes all relevant government agencies including local government.

2. *Not for consultation*

3. *Not for consultation*

4. *Not for consultation*

5. *Not for consultation*

6. *Not for consultation*

7. That the Department of Premier and Cabinet amend the Good Practice Guide to Grant Administration 2009, to:

- recognise local government as separate from non-government organisations
- remove acquittal requirements for untied grants
- explicitly address ongoing maintenance and renewal costs when funding new capital projects
- require agencies to rely on existing council reporting to assess financial stability and management performance of councils
- lengthen acquittal periods for ongoing grant programs to four years, and use Memorandum of Understanding (MOU) arrangements, rather than requiring councils to reapply annually, and
- provide for a streamlined acquittal process for grants of less than \$20,000 in total, examples of streamlining include:
  - not requiring further external financial audit
  - using risk-based controls and requirements, and
  - confining performance measurement to outcomes consistent with the purpose of the grant.

## Supported

IPWEA NSW fully supports any measures that address improved funding of infrastructure renewal and maintenance.

IPWEA NSW recommends and encourages the use of a new Special Schedule 7 that:

- Provides a concise summary of the financial elements of public infrastructure as at the end of the financial year
- Presents information that is of value to the community, council, and different professionals (particularly engineers and accountants)
- Presents a simple framework with clear definitions
- Follows a repeatable methodology with consistent interpretation of the information underpinning inputs
- Is a methodology that is affordable and cost effective
- Is auditable by an independent auditor and the NSW Audit Office

IPWEA NSW would welcome the lengthening of acquittal periods for ongoing grant programs to four years recognising the challenges of acquittal for infrastructure projects to include disaster management and restorations under short term funding arrangements.

8. That NSW Government agencies collecting local government data and information make this data discoverable through the Data NSW open data portal or the Information Asset Register maintained by the Department of Finance, Services and Innovation.

## Supported.

IPWEA NSW is supportive of innovation that provides efficiencies and promotes transparency noting the need to address compliance measures, privacy and risk management. IPWEA NSW would not support a new user charge to such a portal if there is a net cost to councils.

9. That the Department of Finance, Services and Innovation:
  - support NSW Government agencies to use the Open Data Rolling Release Schedule to establish clear timeframes for publishing local government data and information in Data NSW (in machine readable formats)
  - support councils making local government data and information available for discovery through Data NSW or the Information Asset Register, and
  - support the Office of Local Government to develop a central portal for local government reporting and streamlined data collection.

## Supported

IPWEA NSW supports this recommendation. We also recommend that a single data source be developed covering NSW and Commonwealth Grants Commission returns so that only one annual data update is required. We also note that if there are any costs associated with making local government data and information available for discovery through the DATA NSW Open Data Portal or the Information Asset Register, support through additional resources must be made available to councils.

### 10. *Not for consultation*

## Water and Sewerage

### 11. *Not for consultation*

### 12. *Not for consultation*

13. That the Office of Local Government determine a standardised service report template to be used by technicians undertaking quarterly servicing of aerated wastewater treatment systems, in consultation with NSW Health and councils.

### Partially Supported.

While the development of a standardised service report template would ensure that services undertaken are completed to the appropriate standard, IPWEA NSW would recommend further consultation with the NSW Water Directorate on this issue.

14. That the *Local Government (General) Regulation 2005* be amended to require service reports to be provided to councils using the template determined by the Office of Local Government as a standard condition of approval to operate an aerated wastewater treatment system.

### Partially Supported.

IPWEA NSW would recommend further consultation with the NSW Water Directorate on this issue.

## Planning

15. That the Department of Planning and Environment (DPE):

- Implement a data sharing model with the Australian Bureau of Statistics in relation to building approvals in NSW.

- Introduce a consolidated data request of councils for the purposes of the Local Development Performance Monitoring (LDPM), Housing Monitor, State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Rental Housing) and State Environmental Planning Policy No 1 – Development Standards (SEPP 1 variations).
- Fund an upgrade of councils' software systems to automate the collection of data from councils for the purposes of the LDPM, Housing Monitor, Affordable Rental Housing and SEPP 1 variations.
- Publish the data collected from councils on Affordable Rental Housing and SEPP 1 variations data.
- Seek agreement with the Land & Environment Court to obtain appeal data directly from the Court.
- Remove the administrative requirement for councils to report to DPE on political donations or gifts under section 147 of the *Environmental Planning & Assessment Act 1979*.

### **Supported**

IPWEA NSW supports the creation of a data sharing model and likewise supports the consolidation of data collection as consolidation would have the capacity to reduce duplication and assist with data consistency.

*16. Not for consultation*

*17. Not for consultation*

**18.** That Department of Planning and Environment (DPE) amend the NSW Planning Portal to provide for online:

- payment of fees and charges by applicants and for the Planning Reform Fund fee to then be automatically directed to DPE
- information or certificates under section 149(2) of the *Environmental Planning & Assessment Act 1979*, and
- joint applications for development approvals and construction certificates.

### **Partially Supported**

IPWEA NSW would be concerned if the effect of such a recommendation resulted in local government unable to seek cost recovery for service provision.

*19. Not for consultation*

**20.** That Department of Planning and Environment manage referrals to NSW Government agencies through a 'one-stop shop' in relation to:

- planning proposals (LEPs)
- development applications (DAs), and
- integrated development assessments.

**OLG Comment:**

*Department of Planning, Industry and Environment has begun rolling out a digital system that allows councils to lodge all documentation online and send requests for advice directly to agencies,  
A number of councils are currently using the digital system, with all councils to be trained and rolled into the system progressively through 2019.  
DPIE has also implemented various other regulatory measures to improve integrated development assessment processes.*

**Supported**

IPWEA NSW supports an integrated approach to referrals to state agencies.

21. That Department of Planning and Environment develop suites of standardised development consent conditions and streamline conditions that require consultant reports or subsequent approvals, in consultation with councils, NSW Government agencies and other key stakeholders.

**OLG Comment:**

*The Standard Conditions and Compliance Reporting and Post Approval Requirements documents were published in 2018.*

**Supported**

IPWEA NSW supports the development of suites of standardised development consent conditions and seeks reference to Natspec AUS-SPEC standard suite of specifications.

**Administration and Governance**

22. That the NSW Government streamline the reporting requirements for the Integrated Planning and Reporting framework in the revised *Local Government Act 1993*.

**Supported**

IPWEA NSW supports any measure that would streamline the reporting requirements of councils under the Integrated Planning & Reporting Framework. IPWEA NSW likewise recommends the requirement for a “qualified engineer” to oversee infrastructure management and asset management reporting in the revised Local Government 1993 Act.

23. Ahead of the 2020 Integrated Planning and Reporting (IP&R) cycle, that the Office of Local Government:

- provide councils with a common set of performance indicators to measure performance within the IP&R framework
- conduct state-wide community satisfaction surveys and release the results to allow comparisons between councils and benchmarking
- provide guidance to councils on the form and content of the End of Term Report and its relationship to local councils' Annual Reports
- clarify for councils the purpose, form and content of the State of the Environment report and clarify its relationship to the End of Term Report
- work with the Office of Environment and Heritage, the NSW Environment Protection Authority and other relevant agencies to develop performance indicators for councils to use, and
- where relevant, amend the IP&R Guidelines and Manual to incorporate this material.

**OLG Comment:**

*Feedback on recommendation 22 is also being sought via this response. It should also be noted that the requirement for State of the Environment reporting will be removed from the Local Government Act prior to the next cycle of reporting under the IP&R framework.*

*The Government values the role that IP&R plays in helping councils and their communities to plan effectively for the future and deliver meaningful outcomes.*

*Similarly, the IP&R framework recognises that each community is unique, with its own particular needs and priorities. Therefore a 'one size fits all' approach to measuring IP&R outcomes would not be appropriate.*

*However, the Government acknowledges the need to support councils in developing suitable methods of reporting that are clearly focused on social, environmental, economic and governance outcomes and avoid unnecessary duplication.*

*Therefore comments are sought with respect to how the IP&R framework could best be shaped to achieve this.*

*As part of the Government's ongoing commitment to strengthening transparency and accountability in the local government sector, OLG will continue to work with local councils to improve how we measure their performance, clarify what is expected of them and provide better reporting.*

**Supported**

IPWEA NSW supports the adoption of a common set of performance indicators to measure councils' performance. We also recommend that the inclusion of benchmarks for roads and road safety be introduced in conjunction with Transport for NSW.

**24. Not for consultation**

25. *Not for consultation*  
26. *Not for consultation*  
27. *Not for consultation*

28. That the Department of Planning and Environment, through the Office of Local Government, review the requirements in the *Local Government Act 1993* for Ministerial approvals and remove those that are not justified on the basis of corruption prevention, probity or protecting the interests of the State.

#### **Supported**

IPWEA NSW supports this recommendation. We also recommend that all approvals provisions in the Local Government Act (NSW) 1993 undergo periodic reviews.

29. That the Office of Local Government introduce guidelines that specify maximum response times for different categories of Ministerial approvals.

#### **Partially Supported**

IPWEA NSW supports this recommendation in principle only. While we agree that it should be standard for applicants to be given an indication of the estimated response times for approvals, circumstances may vary thereby rendering some approvals more complicated to process than others. The prescription of maximum response times across the board would not be reasonable as approvals vary in nature and are often dependent on the applicants' ability to comply with certain requirements.

Other variables such as the ability for councils to have sufficient skills, capacity, and undertake community engagement must be considered.

30. That the Department of Planning and Environment, through the Office of Local Government, review all approvals required under section 68 of the *Local Government Act 1993* in order to:

- determine the activities for which a separate local council approval under section 68 is necessary
- place as many approval requirements as possible in specialist legislation, and
- revise the regulatory frameworks within NSW legislation to remove duplication
- where appropriate, enable mutual recognition of approvals issued by another council.

### **Not supported**

IPWEA NSW supports the review of Section 68 Approvals to remove duplication and ensure consistency of approach across Council areas. However, we do not support the introduction of more standard exemptions and minimum requirements for Section 68 approvals. Some activities can both have the potential for amenity and safety as well as the potential to cause significant damage to public property. Therefore, Councils must retain the right to approve and regulate these activities.

Councils require legislative support in order to undertake this regulation effectively and removing them from Section 68 with no alternative legislative mechanism for regulation is not supported. Local Approval Policies may also have a significant role in these areas, and for the same reasons, their abolition is not supported.

We also recognise that councils' LEPs may be in conflict with a "one size fits all" approach. Local communities should be able to determine local approvals for events, etc.

31. That the *Local Government Act 1993* be amended to transfer current requirements relating to the length of time for temporary appointments under section 351(2) to the Local Government (General) Regulation 2005 or the relevant awards.

### **Partially Supported**

IPWEA NSW supports this recommendation for specified projects e.g. flood damage restoration. However, further detail on this recommendation is needed to ensure that merit selection process is not compromised.

32. Extend the maximum periods of temporary employment from 12 months to four years within any continuous period of five years, similar to Rule 10 of the *Government Sector Employment Rules 2014*.

### **Partially Supported**

IPWEA NSW recommends the extension to a maximum of two years for non-contested positions not fitting the recommendation above. Further detail on this recommendation is needed to ensure that merit selection process is not compromised.

33. *Not for consultation*
34. *Not for consultation*
35. *Not for consultation*
36. *Not for consultation*



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## Building and Construction

- 37.** That the Building Professionals Board or the proposed Office of Building Regulation (in consultation with Department of Planning and Environment, Fire & Rescue NSW and local government) design the new online system for submitting annual fire safety statements (AFSS) to allow councils to identify buildings in their area that require an AFSS, and where follow up or enforcement action is required.

### Supported

IPWEA NSW supports this recommendation as an online system can have the potential to reduce councils' administrative burden associated with annual fire safety statements as well as assist councils in identifying buildings that need to fulfil certain requirements. However, the system must provide that annual updates are carried out by appropriately qualified assessors and that there be no additional cost to local government.

- 38.** *Not for consultation*

- 39.** That section 121ZD of the *Environmental Planning and Assessment Act 1979* be amended to allow councils to delegate authority to the General Manager to consider a report by the Fire Brigade, make a determination and issue an order, rather than having the report considered at the next council meeting.

### Supported

IPWEA NSW supports this recommendation recognising that this is an "operational issue" and considers it only appropriate to delegate operational matters to the General Manager.

## Public Land and Infrastructure

- 40.** *Not for consultation*

- 41.** *Not for consultation*

- 42.** *Not for consultation*

- 43.** *Not for consultation*

- 44.** That the NSW Government streamline the provisions of the Local Government Act 1993 relating to plans of management for community land to enable councils to align public notice and consultation with councils' community engagement for Integrated Planning and Reporting purposes.

### **Supported**

IPWEA NSW supports this recommendation. We believe that if council is to manage community land, it should be managed through the existing IP&R provisions of the Local Government Act without an additional layer of reporting.

*45. Not for consultation*

*46. Not for consultation*

*47. Not for consultation*

*48. Not for consultation*

**49.** That the NSW Government, in consultation with councils, review how councils are currently applying Alcohol Free Zone (AFZ) and Alcohol Prohibited Area (APA) provisions in response to alcohol related anti-social behaviour and clarify the rationale and processes for declaring AFZs and APAs in the Local Government Act 1993 and Ministerial Guidelines on Alcohol-Free Zones.

### **Supported.**

IPWEA NSW supports this recommendation.

**50.** That the NSW Government provide an efficient process for consultation and decision making on temporary and events-based alcohol restrictions.

### **Supported.**

IPWEA NSW supports this recommendation recognising the need for local communities to be self-determining of such restrictions.

*51. Not for consultation*

## Conclusion

The IPWEA NSW Roads & Transport Directorate appreciates the opportunity to provide input to what would be the NSW Government's response to IPART's set of recommendations that seek to streamline the local government reporting process thus reducing the burden on councils.

IPWEA NSW recognises the benefit of strategic alliances between all tiers of government along with industry for the long term sustainability of local government in NSW and for the facilitation of efficient and effective long term regional planning. A cooperative approach supported by regulation and delivering efficiencies for NSW Communities relies upon five (5) key components:

- Clearly defined and approved project scope, budgets and schedules
- Well-designed specifications and contract documentation
- Suitably qualified personnel
- Long term funding frameworks and availability
- Integrated planning and reporting

Policy improvements to the regulatory framework within the local government sector, with even minor adjustments, can have far-reaching benefits.

## Contact

Please do not hesitate to contact Mick Savage on tel: 8267 3000 or email [mick.savage@ipweansw.org](mailto:mick.savage@ipweansw.org) in relation to this submission.