



Institute of
Public Works
Engineering
Australia
(NSW Division)

IPWEA (NSW) ROADS & TRANSPORT DIRECTORATE

Crown Lands Management Review
NSW Trade & Investment
PO Box 2185
DANGAR NSW 2309

19 June 2014

Email: Crownlands.whitepaper@trade.nsw.gov.au

Dear Sir / Madam,

Crown Lands Legislation White Paper Submission

Introduction

The Institute of Public Works Engineering Australia (IPWEA) is a not for profit, membership based, professional organisation representing engineers and others involved in the provision of public works and services predominantly in the local government sphere.

The Roads & Transport Directorate has been set up by IPWEA (NSW) in conjunction with Local Government NSW to provide support to its members working in local government across the state. It is supported financially by membership contributions from Local Councils in NSW.

Background

The Roads & Transport Directorate has been set up to meet the demand from members of IPWEA (NSW) to act as a focus for research activities and to provide technical advice.

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 in the critical area of consistent and cost effective asset management and road safety;
- 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.

The Directorate commenced operation in October 2004 and has been involved in determining the needs of members and developing solutions to meet those needs. Over that period the Directorate has made submissions on a range of issues. Copies of some of these submissions¹ are available on the website at: www.roadsdirectorate.org.au.

Infrastructure Funding Background for NSW Local Roads

In NSW, Local Governments are “Road Authorities” under the Roads Act, 1993. Local Government has responsibility for 85 percent of the road network and this portion of the road network accounts for over 50 percent of road accidents.

In 2005, 2008 and 2010² the Roads & Transport Directorate commissioned a Road Asset Benchmarking Project to provide a snapshot of the current reported condition of Regional and Local Roads in NSW, an estimate of the shortfall in funding necessary to bring them to a satisfactory condition and specific recommendations about rectification of the problems identified.

In May 2013 the Roads & Transport Directorate released a further set of reports containing the results of the 2012 Road Asset Benchmarking Project.

The conclusions of the 2012³ report are summarised as follows:

This 2012 Road Management Report estimates the length of regional and local roads at 160,417 km, comprising 80,629 km of sealed roads and 79,789 km of unsealed roads. The replacement value at 30 June 2012 is estimated at \$61.8 billion.

The 2006 NSW Local Government Inquiry identified a sum of \$6.3 billion required to bring existing (including road and bridge) assets to a satisfactory standard. The figure of \$6.3 billion is 13% of total asset value and eight times the current level of expenditure. In addition, a further \$14.6 billion was required for replacement of existing assets over the next 15 years.

The Roads & Transport Directorate of the IPWEA NSW Division reported a snapshot of the current reported condition of regional and local roads in NSW at 30 June 2005 in its Road Management Report, The report concluded that present levels of road

¹ Copies of submissions are available at:

<http://www.ipwea.org/RoadsTransportDirectorate/AboutRD/Submissions/>

²2006, 2008, 2010 Asset Benchmarking Reports are available

at:<http://www.ipwea.org.au/RoadsTransportDirectorate/AboutRD/AssetBenchmarkingProject/>

³ 2012 Road Asset Benchmarking Report is available at:

<http://higherlogicdownload.s3.amazonaws.com/IPWEA/c7e19de0-08d5-47b7-ac3f-c198b11cd969/UploadedImages/Asset%20Benchmarking%20Project/2012%20Road%20Management%20Report.pdf>

funding were not sustainable and identified a life cycle funding gap of \$783 million per annum.

Overcoming this funding gap will require a 108% increase in 2005 funding levels.

The 2008 Road Asset Benchmarking Survey reported a life cycle funding gap of \$618 million per annum equivalent to an increase of 75% required over 2007-08 funding levels. The life cycle funding gap was reported at \$677 million in 2010, equivalent to an increase of 91% over 2009-10 funding levels.

The Australian Local Government Association estimated maintenance and renewal expenditure for local roads in Australia for the period 2010 – 2024 and indicated a shortfall of \$17,664 million over the 15 years equivalent to an increase of 39% over estimated available funding levels for the period.

The Directorate commissioned this report to update the 2010 Road Asset Benchmarking report on the condition on NSW roads and bridges at 30 June 2012, update the shortfall in funding required to bring them to a satisfactory condition, provide specific recommendations about rectification of the problems identified and report on whether councils have made any improvement in management of road and bridge assets since the 2010 Road Asset Benchmarking Project survey.

The road funding gap for all 152 NSW councils is estimated at \$567 million per annum based on the data from the 146 responding councils extrapolated to 152 councils. Funding at this level will require a 66% increase on 2011/12 road expenditures if asset management principles are not applied to managing the gap.

Asset management principles to be applied to managing the funding gap include:

- ensuring that all councils have adequate accurate knowledge on the road assets and how these assets are performing,*
- ensuring that sealed roads are resurfaced/resealed at the optimum time to maintain waterproofing of pavements. This will require an increase in funding from \$178 million in 2011/12 to \$348 million per annum for all councils (a 96% increase, 254% in 2009/10).*
- consulting with and select appropriate levels of service and costs to meet community needs and available resources,*
- ensuring that unsealed roads are resheeted at the optimum time to meet agreed service levels within available resources. This will require an increase in funding from \$53 million in 2011/12 to \$155 million for all councils if service levels reported in the survey are to be maintained (a 194% increase, 416% in 2009/10),*
- making efficiencies in operations, maintenance, resurfacing and pavement renewal aimed at reducing life cycle costs,*
- improving maintenance practices and funding if necessary to extend pavement life and defer projected renewal,*
- ensuring adequate risk management practices are in place to identify risks and implement appropriate risk treatment actions,*
- rationalising (dispose) of unnecessary infrastructure assets,*
- reducing service levels in consultation with the community,*
- identifying future renewal needs and expenditure required to meet agreed service levels and document in an asset management plan,*
- increasing funding, and*
- combinations of all actions above.*

Present funding to meet existing service levels for NSW regional and local roads and bridges is 60% of the life cycle costs, an improvement from 57% in 2007/08 and 55% in 2009/10. Current level of service with current level of expenditure is not sustainable.

Councils may be facing a large and increasing risk exposure at present and in the future. These risks include:





- the condition of roads and bridges infrastructure will decline,*
- potential increase in personal injury and legal claims,*
- road life cycle expenditure 'savings' will be passed onto road users through higher transportation operating costs,*
- funding will not be available to renew ageing road and bridge assets,*
- councils will not be able to provide services needed by communities in medium-long term.*

Renewal expenditures are being transferred to the next generation.

Councils have a low level of knowledge of the load carrying capacity of bridges. This applies to only 14.8% of concrete bridges and 20.6% of timber bridges. Lack of knowledge is an additional risk to councils and inhibits community benefits from more efficient use of regional and local roads by the transport industry.

Asset consumption as reported by depreciation expense is understating the assessment of asset consumption by local road asset managers by almost 23% (50% in 2007/08, 35% in 2009/10), although councils have made significant improvements in the consistency of technical and financial reporting of infrastructure consumption.

These outcomes are supported by a raft of other studies into the sustainability of Local Government which include:

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|  | NSW 'Allan' Inquiry (2006) ⁴ : | \$6.3 billion backlog |
|  | Australia-wide PWC (2006) ⁵ : | \$15.3 billion (high); \$14.5 billion (intermediate); \$12 billion (low) |
|  | NSW TCorp (2012) ⁶ : | Total NSW backlog 7.2 billion as at 2012 (25.4% increase since 2009) |
|  | NSW DLG Audit Report (2012) ⁷ : | Total backlog 7.2 billion |

⁴ Copy of *Independent Inquiry into the Financial Sustainability of NSW Local Government* available on LGNSW website: <http://www.lgnsw.org.au/files/imce-uploads/35/final-report-findings-and-recommendations.pdf>

⁵ Copy of PWC Report *National Financial Sustainability Study of Local Government* on the ALGA website at: http://alga.asn.au/site/misc/alga/downloads/pwc/PwC_Report.pdf

⁶ Copy of TCorp report *Financial Sustainability of the New South Wales Local Government Sector* available at: <http://www.dlg.nsw.gov.au/dlg/dlghome/documents/information/TCorp%20Report%20-%20Financial%20Sustainability%20of%20the%20New%20South%20Wales%20Local%20Government%20Sector%20-%20April%202013.pdf>

⁷ Copy of DLG *Local Government Infrastructure Audit Report* available at: <http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Local%20Government%20Infrastructure%20Audit%20Report%20-%20June%202013.pdf>

The Sustainability of Councils

The above assessments clearly establish that across NSW the sustainability of councils is at a critical point. The existing funding model is not adequate to support council service provision at its present level into the future.

It is difficult to see how any meaningful efficiency gains, in real terms, can be extracted from councils. Local Government in NSW has been subject to Rate Pegging since 1978 ensuring that real costs have been capped and decreased since that time. The rate cap has generally been set at the CPI increase or slightly below, insuring that rate increases have been held to about the CPI rate. This has unfailingly ignored the fact that construction cost indexes have been consistently well above the CPI rate – up to double in some years. This has focussed councils of the efficient provision of services for the past 36 years.

In addition to these facts, Local Government New South Wales (LGNSW) evaluations confirm that cost shifting to Local Government has increased costs for councils by in excess of \$520million per annum.

The solution to the sustainability of councils is therefore restricted to a combination of:

- ▲ Obtaining a more equitable share of income from both State and Federal Governments;
- ▲ A better use of appropriate debt; and
- ▲ An adjustment to the levels of service provided to the community.

While the IPWEA data provided above deals only with roads and bridges a similar situation exists in relation to other asset classes, particularly buildings, drainage and recreation facilities.

Context of this Submission

The remainder of this submission will deal briefly with a number of the recommendations contained in the *Crown Lands Legislation White Paper*. These comments will be provided in the context of the above information having regard to:

- ▲ *The obligations relevant to ‘cost shifting’ that result from the NSW Government’s endorsement of the Intergovernmental Agreement to Guide NSW State-Local Government Relations on Strategic Partnerships and the Review is not intended to breach that agreement.* (Crown Lands Management Review)
- ▲ The need for appropriate resources to be provided to cover any additional responsibilities transferred to Local Government; and
- ▲ The need for meaningful consultation with Councils and their communities before implementing significant changes.

Issues for Comment

Question 1.

We support the streamlining of legislation covering the management of Crown Land providing the full implications of any changes affecting existing users are identified and proper consultation is undertaken with the local community.

Question 2.

Object d. *To provide for the management of Crown land by local government, other entities and the community as well as by the NSW Government* does not discuss the cost implications of providing management and how these costs might be met under the legislation. Object e. *To provide that the disposal of Crown land be for the benefit of the people of NSW* may provide a partial solution although the allocation of funds from say a sale is not discussed. If the land is of “local significance” then any such funds should be retained locally.

Question 3.

There are two aspects to this question:

- ▲ If Council is currently managing the parcel of Crown Land then management under the provisions of the Local Government Act would be advantageous.
- ▲ If Council is not currently managing the parcel of land then the question of cost of management needs to be addressed.

Question 4.

The adoption of a two tier structure for Crown Reserves is seen as a positive step, again subject to the question of cost of management needing to be addressed.

Question 5.

The appointment of a Crown Reserve manager in the absence of a strategic plan which includes sources of funding does nothing to protect and manage the land in question. The process must include the identification of appropriate resources and how they are to be applied to achieve specific outcomes for the community.

Question 6.

No additional activities identified.

Question 7.

Streamlining of arrangements can best be achieved by genuine dialogue between councils and the state government. This might best be carried out on a regional basis, particularly where specific proposals will have regional impacts.

Question 8.

In the absence of specific details, the suggestions provided are adequate.

Question 9.

Concept supported.

Question 10.

Five years is considered adequate.

Question 11.

Equity principles should be applied to determining a satisfactory solution.

Question 12.

We have no view on this question.

Question 13.

No. Each specific use should be considered on its merits having regard to environmental and other impacts.

Question 14.

We have no view on this question.

Question 15.

We have no expertise in this specific area.

Question 16.

We support the consolidation of offences and penalties in the new legislation. There is no discussion as to how enforcement is proposed to be carried out and how the enforcement process is to be funded. Provisions requiring restoration and / or remediation are supported.

Question 17.

We fully support the auditing approach to measuring compliance, providing adequate resources are made available to support the auditing process.

Question 18.

We generally support the repeal of the minor legislation providing the full implications of any changes affecting existing users are identified and proper consultation is undertaken with the local community where appropriate.

Question 19.

There are some issues relating to Irrigation Acts that need to be specifically addressed if they are repealed, including the ownership and ongoing maintenance responsibility for ancillary assets such as bridges and culverts built as part of the original irrigation scheme and now providing support for public roads.

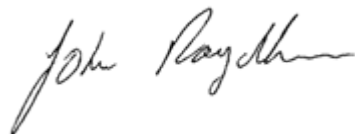
Conclusions

To summarise the points contained in this submission, IPWEA (NSW) through its Roads & Transport Directorate draws attention to the following issues:

1. Recent investigations into the sustainability of Local Government in NSW have clearly established that councils in NSW do not have the capacity to accept new or expanded functions unless they are fully funded in perpetuity.
2. It is critical that the obligations relevant to 'cost shifting' that result from the NSW Government's endorsement of the Intergovernmental Agreement to Guide NSW State-Local Government Relations on Strategic Partnerships are strictly adhered to in assessing all outcomes of the Review.
3. Appropriate resources need to be provided to cover any additional responsibilities transferred to Local Government.
4. Appropriate resources need to be provided meet the management and compliance costs resulting from changes made through the Review.
5. The IPWEA (NSW) Roads & Transport Directorate fully supports the streamlining of legislation covering the management of Crown Land providing the full implications of any changes affecting existing users are identified and proper consultation is undertaken with the local community.
6. Meaningful consultation with Councils and their communities must be undertaken before implementing significant changes resulting from the Review.

IPWEA (NSW) and the Roads & Transport Directorate appreciate this opportunity to have input into the Crown Lands review and would value any opportunity to provide additional details arising from the above submission.

For further information in relation to the submission please do not hesitate to contact the undersigned on:



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