

19 February 2016

Local Government Regulatory Burdens Review
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Dear Sir/Madam

Review of Local Government Reporting and Compliance Burdens

Council thanks IPART for the opportunity to comment on the Local Government - Draft Report, dated January 2016 relating to the above subject matter.

Council fully supports attempts to identify inefficient, unnecessary and/or excessive burdens on local government by the State and as a result improve the efficiency of local government in NSW and enhance the ability of councils to focus on delivering services to their communities.

Council supports the majority of the 49 draft recommendations contained within the IPART report, however it would like to provide comment/exception for the following recommendations:

Systemic Issues

Draft Recommendation 3

That the NSW Government remove restrictions on fees for statutory approvals and inspections to allow for the recovery of efficient costs, subject to monitoring and benchmarking.

Comment

Council fully supports the removal of the current restrictions on fees for statutory approvals and inspections. It is considered that monitoring and benchmarking of these fees would result in relatively consistent charges across local government authorities whilst enabling the fees to be set a rate that reasonably reflects the recovery of efficient costs.

Draft Recommendation 4

Where fees continue to be set by statute, that the relevant NSW Government agency reviews the level of the fees every 3-5 years and amends the relevant legislation to allow these fees to increase annually in line with CPI or an index of fee-related costs.

Comment

Whilst Council would prefer not to have any fees to be set by statute, if this must occur, then at the very least, these fees must be regularly amended to ensure that they reflect councils' increased costs. The annual indexation by CPI is fully supported.

Draft Recommendation 5

That if statutory fees are capped below cost recovery to ensure affordability or for other policy reasons, then the NSW Government should reimburse councils for the shortfall in efficient costs.

Comment

This recommendation is fully supported.

The State Government should fund their policy positions as this becomes an impost on Local Government revenues.

Water and Sewerage

Draft Recommendation 10

That the Department of Primary Industries Water (DPI Water) undertake central water planning for Local Water Utilities (LWUs) to ensure that water supply and demand options are considered in the context of catchments, replacing the water planning LWUs currently undertake individually through Integrated Water Cycle Management Strategies.

Comment

Council does not support this recommendation. As a single catchment single authority Council, the IWCM role and planning for water supplies has long been a responsibility of our organisation and community. Council has an adopted and current IWCM, a Demand Management Strategy and Implementation Plan and has recently resolved to proceed with a preferred option for the augmentation of our water supply.

Council is not convinced that the State could undertake this planning process more effectively particularly given the resource levels within the department and their remoteness from local community.

Some benefit would come from the state having a greater role in water planning where the state supports the process and facilitates the environmental assessment and planning approval for works undertaken in the implementation of the water resource plans.

Under the recommendation, 10 issues may arise in respect to the funding of State developed plans and the implementation of plans. Where such plans are inter LWU the implementation of any plan may be frustrated by the ability or willingness of one LWU to fund their portion of the plan.

If a regional solution to water supply is necessary then the delivery of Regional Water plans could be developed and implemented under the Joint Organisation (JO) model which is currently being developed within Local Government.

The discussion in the report in respect to LWU water entitlements is understood. Council does not consider that the State would require both a Regional Water Planning Strategy and 10 year Water Sharing Plans as this would simply be duplication. Council considers that entitlements under the Water Sharing Plan should be determined from any Regional Water Planning Strategy or that any Regional Water Planning Strategy should include the Water Sharing Plan.

Draft Recommendation 11

That the NSW Government enable LWUs with sufficient capacity to be regulated under the Water Industry Competition Act 2006 as an alternative to their current regulation under the Best-Practice Management of Water Supply and Sewerage Framework and section 60 of the Local Government Act 1993.

Comment

Stakeholders raised concerns with the Section 60 (s60) approval process and regulation under Best Practice Management. Council concurs with those concerns regarding s60 however the Best Practice Management has provided considerable benefit to ensuring LWU's in NSW are efficient and effective in delivering services to their communities. A review of the BPM is considered necessary but more from the need to improve its effectiveness.

The alternate proposed in the draft Report is that LWUs who are assessed as having sufficient capacity could be regulated under the Water Industry Competition Act and hence would be regulated by IPART instead of under the Best Practice Framework. It is Councils view that this recommendation is akin to "throwing the baby out with the bathwater".

It would appear this proposal is replacing the s60 process with the design and subsequent approval processes defined in the *Water Industry Competition Act 2006* (WIC). Without supporting Regulation the detail is unknown but it would appear both processes are equally onerous with the possibility of the WIC process being more onerous. This would do nothing to reduce the reporting and compliance burden of a LWU.

The issue with the s60 approval process is the time it takes the information to be provided and the imposition of the will of DPI Water on LWU. This issue can be addressed through other measures such as requiring a peer review of works presently identified under s60 of the Act as requiring Ministerial approval. Further this shifts risk from the State to the private sector.

It is unclear from the Report whether LWU would be required to become licenced operators and retailers under the WIC. This is a compliance burden presently not carried by Council.

In the absence of the Regulation little further comment can be made but from what is presently known, it is seriously doubted the regulation of LWU under the WICA will reduce the reporting and compliance burdens on Local Government.

Draft Recommendation 12

That DPI Water amend the Best-Practice Management of Water Supply and Sewerage Guidelines to:

- ***streamline the NSW Performance Monitoring System to ensure each performance measure reported is:***
 - ***linked to a clear regulatory objective 61***
 - ***used by either most Local Water Utilities (LWUs) or DPI Water for compliance or meaningful comparative purposes***
 - ***not in excess of the performance measures required under the National Water Initiative, and***
 - ***not duplicating information reported to other State agencies.***
- ***reduce the number of performance measures and/or the frequency of reporting for small LWUs with fewer than 10,000 connections***
- ***align trade waste reporting with other performance reporting, on a financial year basis, subject to consultation with LWUs, LGNSW and the Water Directorate, and***
- ***implement a risk-based auditing regime for LWU wanting to pay a dividend to their council's general fund.***

Comment

Council concurs with the recommendations which will streamline and reduce the reporting requirements. It is emphasised that in determining the amendments a whole of government approach is required so that all of governments requirements on reporting are reviewed and where possible rationalised to reduce reporting to that which has a purpose in decision making or legislative compliance. Further it is suggested that the present reporting to DPI Water, EPA, LGNSW, Health and other Agencies be through one portal to reduce reporting the same results to a number of Agencies.

Planning**Draft Recommendation 16**

That the Environmental Planning and Assessment Act 1979 be amended to enable zoning and development standards information under section 149(2) of the Environmental Planning and Assessment Act 1979 to be provided through the NSW Planning Portal.

Comment

This recommendation is supported subject to the qualification that there needs to be clear disclaimers about reliance on the accuracy and currency of this information. Otherwise there is a threat to the viability of the integrity of Council's current fee for service for issuing Section 149 certificates.

Draft Recommendation 17

That the Environmental Planning and Assessment Regulation 2000 be amended to specify the information that can be provided by councils in accordance with section 149(5) of the Environmental Planning & Assessment Act 1979.

Comment

This recommendation is supported subject to a minimum range of information to be mandatory, whilst still enabling Councils the flexibility to add their own information.

Draft Recommendation 18

That 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***
- zoning and development standards information under section 149(2) of the Environmental Planning & Assessment Act 1979***
- joint applications for development approvals and construction certificates, and***
- information under section 149(5) of the Environmental Planning & Assessment Act 1979 to be accessible via a link to council websites.***

Comment

This recommendation is supported, but noting that the e-planning capacity of many councils will need to be enhanced to support this new Portal. The concerns raised in our comments on Draft Recommendation 16 are also relevant in terms of maintaining the integrity and viability of Council's current fee for service for issuing Section 149 certificates.

Draft Recommendation 20

That DPE develop suites of standardised development consent conditions and streamline conditions that require consultant reports or subsequent approvals, in consultation with councils, State government agencies and other key stakeholders.

Comment

This recommendation is supported subject to there be minimum mandatory standards, whilst still enabling Councils to add their own conditions.

Administration and governance**Draft Recommendation 24**

That clause 163(2) of the Local Government (General) Regulation 2005 be amended to allow the Office of Local Government to determine the councils for which the threshold for formal tendering would be increased to \$250,000, with this threshold to be reviewed every five years.

Comment

Council fully supports this recommendation. The existing threshold of \$150,000 for local government tendering is considered to be too low and should be consistent with the State Government threshold.

Draft Recommendation 25

That section 377(1)(i) of the Local Government Act 1993 be amended to allow the Council to delegate the acceptance of tenders.

Comment

Council fully supports the reduction in administrative burden by allowing councils to delegate the acceptance of tenders to senior council staff. This is also consistent with the NSW Government's response to the ILGRP and LG Acts Taskforce recommendations for Fit for the Future councils.

Draft Recommendation 27

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

Comment

The introduction of these guidelines will need to be done in the broader context of the NSW *Environmental Planning & Assessment Act 1979*.

Draft Recommendation 29

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.

Comment

Council fully supports this recommendation as the current requirements are considered to be too prescriptive and reduce workforce flexibility.

Draft Recommendation 30

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.

Comment

Council fully supports this recommendation in line with the above comment and is consistent with State Government obligations.

Public Land and Infrastructure

Draft Recommendation 38

That the NSW Government transfer Crown reserves with local interests to councils, as recommended by the NSW Crown Lands Management Review and piloted through the Local Land Program Pilot.

Comments

Tweed Shire Council was one of four NSW council's invited to participate in this pilot program. The purpose of the pilot program is to establish a methodology to identify and classify Crown reserves within each LGA, to determine which reserves are of state, local or other significance.

The principle behind this initiative is that local land is better managed by council's as it best understands the uses and needs of the land and the resident community.

Should the pilot program be approved by NSW cabinet the intention is to then commence negotiation between the State and each council with a view to transferring reserves classified as local to the council. The form this transfer would take, e.g. freehold, vestment, etc. is still to be determined.

NSW Crown Lands have given an undertaking that no transfers will be forced on council's. This assurance is in response to some council's concern that this program may be an exercise in cost shifting.

At this time the program is still in the initial stages and completion has been further delayed given that three of the four pilot councils have been recommended for amalgamation under the Fit for the Future review.

It is considered that successful completion of this program would provide administrative benefits to both NSW government and local council's by eliminating procedural duplication and simplifying control of effected lands.

Should you require any further information in relation to this submission, please do not hesitate to contact Council's _____ on (02 6670 _____) or by email _____@tweed.nsw.gov.au

Yours faithfully

Troy Green
GENERAL MANAGER