

JERILDERIE SHIRE COUNCIL

All communications to be
addressed to
General Manager
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Home of Ned Kelly's Jerilderie Letter

Our Ref:

AGENDA

NOVEMBER SPECIAL COUNCIL MEETING

Wednesday 11 November 2015
From 8.30am
Council Chambers, Jerilderie

Attendees:

Cr Ruth McRae, Mayor
Cr Laurie Henery, Deputy Mayor
Cr Terry Hogan
Cr Faith Bryce
Cr John Hudson
Cr Tim Sheed
Cr Gaila Smith
Craig Moffitt, General Manager
David Tamlyn, Director of Technical Services
Susan Appleyard, Manager of Development

Apologies:

Vicki Sutton, Finance Manager

Minutes:

Agenda Topics

1. Apologies
2. Pecuniary Interest Declarations
3. Fit for the Future

BERRIGAN SHIRE SEEKING	JERILDERIE SHIRE SEEKING
<ul style="list-style-type: none"> • Keep JSC RMS contract staff at Jerilderie 	<ul style="list-style-type: none"> • Engineering for the new Council to be centred in Jerilderie
<ul style="list-style-type: none"> • Staff protection provisions need to be relaxed 	<ul style="list-style-type: none"> • No change to staff protections that undermines significantly LG presence in Jerilderie
<ul style="list-style-type: none"> • The Council needs at least \$30m to ensure merged entity is sustainable 	<ul style="list-style-type: none"> • Council is convinced there will be no agreement by State Government to any request for additional funds beyond that now on the table
<ul style="list-style-type: none"> • Rates and service levels to be harmonised in accordance with the Council's service and equity model 	<ul style="list-style-type: none"> • Current service levels retained in the area of JSC • Rates harmonised as far as is realistic in response to the levels of service
<ul style="list-style-type: none"> • Adequate representation of the JSC area needs to be assured 	<ul style="list-style-type: none"> • Adequate representation for Jerilderie
<ul style="list-style-type: none"> • The Council centre would be based at Berrigan 	<ul style="list-style-type: none"> • Council administration centre based outside Jerilderie is accepted
<ul style="list-style-type: none"> • The Council prefers to participate in a JO based at Albury with a second preference seeing the merger of the two proposed Murray JO's. 	<ul style="list-style-type: none"> • Membership of a JO based in Albury

Income Statement	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC
RATES	2015	2015	2014	2014	2013	2013	2012	2012	2011	2011
Residential Rates	2,312	96	2,343	92	2,140	83	2,066	76	1,996	68
Farmland Rates	1,720	1,500	1,687	1,462	1,634	1,413	1,558	1,359	1,544	1,323
Business Rate	497	50	461	49	445	45	422	42	415	40
	4,529	1,646	4,491	1,603	4,219	1,541	4,046	1,477	3,955	1,431
ALL OTHER INCOME										
Annual Charges	4,297	562	4,138	566	3,701	549	3,565	552	3,449	537
User Fees & Charges	2,214	1,301	1,905	1,690	1,926	2,032	1,636	1,731	1,661	2,215
Interest	666	203	740	248	825	280	963	343	870	296
Other Revenues	734	217	712	348	727	183	873	184	401	185
Operating Grants	6,889	3,215	5,036	2,807	6,914	3,623	7,850	3,868	6,823	3,123
Disposal assets	129	-	181	-	74	-	108	-	-	24
TOTAL OPERATING INCOME	19,458	7,144	17,203	7,262	18,386	8,208	19,041	8,155	17,159	7,811
Capital Income	988	702	1,710	1,171	572	876	463	804	579	489
TOTAL INCOME	20,446	7,846	18,913	8,433	18,958	9,084	19,504	8,959	17,738	8,300
Staff	7,295	2,818	7,085	2,924	6,282	2,989	5,924	3,060	5,632	2,852
Depreciation	5,741	2,582	5,405	2,632	5,169	2,829	4,824	2,898	5,236	2,866
All other expenditure	4,920	2,680	6,196	3,572	7,337	3,825	6,852	3,179	6,981	2,917
TOTAL EXPENDITURE	17,956	8,080	18,686	9,128	18,788	9,643	17,600	9,137	17,849	8,635
TOTAL NET OPERATING INCOME	1,502	936	1,483	1,866	402	1,435	1,441	982	690	824
Balance Sheet										
ASSETS										
IPP&E Assets	214,931	171,935	186,526	100,473	184,491	99,951	181,321	88,698	180,127	89,425
Cash & Investments	21,321	6,314	16,309	5,976	17,789	7,034	17,332	6,553	15,579	5,468
All other assets	2,095	1,415	2,116	1,811	1,724	1,343	2,192	1,573	1,893	2,045
	238,347	179,664	204,951	108,260	204,004	108,328	200,845	96,824	197,599	96,938
LIABILITIES										
Payables	1,502	550	1,270	979	1,270	499	1,398	470	1,020	471
Borrowings	1,812	508	354	614	465	743	568	865	663	978
Provisions	2,808	2,038	2,436	2,000	2,367	1,981	2,163	1,851	2,305	1,630
	6,122	3,096	4,060	3,593	4,102	3,223	4,129	3,186	3,988	3,079
NET ASSETS	232,225	176,568	200,891	104,667	199,902	105,105	196,716	93,638	193,611	93,859
	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC

	2015	2015	2014	2014	2013	2013	2012	2012	2011	2011
Note 13 Ratios										
Operating Performance										
Total continuing Operating Revenue										
ex Cap less operating Expenditure	1,373	-	828	-	1,664	-	1,791			
Total Continuing operating revenue	19,329	7,144	17,022	7,262						
ex cap grants & contr	7.10%	-11.59%	-9.78%	-24.91%	-2.60%	-14.07%	4.19%	-7.05%		
Ratio (benchmark minimum >=0.00%)										
Water	24.98%	-12.00%	20.26%	-8.73%						
Sewer	1.15%	3.00%	1.54%	5.54%						
General	3.84%	-12.00%	-18.88%	-27.37%						
Own Source Revenue										
Total Continuing operating Revenue	12,440	3,929	11,986	4,455						
less grants & contributions	20,317	7,846	18,732	8,433						
Total Continuing operating Revenue	61.23%	50.08%	63.99%	52.83%	60.36%	50.47%	57.14%	47.85%		
Ratio (benchmark minimum >=60.00%)										
Water	98.30%	96.00%	97.54%	98.96%						
Sewer	97.65%	98.00%	91.37%	98.56%						
General	48.73%	45.00%	52.60%	47.97%						
Unrestricted current ratio										
CA less external restrictions	9,991	4,105	7,253	4,577	10,226	4,978	11,109	4,909	9,050	
CL less specific purpose liabilities	2,383	1,204	1,793	1,583	2,965	1,056	2,653	965	2,288	
Ratio (benchmark minimum >=1.50)	4.19x	3.41x	4.05x	2.89x	3.49x	4.71x	4.19x	5.09x	3.96x	4.24
Water	46.22x	-	39.31x	-						
Sewer	-	-	-	-						
General	4.19x	3.41x	4.05x	2.89x						
	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC

	2015	2015	2014	2014	2013	2013	2012	2012	2011	2011
Debt Service cover ratio										
Op result before capital less interest depreciation	7,171	1,834	3,775	938						
Principal repayments & Borrowing costs	229	186	145	226						
Ratio (benchmark minimum >=2.00)	31.31x	9.86x	26.03x	4.15x	33.55x	7.58x	43.39x	10.09x		
Rates Outstanding										
Water	71.25x	-	46.73x							
Sewer	-	-	-							
General	24.55x	8.89	16.29x							
Rates & charges outstanding	416	223	463	305	457	284	370	269	399	
Rates & Charges collectible	9,365	2,538	9,160	2,478	8,396	2,385	8,114	2,275	7,892	
Ratio (benchmark maximum <10.00%)	4.44%	8.79%	5.05%	12.31%	5.44%	11.91%	4.56%	11.82%	5.06%	10.16%
Water	6.10%	12.14%	6.13%	12.18%	6.89%	27.50%	17.58%	22.73%	17.67%	
Sewer	0.00%	16.07%	5.66%	18.11%	6.13%	22.67%	6.03%	16.97%	6.40%	
General	5.23%	7.18%	4.59%	11.46%	4.86%	6.99%	0.52%	7.62%	1.19%	
Cash expense cover										
CY Cash & TDs	21,321	4,943	16,309	5,033						
Payments	1,073	5,855	1,200	6,621						
Ratio (benchmark minimum >=3.00)	19.88m	10.13m	13.59m	9.12m	14.35m	6.31m	15.04m			
Water	9.45m	28.66m	-	27.3						
Sewer	9.55m	119.09m	-	103.04						
General	23.19m	11.26m	10.24m	10.04						
	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC	BSC	JSC
	2015	2015	2014	2014	2013	2013	2012	2012	2011	2011

SS7

Bring to good

Buildings	0	135	136	1,950	900	1,950	900	1,979
Roads	0	227	737	4,370	1,100	4,370	1,200	785
Water	0	1,000	0	700	0	700	0	4,285
Sewer	0	1,610	0	850	0	850	0	715
Stormwater	0	483	0	200	0	200	0	472
Open space / Recreation/Pools	0	170	800	0	0	0	0	0
	0	3,625	1,673	8,070	2,000	8,070	2,100	8,236

SS7 RATIOS

Renewal Ratio

Asset renewals	5,655	1,462	1,512	2,577		2,692		1,919
Depreciation	5,180	2,136	2,068	4,042		3,682		4,201

Ratio (benchmark minimum >=100.00%)

Water	1	1	1	1	1	1	1	0
Sewer	1	0	0					
General	0	0	0					
	1	1	1					

Infrastructure Backlog Ratio

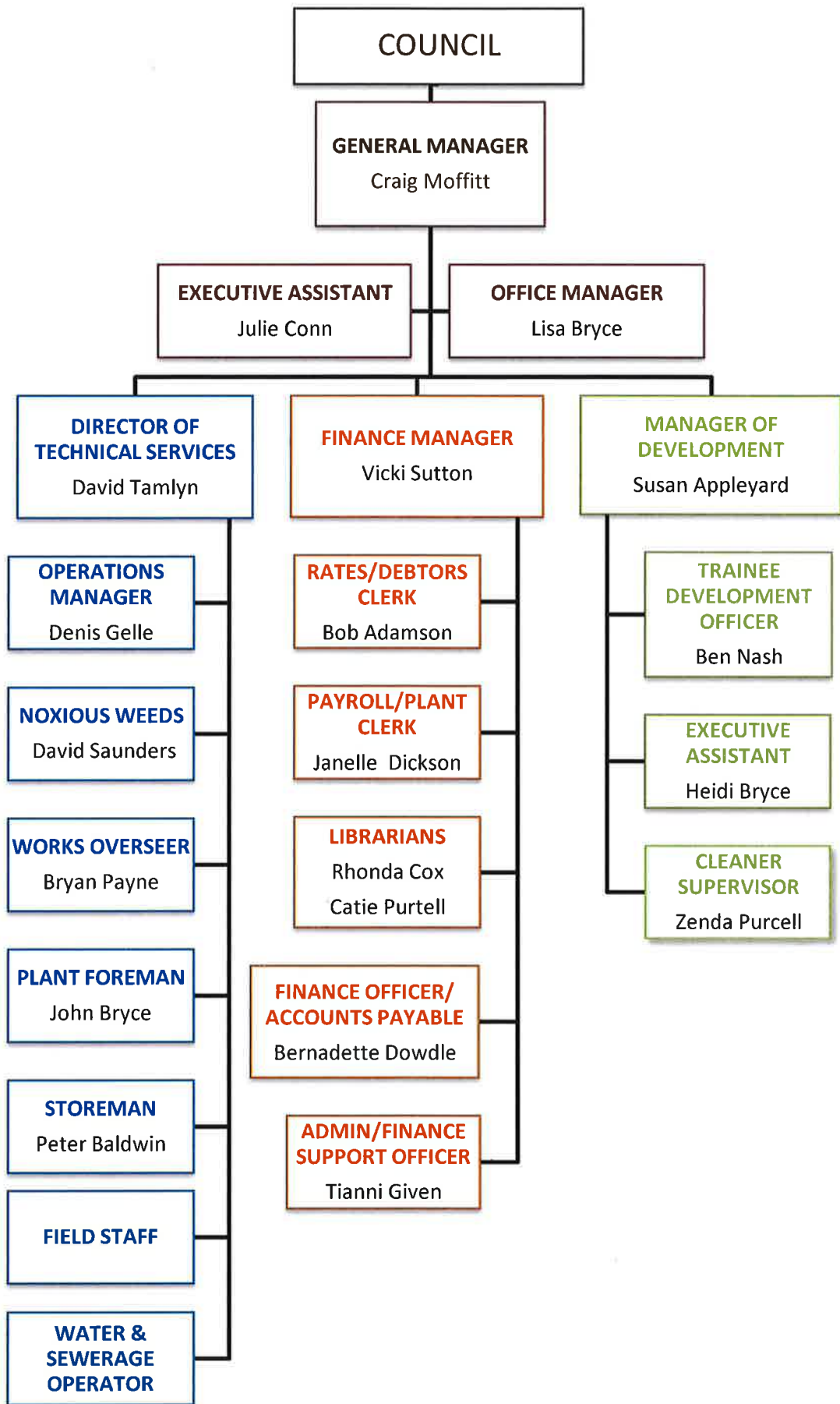
Bring to good cost	0	1,509	1,673					
Total Infrastructure	197,531	116,874	66,549					

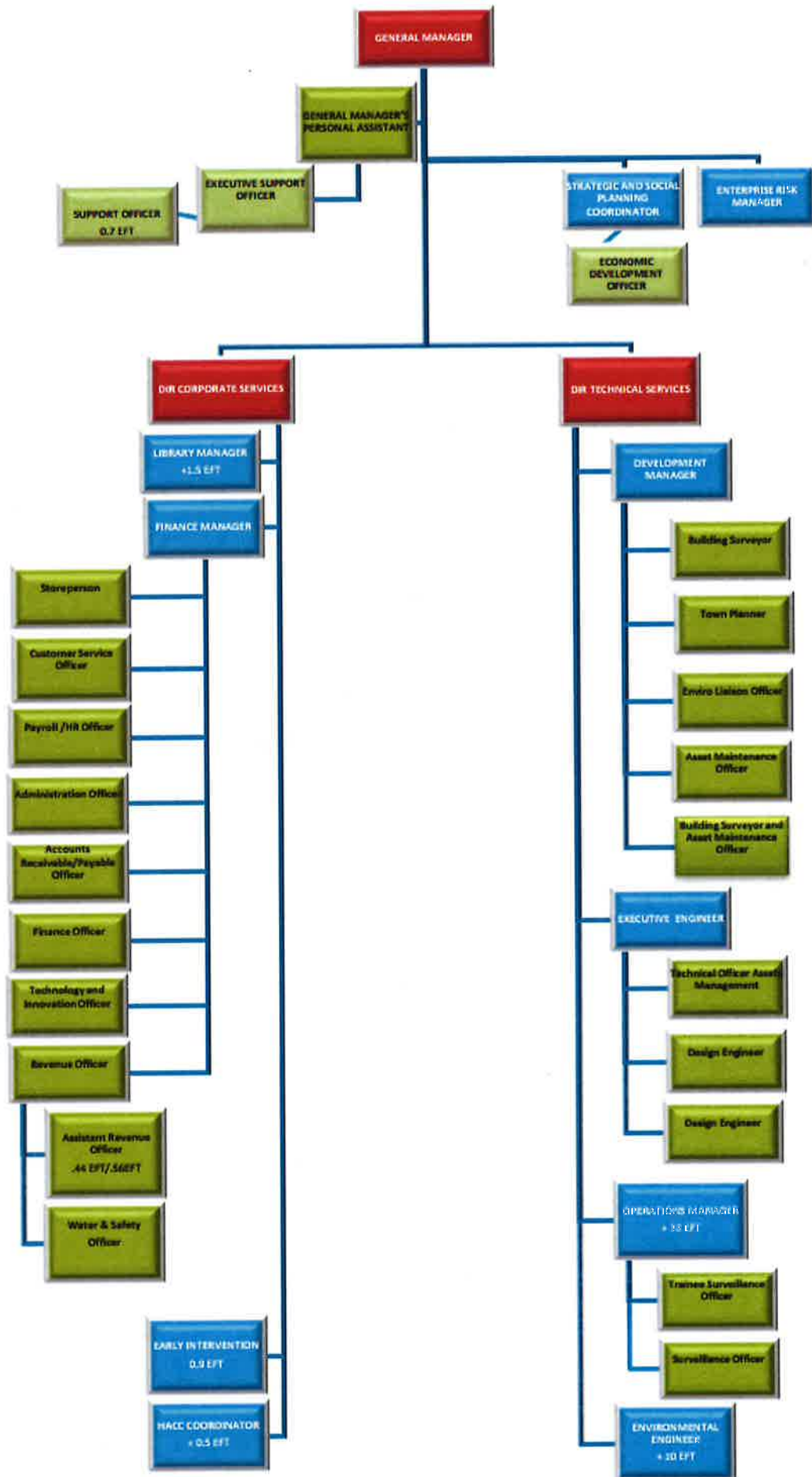
Ratio (benchmark maximum <0.02)

Water	0	0	0	0	0	0	0	
Sewer	0	0	0					
General	0	0	0					

BSC 2015	JSC 2015	BSC 2014	JSC 2014	BSC 2013	JSC 2013	BSC 2012	JSC 2012	BSC 2011	JSC 2011
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Asset Maintenance Ratio									
Actual asset maintenance	2,888	1,614	3,050						
Required maintenance	2,876	1,422	3,056						
Ratio (benchmark minimum >1.00)	1	1	1	2	1	1	1	1	1
Water	0	1	0						
Sewer	0	2	0						
General	0	1	0						
Capital expenditure ratio									
Annual capital expenditure	5,304	2,441	6,700						
Annual depreciation	5,741	2,582	5,405						
Ratio (benchmark minimum >1.10)	1	1	1	1	1	1	1	1	1
Water	0	1	0						
Sewer	0	0	0						
General	0	1	0						





Organisational Structure

Julie Conn

From: Julie Conn [julie.conn@jerilderie.hsw.gov.au]
Sent: Tuesday, 10 November 2015 12:27 PM
To: Julie Conn
Subject: FW: Forced Amalgamations Campaign update

From: LGNSW <lgnsw@lgnsw.org.au>
To: LGNSW <lgnsw@lgnsw.org.au>
Sent: 28/10/2015 4:43 PM
Subject: Forced Amalgamations Campaign update

Dear Member

LGNSW continues to work on behalf of members, both by supporting those seeking to voluntarily merge and campaigning on behalf of those opposed to forcible amalgamation. As you may be aware, we are working on a toolkit for those councils choosing to merge, while LGNSW has also produced and made available to you various tranches of “no forced amalgamation” campaign material, including numerous “donut” media releases opposing forced amalgamations and criticising the process.

All campaign material can be found on the Association’s website. Campaign strategy and messaging was developed in conjunction with focus groups (metropolitan and regional) of professional communications staff from member councils. Those focus groups supported the advice of professional experts that traction will only really be gained with local messages to local communities from local Councils. We have acted accordingly – seeking to most effectively serve our members by playing overarching coordination role, sector media releases, developing and posting collateral and existing material on website for use by other Councils/ community groups, etc.

Other less visible components of our campaign include submissions and briefings to the Parliamentary Inquiry into Local Government, ongoing representation on the Ministerial Advisory Group and in numerous meetings, along with background briefings to key opinion leaders. We remain in regular contact with these individuals, and ensure they are fully briefed on member concerns.

I am today providing a link to an interview with the Premier conducted by one such opinion leader, 2UE’s Alan Jones. Alan has and continues to be a great friend to local government and a vehement public champion of grassroots democracy. I think you will find the interview – located [here](#) - of significant interest.

Regards

LGNSW President Keith Rhoades, AFSM

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Inquiry into Local Government in New South Wales



Save Our Councils Coalition

Opening Statement 10 August 2015

1. Save Our Councils Coalition (SOCC)

Save Our Councils Coalition currently consists of over 50 community groups, as well as individual residents, Mayors, Councils and council staff. SOCC was launched on June 11th. The coalition is growing at a fast rate and is supported by metropolitan, regional and rural community groups and councils. SOCC is not politically aligned.

SOCC says:

- **We want our local councils to stay local**
- **We are calling on the NSW State Government to keep to its promise of “No forced amalgamations”**
- **Where a merger is proposed let local communities decide with a valid referendum of all electors**
- **We will fight to keep our councils local**

2. What local communities highly value about local councils

- Local councils hold our local communities together and connected.
- Local councils keep decision-making local.
- Local councils ensure the strategic direction comes from the community and is owned by the community.
- Local councils make democracy accessible and accountable.
- Our local councils value what we value - the local heritage, the local environment.
- A local council that is based upon ‘community of interest,’ and a ‘sense of belonging’ of its community to place.
- Local representation is by councillors who are accessible and know their local area well.
- Local councils provides local identity and values, including those relating to community, history, built form, natural areas, geography, services and facilities.
- Local councils support the many community groups and volunteers.
- Local councils are able to be nimble and responsive to the needs of local residents and provide the services that we - the local community – tell them we want.

3. Collaboration between councils and working strategically at a regional level

- Councils already work very closely with their neighbouring councils and within regional organisations of councils (ROCs) to achieve savings and efficiencies, and on regional matters. They also deal daily with the State Government on state and regional issues.

- Many councils have indicated a willingness to further explore opportunities for ROCs and also in developing Joint Organisation business models that provide further efficiencies and are acceptable to the local community.

4. Forced amalgamations strongly opposed

- Bigger councils created through forced amalgamations would seriously diminish the localised services and democracy provided by smaller councils. Such amalgamations would be fiercely and bitterly opposed by local communities.
- For the Government to destroy local councils through forced amalgamations in order to get their way on regional planning shows an appalling lack of understanding by Government of the value of local councils to their communities and to the State.
- The Government needs to respectfully listen to communities and their local councils and partner with them individually and through regional organisations of councils to achieve common goals in the public interest.
- For any Government to try to destroy an existing council that is effectively servicing its community and has its confidence, is poor judgement. To do so on an excuse that it can't be effective regionally is simply untrue. To do so when it promised that there would be no forced council amalgamations is an enormous betrayal of the public's trust.

5. Proposed voluntary mergers require proper referendums

- Respecting local communities means there should be no less than a full and valid referendum of all electors on any proposed merger with a majority vote required in all of the areas proposed for amalgamation.

6. We reject the “Fit for the Future” process for local government reform.

- It has failed the community by not engaging and consulting with the wider community in any meaningful way.
- It has cherry-picked recommendations from the Independent Panel's report to focus almost all the effort on one item only - council amalgamations.
- It has had a deeply inadequate timeline for each stage of the process – rushed and too short – which has further undermined scrutiny and consultation.
- It has failed to provide evidence to the community to justify amalgamations.
- It has started from the premise that there was something that “needed fixing” with local councils when in fact many councils in NSW are highly functioning, effective and financially sustainable despite the many years of cost-shifting and rate pegging.

7. Attachments

Nine USB flash drives containing the following videos:

1. [Save Our Councils Coalition Launch](#), 11 June 2015 (20 min)
2. [Save Our Councils Coalition Launch](#), 11 June 2015 (4 min)
3. [Pittwater Public Meeting](#), 19 May 2015 (8 min)
4. [Hunters Hill Public Meeting](#), 6 June 2013 (3 min)

Save Our Councils Coalition

Phil Jenkyn

Nella Gaughan

Brian Halstead

Julie Conn

From: mail [mailto:mail@jerilderie.nsw.gov.au]
Sent: Tuesday, 10 November 2015 12:08 PM
To: Julie Conn
Subject: Fwd: Amalgamations - where you stand as a Councillor.

Lisa Bryce

Office Manager

Jerilderie Shire Council

0358861200

From: NSW Local Councils <nswlocalcouncils@gmail.com>
To: NSW Local Councils <nswlocalcouncils@gmail.com>
Sent: 24/10/2015 11:29 AM
Subject: Amalgamations - where you stand as a Councillor.

Dear Councillor,

Premier Baird is holding a gun to the heads of Councillors and council staff across the state and saying amalgamate or bear the consequences.

Let's be clear, Premier Baird's push for amalgamations is not to improve council finances or infrastructure, it is to close down democracy at a local level.

We acknowledge it is a difficult time for Councillors to hold their nerve and continue to uphold the decisions of their communities to remain as standalone councils but we ask you to honour this commitment.

What happens if you opt to amalgamate?

You will be going against the decision of your community and you may be sacked as a Councillor. Premier Baird has been careful not to map out the brave new future of a council transitioning into amalgamation. What we do know is that only the Mayor and General Manager appear to be needed for this transition period which implies that the rest of the council will be sacked.

What happens if you opt not to amalgamate?

You will be upholding the decision of your community and may be sacked as a Councillor. Premier Baird has also been very careful not to spell out to us what the consequences of not amalgamating will be. Rumours about councils being sacked and administrators appointed have been carefully planted but not confirmed. Other rumours include financial sanctions and lack of access to new grants to punish councils continuing as standalone councils.

Would Baird really show so little respect for Local^[1] Government, Mayors, Councillors and Council staff that he would do mass sackings of councils?

We really don't know. Certainly if councils are sacked and administrators appointed or where councils in transition to amalgamation, the voice of the community will be silenced and it will be open-season for developers with large and unpopular projects across NSW.

Can they force amalgamations?

We know that they can't change the Local Government Act to enable forced amalgamations because they do not have the numbers in the Upper House. We have strong support there from Labor, the Greens, the Christian Democrats, the Shooters and Fishers Party, the Animal Justice Party and Independents.

If they try to use the existing Local Government Act to force amalgamations, there would need to be an inquiry for each amalgamation, with a study of costs and benefits and public submissions.

SOCC is currently collating legal advice from a number of sources on these matters and will provide further updates as they come to hand.

Public opinion is strongly against sacking councils and appointing administrators and strongly against amalgamations and particularly forced amalgamations - for good reason.

SOCC is asking all Councillors in NSW to stand up for local communities and local democracy and fight forced council amalgamations.

Where there is a truly voluntary (as distinct from manipulated) amalgamation proposal we are asking that you ensure there is a full referendum of the electors in each council area and that each council area must vote by a majority in favour of amalgamating before proceeding.

We agree with LGNSW that it is the Council funding that needs fixing first and we believe there should be more work done on Joint Organisations (JOs). Amalgamations are not the answer to the needs of local communities and local government.



Save Our Councils Coalition Committee

find us on



and at

<https://saveourcouncils.wordpress.com/>

or email us on nswlocalcouncils@gmail.com

Julie Conn

From: mail [mailto:mail@jerilderie.nsw.gov.au]
Sent: Tuesday, 10 November 2015 12:07 PM
To: Julie Conn
Subject: Fwd: Important facts regarding Baird's 18 November Ultimatum

Lisa Bryce

Office Manager

Jerilderie Shire Council

0358861200

From: NSW Local Councils <nswlocalcouncils@gmail.com>
To: NSW Local Councils <nswlocalcouncils@gmail.com>
Sent: 09/11/2015 2:13 AM
Subject: Important facts regarding Baird's 18 November Ultimatum

Dear Councillor,

Your council has been given until 18 November to agree to amalgamate. It is important that you are aware of some facts:

1. General Managers had briefings with Department of Premier and Cabinet (DPC) Oct 21-23. The FAQ response from these briefings is [here](#). The DPC has confirmed that:

“Council preferences in the feedback form indicate that the council is agreeing to merge with the councils listed as their preferences.”

- Note that this means **if you fill in the drop down form with the names of other councils the Department will be interpret this as consent to amalgamate.**
- So if your position is to stay as a standalone council **you must not put the names of other councils into this form.**

- Also if your council indicates it is willing to merge the Government **can also decide to add more councils or change the choice of councils.**

What will happen if a council decides to merge? Is the council temporarily "safe" until it ceases to exist?

- **The Government is refusing to say. They will not commit to the establishment of Transition Committees nor will they say if councils which voluntarily merge will remain in place or will be replaced by administrators. Check out their response to this question [here](#).**

2. Parliamentary Inquiry into Local Government Final Report:

- The Parliamentary Inquiry into Local Government **unanimously recommended the NSW Government commit to a policy of no forced amalgamations.**
- It also **completely rejected the IPART assessments of local councils as “fit “ or “unfit” and found that IPART was simply not up to the task** and the criteria of scale and capacity should have been thrown out. Read more [here](#).
- In addition there is real legal doubt as to whether IPART actually had the legislative authority to undertake the assessment of local government and **a legal challenge is expected.**

Councillors, public opinion against council amalgamations – forced or manipulated by Baird is growing stronger daily. People are angry and feel betrayed by the Baird Government.

SOCC is asking all Councillors in NSW to stand up to Baird and defend the rights of their local communities to keep their local councils and to save their local democracy.

Finally, Save Our Councils Coalition in partnership with Unions NSW and LGNSW is organising a **Rally outside Parliament House on November 18th at 12 noon.**

Please do all that you can to attend. More details to follow.

Sincerely,



The Save Our Councils Coalition Committee

Website: <http://www.saveourcouncilsnsw.com>

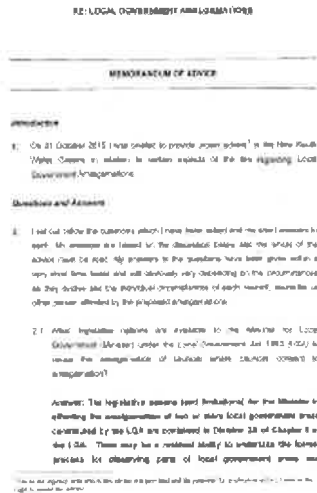
Facebook: <https://www.facebook.com/saveourcouncils/>

Email: nswlocalcouncils@gmail.com

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Premier Baird isn't a magician, he has no secret powers to sack councils

October 30, 2015 in **Media 0**



Legal advice obtained by the Greens NSW

Legal advice obtained by The Greens makes it clear that neither the Premier or the Minister for Local Government have secret powers to sack or suspend councils to force amalgamations. The independent barrister's advice confirms that the Local Government Act seriously constrains the ability of the government to undertake a political sacking or suspension of councils to appoint tame administrators that agree to amalgamations.

The advice draws a number of important conclusions:

1. If a council stands firmly with its residents to opposed to council amalgamation this forces the government to send proposals for amalgamations through a rigorous process that must involve the independent Boundaries Commission. Unlike IPART's Fit For the Future assessment, this process is governed by an established set of statutory criteria that are not rigged in favour of amalgamations
2. There are clear remedies available to councils and councillors, such as injunctions and orders, if the government attempts to misuse the Local Government Act
3. The IPART findings and report cannot be used as a substitute for the legislative process and inquiries required under the Local Government Act
4. There is real legal doubt as to whether or not IPART had the legislative authority to conduct the investigation it did into local government

5. If a council gives in to the Premier's bullying and resolves to 'voluntarily' amalgamate, the only legal effect of this is to prevent the amalgamation proposal being reviewed and commented on by the Boundaries Commission.

See further reporting in the Sydney Morning Herald below. When reading this it is important to note that the views of Leichhardt Mayor Darcy Byrne appear to be either uninformed or to have misunderstood the legal framework. If a council was improperly sacked then there are two methods whereby where the rights of the community and councillors could be vindicated and proceedings continued in court to reinstate the council. They are:

- A number of councils have already passed resolutions providing that legal proceedings are to be immediately commenced by the council to reinstate the council if it is sacked and an administrator appointed. If the new administrator seeks to discontinue these proceedings then individual councillors and community groups can seek their own advice on being joined to those proceedings and pressing the case, even if council does not.
- In a number of councils where this resolution (to legally challenge the appointment of an Administrator) has been agreed to, a rescission motion to overturn this decision has been put and defeated. Under the Local Government Act once a rescission motion has been lost this prevents the decision being reviewed or reconsidered by the council for a minimum period of three months. In such councils, even if the Administrator wanted to overturn the decision to prosecute the proceedings, the failed rescission motion would prevent this happening.

Greens MP and Local Government Spokesperson David Shoebridge said:

"IPART was not qualified, either in terms of its experience or in its legislative remit, to conduct the investigation it did into local government.

"The IPART process was an experience and ultimately futile dead end for the Baird Government. The findings of IPART cannot be used as a legal basis to move against any council, and it is quite astonishing the Premier has not realised this.

"This advice makes it clear the Minister can't just dissolve or amalgamate councils at his whim. the NSW Constitution provides that the government cannot subvert the process that has been laid down by Parliament.

"The Baird government is trying to bully councils into 'voluntary' amalgamations because they know that the alternative is a long drawn out inquiry with the Boundary Commission.

“Many councils and councillors are feeling that the government has some secret power to force them to agree to so-called voluntary amalgamations or face the sack.

“What this shows is that the Premier isn’t a magician, he doesn’t have secret powers and the law severely limits what he can do to local councils,” Mr. Shoebridge said.

As reported by the Sydney Morning Herald:

According to NSW Greens MP David Shoebridge, the party has advice that councils could seek an injunction in the face of attempts to dismiss councils and install administrators as a way of forcing amalgamations.

The Local Government Act gives the Minister wide powers to dismiss a council for the purposes of the administration of the act. But generally, councils have been dismissed because of infighting that renders them dysfunctional, serious financial problems, or because of corrupt conduct findings against councillors or senior officers.

The Greens’ advice suggests that dismissing councils because they do not agree to an amalgamation could be an “excess of jurisdiction” by the Minister.

But Labor mayor of Leichhardt Darcy Byrne said while such a course was feasible, in practice the administrator, once appointed, would immediately suspend any legal action, undermining the ability of the council to fight amalgamations.

Cr Byrne has recommended Leichhardt begin discussions with neighbours Marrickville and Ashfield over a possible merger, rather than be forced into an amalgamation.

RE: LOCAL GOVERNMENT AMALGAMATIONS

MEMORANDUM OF ADVICE

Introduction

1. On 21 October 2015 I was briefed to provide urgent advice¹ to the New South Wales Greens in relation to certain aspects of the law regarding Local Government Amalgamations.

Questions and Answers

2. I set out below the questions which I have been asked and my short answers to each. My answers are based on the discussion below and the whole of the advice must be read. My answers to the questions have been given within a very short time frame and will obviously vary depending on the circumstances as they evolve and the individual circumstances of each council, councillor or other person affected by the proposed amalgamations.

- 2.1. What legislative options are available to the Minister for Local Government (Minister) under the *Local Government Act 1993 (LGA)* to cause the amalgamation of councils where councils consent to amalgamation?

Answer: The legislative options (and limitations) for the Minister in effecting the amalgamation of two or more local government areas constituted by the LGA are contained in Division 2A of Chapter 9 of the LGA. There may be a residual ability to undertake the former process for dissolving parts of local government areas and

¹ Given the urgency with which this advice was provided and the potential for inadvertent errors, I reserve the right to amend the advice.

reconstituting a new area under Divisions 1 and 2 of Chapter 9 of the LGA, however such a process is more cumbersome.

- 2.2. What legislative options are available to the Minister under the LGA to cause the amalgamation of councils where a council(s) opposes amalgamation?

Answer: The legislative options for the amalgamations of two or more local government areas are the same whether there is consent from the councils concerned or not. The only material difference is that where a council affected by the proposal does not support the proposal, any report prepared by the Director General² must then be referred for a further review and comment by the Boundaries Commission pursuant to s 281F(6) of the LGA.

- 2.3. What, if any, potential remedies are available to a council that opposes its amalgamation to prevent being amalgamated by order or direction of the Minister?

Answer: The council may require that any report by a Director General under s 418F must be referred for review and comment by the Boundaries Commission pursuant to s 218F(6).

Further, depending on the circumstances, if the council believes that jurisdictional error attends any of the decisions or exercise of functions by the Minister under the LGA, then judicial review may be sought to ensure compliance with the requirements of the LGA³.

² If the Director General has been selected to conduct the review rather than the Boundaries Commission by the Minister under s 218F (1) of the LGA- and noting that whether or not the review has been conducted by the Boundaries Commission or the Director General, the requirements in ss 263, 264 and 265 of the LGA apply.

³ Subject to a question about the scope and effectiveness of the purported privative provision in s 263 (7) of the LGA which is discussed in the body of the advice.

- 2.4. What, if any, potential remedies are available to councillors to prevent their council being amalgamated by order or direction of the Minister and who would be responsible for funding such a challenge?

Depending on the circumstances, if the councillor believes that jurisdictional error attends any of the decisions or exercise of functions by the Minister under the LGA and the councillor is directly affected by that act, then judicial review may be sought to ensure compliance with the requirements of the LGA⁴.

It is not possible to say who would be responsible for funding any such proceedings by a councillor without further information concerning the particular circumstances of the case.

- 2.5. Can the report of either the IPART or the ILGRP be used as any of the public consultation or review steps required for amalgamations under the LGA?

Answer: No. In my view, the consultative steps which are preconditions to the exercise of powers under ss 204, 212 and Division 2A of the LGA are particular to the LGA and the material available to me does not suggest that either the IPART or ILGRP processes purport or could comply with the LGA's requirements in this regard.

- 2.6. What legislative options are available to the Minister to dismiss a council, or all councillors under the Act as a precursor to appointing an administrator to facilitate the amalgamation of a council?

Answer: All of the legislative options for the dismissal of a council, councillor or the appointment of an administrator or suspension of a council remain available. However, there is a real question about the

⁴ Subject to a question about the scope and effectiveness of the purported privative provision in s 263(7) of the LGA which is discussed in the body of the advice.

validity of the exercise of those powers if it were not done *bona fide* for the purposes of the administration of the LGA and if some evidence existed that the exercise of those powers was in order to avoid the statutory limitations and protections contained in the LGA for councils who do not support an amalgamation proposal (i.e. s 418F (6)).

- 2.7. What, if any potential remedies are available to a council to oppose being dismissed by order or direction of the Minister?

Answer: A council that believed it was about to be dismissed or suspended by a Minister in excess of jurisdiction or otherwise than in a bona fide exercise of power, it could seek injunctive and declaratory relief in the Supreme Court of New South Wales to ensure compliance by the Minister with the provisions of the LGA

- 2.8. What, if any, potential remedies are available to councillors that oppose being dismissed by order or direction of the Minister and who would be responsible for funding such a challenge?

Answer: A councillor that believed he or she was about to be removed from office by the dismissal or suspension by a Minister in excess of jurisdiction, or otherwise than in a bona fide exercise of power, could seek injunctive and declaratory relief in the Supreme Court of New South Wales to ensure compliance by the Minister with the provisions of the LGA.

I am not in a position to comment about the funding arrangements for a councillor to undertake such proceedings without more information.

My Instructions

3. I am instructed as follows:-

3.1 In April 2002 the NSW Government appointed a panel called the Independent Local Government Review Panel ("the ILGRP") with the chair Professor Graham Sansom. The terms of reference of the ILGRP (TAB 1) included:

Investigate and identify options for governance models, structural arrangements and boundary changes for local government in NSW, taking into consideration:

- 1. ability to support the current and future needs of local communities*
- 2. ability to deliver services and infrastructure efficiently effectively and in a timely manner*
- 3. the financial sustainability of each local government area*
- 4. Ability for local representation and decision making; and*
- 5. Barriers and incentives to encourage voluntary boundary changes.*

3.2 In October 2013 the ILGRP delivered its final report with 65 recommendations for reform of the sector. The Preamble to the final report noted:

For far too long local government has been bogged down in debates about amalgamations, rate-pegging, cost-shifting and demands for additional State and federal funding. Meanwhile the financial sustainability of many councils – and their capacity to deliver the services communities need – has declined, and a significant number are near crisis point. Local government is far from realising its potential to help achieve the State government's goal of 'Making NSW Number One'.

3.3 The ILGRP has recommendation's relating to amalgamations included steps to:

- 31. Introduce additional options for local government structures, including regional Joint Organisations, 'Rural Councils and Community Boards,*

to facilitate a better response to the needs and circumstances of different region

32. *Legislate a revised process for considering potential amalgamations and boundary changes through a re-constituted and more independent Boundaries Commission*

3.3 *encourage voluntary mergers of councils through measures to lower barriers and provide professional and financial support*

34. *Provide and promote a range of options to maintain local identity and representation in local government areas with large populations and/or diverse localities*

3.4 To date, there has not been any legislative change to the process for considering potential amalgamations arising from the Samson review.

3.5 In September 2014, the government responded to the ILGRP recommendations.

3.6 In April 2015 the Independent Pricing and Regulatory Tribunal (*IPART*) received Terms of Reference from the Premier requiring it to “fulfil the role of the Fit for the Future Expert Advisory Panel, and undertake a review of NSW councils’ ‘fit for the future’ proposals”.

3.7 On 27 April 2015 IPART sought public consultation on the methodology it proposed to adopt, consistent with the government’s Terms of Reference, to assess councils’ “fitness”.

3.8 On 5 June 2015 IPART issued its Fit for the Future Methodology Assessment and required all councils to submit proposals on or before 30 June 2015. Any council that did not submit a proposal would be found “unfit” by IPART. Only 9 NSW councils voluntarily proposed amalgamations in their submissions to IPART.

3.9 On 16 October 2015 IPART finalised its review of councils and provided it to government.

3.10 On 20 October 2015 the government released IPART's final review (TAB 4). On the same day the NSW Premier issued a media release (TAB 5) that stated, inter alia:

With 60 per cent of councils not fit for the future, this IPART report shows the situation is now critical and that action is needed to ensure ratepayers get value for money and the services and infrastructure they deserve.

"For many councils this is a final opportunity to do the right thing for the future of their communities, which in many cases may include merging with neighbouring councils."

The NSW Government will now give councils a 30-day consultation opportunity to inform the Government's position on local government reform and respond to these IPART findings.

The IPART found that:

- 71 per cent of councils in metropolitan Sydney are 'not fit', primarily because councils did not propose a merger despite clear benefits; and*
- 56 per cent of councils in regional NSW are 'not fit', due to not proposing a merger despite clear benefits, ongoing deficits or both.*

Mr Toole said that despite numerous council-commissioned business cases showing these benefits, most councils had resisted change and many councils had proposed rate increases to improve their financial performance. Thirty two councils proposed a rate rise to get fit, with 15 councils proposing rises above 30%.

"I urge councils to consider these IPART findings for their council and hold discussions with neighbouring councils and the NSW Government so they can deliver better value for money for ratepayers now and into the future" Mr Toole said.

Legislative Framework

4 There are two principal pieces of legislation relevant to this advice, they are:

- (a) *The Local Government Act 1993*, particularly as amended by the *Local Government (Amalgamations and Boundary Changes) Bill 1999*; and
- (b) *The Independent Pricing and Regulatory Tribunal Act 1992*.

5 For the reasons below, I am of the view that the most important focus for Councils concerned about amalgamations being forced upon them against their will are the provisions of Chapter 9 of the *Local Government Act 1993*.

The IPART Act

6 Before turning to the *Local Government Act* it is worth making some observations about the terms of the *Independent Pricing and Regulatory Tribunal Act* (the IPART Act) relative to the findings and recommendations by IPART in its report titled "Assessment of Councils Fit for Future Proposals" October 2015.

7 The New South Wales Government has asserted that s 9 of the IPART Act is the relevant source of IPART's power to review and assess the "fit for the future" proposals. Section 9 of the IPART Act provides as follows:

9. Arrangements with other entities

Subsection 1(1)

The Tribunal may enter into arrangements with any government agency, or other body or person (whether in the public or private sector):

- (a) For the provision of assistance to the Tribunal in connection with investigations under this Act or the exercise of other functions of the Tribunal (whether under this or any other Act), or
- (b) For the provision of assistance by the Tribunal to the agency or other body or person by means of the provision of services that are within the Tribunal's field of expertise and relevant to its functions.

8 It is clear that the Tribunal members have expertise in economics, the interests of consumers and the interests of suppliers of services (including the interests of the Government as a supplier of services), whether the services supplied are monopoly services or not: see section 6(4) of the IPART Act.

- 9 It may be noted that this expertise in economics and the provision of services to and from consumers does not extend to expertise in public administration, the rule of law, or issues of appropriate structures of bodies politic.
- 10 The other requirement for s 9(b) of the IPART Act is that for IPART to be engaged, the provision of assistance by the Tribunal to the agency is relevant to the functions of the Tribunal.
- 11 Part 3 of the IPART Act is headed "Price Determinations and Other Functions".
- 12 It may be noted that this part of the Act is subdivided into the following divisions:
- (a) Division 1 – Pricing and electricity costs determinations: investigations and reports;
 - (b) Division 2 – Industry and other matters: investigations and reports;
 - (c) Division 2A – WHS matters: investigations and reports;
 - (d) Division 3 – Access regimes;
 - (e) Division 4 – Investigations and reports: general;
 - (f) Division 5 – Price determinations and electricity costs determinations.
- 13 Section 12A of the IPART Act is the closest that the IPART Act comes to conferring a function on IPART which may approximate the request or terms of reference for its investigation into the "fit for future" state of local governments.
- 14 Section 12A provides:

12A. Investigations and reports on industry and other matters

Subsection 1(1)

The Tribunal is to conduct investigations and make reports on any matter with respect to pricing on the industry or competition that is referred to the Tribunal by a Minister.

...

- (5) In this section:

"Industry" means industry of any kind (including any business or activity relating to goods or services), and a reference to industry is a reference to industry in

general, a particular industry, a part of an industry, or a group or groups of particular industries.

- 15 Section 12A was inserted into the IPART Act by Act No. 97 of 1995 in Schedule 1(1). It was amended by Act No. 60 of 2000 in Schedule 2.1[1].
- 16 It may be noted that in the second reading speech introducing s 12A into the IPART Act the then Minister said⁵:

"The Government Pricing Tribunal was established in 1992 by the *Government Pricing Tribunal Act*. That Act gives the Tribunal the primary functions of determining the maximum price for monopoly services supplied by government agencies, and of reporting on the pricing policies of those agencies. During the 1995 general election campaign and in the treasurer's June 1995 financial statement the government announced that the role and functions of the Tribunal would be broadened to include new areas for pricing review and regulation. This bill will amend the *Government Pricing Tribunal Act* for the purposes of giving effect to those foreshadowed changes. The Act will be amended to enable the Tribunal to conduct investigations and to report on matters of pricing, industry and competition which are referred to by governments. The Tribunal's role will be modelled by that of the Commonwealth's Industry Commission. ..."

- 17 It appears from the context and scheme of the Act together with the purpose of the amending legislation that included s 12A in the IPART Act that it was not intended to allow the IPART to conduct investigations or reviews into the internal composition and constituency of local government as it is comprehended by s 51 of the *New South Wales Constitution Act*.
- 18 In my view, it is arguable that the reference to the IPART so far as it concerned the desirability of the amalgamations or changes to the boundaries of local government areas was a matter which was not part of the expertise or functions of IPART and therefore it is arguable that the reference to it did not comply with the requirements under s 9(b) of the IPART Act.
- 19 I understand that the methodology in the terms of reference to IPART specifies benchmarks to be considered such as the "operating performance ratio; own source revenue ratio; building and asset renewal ratio; infrastructure backlog ratio; asset maintenance ratio; debt service ratio; and real operating

⁵ (Hansard transcript) Legislative Assembly, 26 October 1995, at page 2477

expenditure". However, in my view, those terms of reference appear to relate to the internal workings of the each council's accounting rather than any impact on the economy of the State much less on the costings or pricing of the provision of services or the acquisition of services by local governments.

- 20 In my view, however, it is not necessary to pursue this matter further because the recommendations of the IPART as part of the "Fit for Future" report could not have been more than advisory and play no part in the process of the conduct of public inquiries for the purposes of the *Local Government Act* or for the purposes of Chapter 9 of the *Local Government Act*

Local Government Act

- 21 The starting point for analysis of the *Local Government Act 1993* for present purposes is the expression of the purposes of the Act in Chapter 2 in s 7.
- 22 The note to Chapter 2 makes clear that the context of the *Local Government Act* is the provisions of s 51 of the *Constitution Act 1902 (NSW)* which provides as follows:-
1. There shall continue to be a system of local government for the State under which duly elected and duly appointed local government bodies are constituted with responsibilities for acting for the better government of those parts of the State that are from time to time subject to that system of local government.
 2. The manner in which local government bodies are constituted and the nature and extent of their powers, authorities, duties and functions shall be as determined by or in accordance with the laws of the Legislature.
 3. The reference in ss(2) to the laws of the Legislature shall be read as a reference to laws that have been enacted by the Legislature, whether before or after the commencement of this section, and that are for the time being in force (4) ..."
- 23 It is clear that the composition and constitution of local government bodies is reserved to the Parliament and is not a matter for the Executive arm of the State.
- 24 Section 7 of the *Local Government Act* provides that the purposes of the Act include:
- (a) To provide the legal framework for an effective, efficient, environmentally responsible and open system of local government in New South Wales,

(b) To regulate the relationships between people and bodies comprising the system of local government in New South Wales,

(c) – (e) ...

25 Chapter 9 is headed "How a Council is established?".

26 The note provides:

"This chapter contains provisions dealing separately with the constitution of land as a local government area and the constitution of a council to manage that area. It enables the making of changes to those areas and to councils. It provides for the dissolution of councils and appointment of administrators"

27 Section 204 of the Act gives the Governor the power to constitute a part of New South Wales to be an "area" being a single area of contiguous land.

28 It is clear that s 204 (subject to what is discussed about amalgamations provided for in the special provisions in Division 2A) is the means by which local government areas may be created.

29 The creation of an area under s 204 of the LGA is essential to the establishment of a council pursuant to s 219 of the LGA.

30 Division 2 of Chapter 9 sets out a number of preconditions to the exercise of the function under s 204 to proclaim an area of land as an "area".

31 Given the provisions of s 51 of the *Constitution Act*, there is no other methodology by which a local government may be established or otherwise constituted (subject to the provisions of Division 2A of the LGA).

32 Division 2 identifies who may make a proposal to establish a local government area under s 204: see s 215. It is clear that a proposal may be made by the Minister or by a council affected by the proposal.

- 33 Section 206 requires at least 28 days public notice of a proposal to constitute an area as an area under s 204 of the Act.
- 34 Section 217 permits the making of representations during the period of public notice to the Minister by a council or elector affected by the proposal.
- 35 Section 217(2) requires the Minister to consider all representations which are made.
- 36 Following the period of public consultation, if the Minister decides to continue with the proposal the Minister must refer it for examination and report to the Boundaries Commission: s 218 of the LGA. The requirement to refer the proposal for an area to be established under s 204 is mandatory. The constitution powers and procedures of the Boundaries Commission are set out in Part 3 of Chapter 9 at ss 260-265. These provisions are discussed in some more detail later in this advice.
- 37 As there is a power to constitute a particular area of New South Wales as an "area" in s 204 so there is a power in s 212 to dissolve the whole or part of "an area" by proclamation.
- 38 Section 212 is in the following terms:-

"212 Dissolution of Areas

- (1) The Governor may, by proclamation, dissolve the whole or part of an area.
- (2) The Minister may not recommend the making of a proclamation to dissolve the whole or part of an area until after a public inquiry has been held and the Minister has considered the report made as a consequence of the inquiry."
- 39 "Public Inquiry" is defined in the Dictionary of the *Local Government Act* as "a public inquiry held under Part 8 of Chapter 13".
- 40 Part 8 of Chapter 13 is headed "Public Inquiries" and s 438U describes public inquiries as follows:

"438U Public Inquiries

- (1) The Governor of the Minister may appoint a person as commissioner, or 2 or more persons as commissioners, to hold a public inquiry and to report to the Governor of the Minister with respect to:
 - (a) any matter relating to the carrying out of the provisions of this Act or any other Act conferring or imposing functions on a council, and
 - (b) any act or omission of a member of a council, any employee of a council or any person elected or appointed to any office or position under this or any other Act conferring or imposing functions on a council, being an act or omission relating to the carrying out of the provisions of the Act concerned, or to the office or position held by the member, employee or person under the Act concerned, or to the functions of that office or position.
- (2) For the purposes of an inquiry under this section, any person appointed to hold the inquiry has the powers, authorities, protections and immunities conferred on a commissioner as well as the powers, authorities, protections and immunities conferred by Division 1 of Part 2 of the *Royal Commissions Act 1923*
- (3) The provisions of s 24 of the *Local Court Act 2007* apply to any witness or persons summons by or appearing before the person so appointed in the same way as it applies to witnesses and persons in proceedings under that Act.
- (4) The provisions of the *Royal Commissions Act 1923* (s 13 and Division 2 of Part 3 excepted) apply, with any necessary adaptations, to an in respect of any inquiry under this section and to and in respect of any witness or person summoned by or appearing before the person or persons holding the inquiry.
- (5) The Minister is to cause the report of the person or persons who have held an inquiry under this section to be laid before both houses of Parliament. If neither house of Parliament is sitting, s 14B of the *Royal Commissions Act 1923* applies.”

41 The public inquiry referred to in s 212(2) of the LGA which is a pre-condition to the exercise of the power to dissolve a local government area.

42 Further, the holding of a further inquiry is also a pre-condition to the appointment of an administrator to a council under s66 or the declaration of offices of a council vacant under s 255.⁶

⁶ See *Leichardt Municipal Council v Minister for Local Government and Anor* [2001] NSWSC 1001 at [22] and [31] per Sully J.

43 Accordingly, unless Division 2A of Chapter 9 applies, the only option available to the Minister for the alteration of the composition of contiguous area of land within New South Wales as "an area" for the purposes of the *Local Government Act* (thus constituting a particular council pursuant to s 255) is to:

- (a) dissolve the existing part of a council or council in respect of the contiguous area of land in which it is proposed to proclaim a new "area";
- (b) prior to dissolving the areas or parts of existing areas a public inquiry must be held under s 212(2);
- (c) upon the creation of an area of contiguous land in respect of which a declaration under s 204 may be made, the Minister would then be obliged to comply with the preconditions to making a recommendation to the governor to proclaim that area of land as "an area" capable of then constituting a council;
- (d) the preconditions to the exercise of the power under s 204 of the Act to constitute a new area as "an area" includes the reference to public notice for a period of 28 days in accordance with s 216 and the consideration of all representations made during that period for representations pursuant to s 217 followed by referral of a proposal to examination and report by the Boundaries Commission thereby invoking the procedures which the Boundaries Commission is obliged to follow in ss 263, 264 and 265 of the *Local Government Act*.

44 Absent Division 2A of Chapter 9, the only reason by which a new area could be created would be to first dissolve the whole or part of an existing area under s 212 (with the requirement for a public hearing) and then to establish new area under s 204 (subject to referral to the Boundaries Commission).

The specific amalgamation provisions in the *Local Government Act* – Division 2A of Chapter 9

45 The key provision of Division 2A of the Act is s 218A which is as follows:

218A Amalgamation of Areas

- (1) The governor may, by proclamation, amalgamate 2 or more areas into one or more new areas.
- (2) On the date specified in the proclamation as the date on which the areas are to be amalgamated:
 - (a) The areas are dissolved, and
 - (b) The new area or areas are constituted, and
 - (c) Subject to s 218C, the councillors of the former area cease to hold office.
- (3) Divisions 1 and 2 apply to a new area constituted by a proclamation under this section in the same way as they apply to an area constituted by a proclamation under s 204.
- (4) Subsection 212(2) does not apply to the dissolution of a former area by a proclamation under this section.

46 These provisions, and in particular subsection(4), streamline the process identified above previously set out under Divisions 1 and 2 of Chapter 9 of the *Local Government Act*.

47 In particular, it appears that there is one enhanced process by which amalgamations can occur which does not require compliance with s 212(2) prior to and in addition to the requirements for reference to the Boundaries Commission and investigation under ss 216-218.

48 In the second reading of the *Local Government Amendment (Amalgamations and Boundary Changes) Bill* the minister said:

“The *Local Government Act* currently lays down the procedures to be followed when a proposal for amalgamation of councils is examined.

These provisions are generic and apply whether amalgamation or boundary change proposals are either voluntary or otherwise. As a result there are a number of complex and unnecessary procedural impediments where councils have agreed to an amalgamation or boundary change. The principal purpose of this bill is to amend the Act to streamline the voluntary amalgamation process. In the cases of unilateral proposals, the normal process will apply. **The proposals do not provide a mechanism to enable amalgamation by stealth.**” (emphasis added)

- 49 Section 218A(3) provides that Divisions 1 and 2 apply to a new area constituted by a proclamation, however this does not alter the streamline nature of Division 2A. Rather subsection(3) of s 218A ensures that local government areas which are constituted by the mechanism in Division 2A remain subject to Divisions 1 and 2 *once they are established* in the same way as any other local government area. That is subsection3 pre-supposes the existence of the new area as created by the procedures in Division 2A. It is not a separate requirement.
- 50 It is important to note that Division 2A of Chapter 9 may only be invoked if there has been compliance with the requirements of Division 2B of Chapter 9 of the *Local Government Act*.
- 51 Section 218E identifies who may make a proposal for the purposes of an amalgamation under Division 2A. Such a proposal may be made by the Minister or may be made to the Minister by a council affected by the proposal (noting not every council affected by the proposal needs to refer it); or by an appropriate minimum number of electors (which I do not understand to be presently relevant).
- 52 Section 218F is critical and provides as follows:

218F Referral of proposal for examination and report

(1) On making or receiving a proposal, the Minister must refer it for examination and report to the Boundaries Commission or to the Director-General.

(2) Sections 263, 264 and 265 apply to the examination of a proposal by the Director-General in the same way as they apply to the examination of a proposal by the Boundaries Commission.

(3) For the purpose of examining a joint proposal of 2 or more councils for the amalgamation of two or more areas under section 218A, the Boundaries Commission or Director-General, as the case requires, must seek the views of electors of each of those areas:

- (a) by means of:
- (i) advertised public meetings, and
 - (ii) invitations for public submissions, and

- (iii) postal surveys or opinion polls, in which reply-paid questionnaires are distributed to all electors, or
- (b) by means of formal polls.

(4) The period over which the views of electors are to be sought as referred to in subsection (3) must be a period of at least 40 days.

(5) Part 3 of Chapter 4 applies to a formal poll taken by the Boundaries Commission or Director-General in the same way as it applies to a council poll referred to in that Part.

(6) If a proposal that is not supported by one or more of the councils affected by it, or that is an amalgamation proposal, has been referred to the Director-General under subsection (1):

- (a) the Director-General must furnish the Director-General's report to the Boundaries Commission for review and comment, and

- (b) the Boundaries Commission must review the report and send its comments to the Minister.

(7) The Minister may recommend to the Governor that the proposal be implemented:

- (a) with such modifications as arise out of:

- (i) the Boundaries Commission's report, or

- (ii) the Director-General's report (and, if applicable, the Boundaries Commission's comments on that report), and

- (b) with such other modifications as the Minister determines, but may not do so if of the opinion that the modifications constitute a new proposal.

(8) The Minister may decline to recommend to the Governor that the proposal be implemented.

53 Section 218F provides that upon either making or receiving a proposal for an amalgamation under Division 2A, the Minister is obliged to refer it for examination and report to the Boundaries Commission *or* to the Director General.

54 Even if the proposal is referred by the Minister to the Director General of the Department rather than the Boundaries Commission under s218F(2), the Director General is obliged to apply ss 263, 264 and 265 to the examination of

the proposal in the same way as they apply to an examination of a proposal by the Boundaries Commission.

- 55 In addition, if the proposal for the amalgamation emanates from a joint proposal of two or more councils, then the Boundaries Commission of the Director General must seek the views of electors of each of those areas as provided in the section. Where such a joint proposal of two or more councils is subjected to a requirement to seek the views of the electors of those areas the period over which the views of the electors are to be sought must be a period of at least 40 days.
- 56 The only part of Division 2B which appears to depend upon the existence or not of consent by the councils to the proposal for amalgamation is s 218F (6) of the LGA.
- 57 The only apparent effect of consent by all of the councils to a proposal on the requirements of Division 2B of Chapter 9 is to absolve the Director General (noting that it only relates to a reference to the Director General and not a reference to the Boundaries Commission) from an obligation to furnish the report to the Boundaries Commission for review and comment and for the Boundaries Commission to then review the report and send its comments to the minister.
- 58 Accordingly, the only apparent practical effect of engineering the consent of councils to an amalgamation is to avoid a second stage of review by the Boundaries Commission in circumstances where there has been a referral of the proposal to the Director General.
- 59 It should be noted however, that even if all of the affected councils consent to the amalgamation proposal there is still a requirement for the Director General to examine the proposal in accordance with the obligations under ss 263, 264 and 265 in the same way that the Boundaries Commission would be obliged to conduct an examination.

60 Sections 263, 264 and 265 set out a prescriptive statutory regime for conducting an examination into a proposal for changes to boundaries and for areas of local government areas.

61 Relevantly s263 provides as follows:

Section 263 Functions of the Boundaries Commission

- (1) The Boundaries Commission is required to examine and report on any matter with respect to the boundaries of areas and areas of operation of county councils which may be referred to it by the minister.
- (2A) Despite subsection 2, the Boundaries Commission must hold an inquiry for the purpose of exercising its function in relation to the proposal for the amalgamation of two or more areas that have been referred to it in accordance with s218F.
- (2B) Reasonable public notice must be given of the holding on an inquiry under this section.
- (3) When considering any matter referred to it that relates to the boundaries of areas of the areas of operation of county councils, the Boundaries Commission is required to have regard to the following factors:
 - (a) the financial advantages or disadvantages (including the economies or diseconomies of scale) of any relevant proposal to the residents and ratepayers of the areas concerned,
 - (b) the community of interest and geographic cohesion in the existing areas and in any proposed new area,
 - (c) the existing historical and traditional values in the existing areas and the impact of change on them,
 - (d) the attitude of the residents and ratepayers of the areas concerned,
 - (e) the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as it considers relevant in relation to the past and future patterns of elected representation for that area,
 - (e1) the impact of any relevant proposal on the ability of the councils of the areas concerned to provide adequate, equitable and appropriate services and facilities,
 - (e2) the impact of any relevant proposal on the employment of the staff by the councils of the areas concerned,
 - (e3) the impact of any relevant proposal on rural communities in the areas concerned,
 - (e4) in the case of a proposal for the amalgamation of two or more areas, the desirability (or otherwise) of dividing the resulting area or areas into wards,
 - (e5) in the case of a proposal for the amalgamation of two or more areas, the need to ensure that the opinions of each of the diverse

communities of the resulting area or areas are effectively represented,

- (f) such other factors as it considers relevant to the provision of efficient and effective local government in the existing and proposed new areas.

(4) ...

- (5) The Boundaries Commission must allow members of the public to attend any inquiry held by the Commission under this section.

(6) ...

- (7) The Supreme Court may not make an order in the nature of prohibition in respect of, or an order for removing to the court or quashing, any decision or proceeding made or conducted by the Boundaries Commission in connection with the exercise of its function.

- 62 The validity of s 263 (7) must be the subject of serious doubt since the decision of the High Court in *Kirk v Industrial Court (NSW)* [2010] HCA 1; 239 CLR 531 at [98] to [100]. In any event, no privative provision would prevent judicial review where the decision or act did not involve "a *bona fide* attempt to exercise its power": see *R v Hickman; Ex parte Fox and Clinton* [1945] HCA 53; 70 CLR 598 at 615.
- 63 Further, although s 263(7) relates to orders in the nature of prohibition or *certiorari* it does not address the power of the Supreme Court under s69 to entertain proceedings in lieu of writs in the nature of mandamus to compel the Boundary Commission or Director General, as the case may be, to comply with their obligations under s 263(3) to have regard to the factors set out in s 263 (3) (a)-(f).
- 64 In any event, a report which is prepared by the Director General or Boundaries Commission (whether or not it has gone through the additional process of review by the Boundaries Commission following the report of the Director General to which one of the councils does not support) the Minister must make a further decision under s 218F(7) to recommend to the Governor that the proposal be implemented or decline to recommend to the Governor that the proposal be implemented.

- 65 If the government were to suspend or dismiss a council for the purpose of preventing dissent under s 218F(6), it is likely to do so after the public consultation provision and the preparation of the Director General's examination under s 218F(3).
- 66 If this approach is taken by the Executive, then an argument may be made (subject to the evidence) that the exercise of the power to suspend the council was not taken for a proper purpose and was executed in bad faith because its only purpose could be to circumvent the safeguards in Division 2A for referral of the Director General's report to the Boundaries Commission where a council opposes the proposal.

Practical next steps

- 67 In light of the foregoing advice, my advice to councillors or councils concerned that there may be a suspension by the Minister to enable the withholding of objection to a Director General's examination of an amalgamation proposal under s 218F is as follows:
- 67.1 Preparations should be made for such an eventuality including the drafting of proceedings to be filed on an urgent basis in the Supreme Court (subject to the evolution of the factual matrix);
- 67.2 More detailed and considered advice should be obtained as new facts come to light during any initiation of the amalgamation process under Division 2A of Chapter 9;
- 67.3 GIPPA requests should regularly be made of the Minister and the Department of Local Government concerning any activities directed to the initiation of an amalgamation process under Division 2A, including any decision by the Minister to choose a Director General's examination as opposed to a Boundary Commission examination;

67.4 Each step of any such process initiated by the minister under s 2A should be analysed to ascertain whether grounds for judicial review of such a step exist;

67.5 Further instructions should be obtained concerning possible funding arrangements that may be properly put in place that would enable a challenge to take place even if a council and councillors have been suspended or dismissed.

68 I so advise.

A handwritten signature in black ink, appearing to read 'S E J Prince', written in a cursive style.

S E J Prince

State Chambers
27 October 2015



RAMROC Councils, NSW

Total Area 126,595 sq km - Total Population 165,474





Independent Pricing and Regulatory Tribunal

Assessment of Council Fit for the Future Proposals: Appendix C

Local Government — Final Report
October 2015

BERRIGAN SHIRE COUNCIL – CIP

NOT FIT

Area (km ²)	2,045	Population 2011	8,300
OLG Group	10	(2031)	7,800
ILGRP Group	D	Merger 2011	9,850
		(2031)	9,050
Operating revenue (2013-14)	\$12.2m	TCorp assessment	Moderate FSR, Neutral Outlook
ILGRP options (preference in bold)	Merge with Jerilderie (yellow) or Council in Mid-Murray JO (all shaded).		



Assessment summary	Scale and capacity	Does not satisfy
	Financial criteria:	Satisfies overall
	• Sustainability	Satisfies
	• Infrastructure and service management	Satisfies
	• Efficiency	Satisfies

Fit for the Future – NOT FIT

- The council does not satisfy the scale and capacity criterion.
- The council satisfies the financial criteria overall. It satisfies the sustainability, infrastructure and service management and efficiency criteria.
- Scale and capacity is a threshold criterion which councils must meet to be Fit for the Future (FFTF), therefore the council is not fit.

Scale and capacity – does not satisfy

- The council was required to consider the ILGRP preferred option and demonstrate its proposal is at least as good to achieve the scale and capacity objectives for the region.
- When compared to the merger, the council's forecast population of 7,800 in 2031 means it is unlikely to provide services cost-effectively to the local communities, advocate credibly and partner with government.
- A merged council is likely to have improved capabilities, a more robust revenue base, greater scope to undertake new functions and projects, better regional collaboration and integrated planning.
- The council submitted a business case undertaken by SGS for a merger with Jerilderie. The business case showed the merger of Jerilderie and Berrigan could deliver benefits to the local community of between \$1.4m and \$12.5m over 10 years (using a discount rate of 5.5%, not including the \$5m Government funding).

Sustainability – satisfies

- The council satisfies the criterion for sustainability based on its forecast to meet the benchmarks for the operating performance ratio, the own source revenue ratio and the building and infrastructure asset renewal ratio by 2019-20.

Infrastructure and service management - satisfies

- The council satisfies the criterion for infrastructure and service management based on its forecast to meet the benchmarks for the infrastructure backlog, the debt service and the asset maintenance ratios by 2019-20.

Efficiency - satisfies

- The council meets the criterion for efficiency based on its forecast for real opex per capita to reduce over the period.

Other relevant factors

Social and community context	The council notes that due to its location on the Murray, its social and economic orientation is south to Victoria and that ties with neighbouring NSW LGAs are limited. It states this is confirmed by ABS Travel to Work Data and SGS modelling. The main towns in Berrigan are Finley, Tocumwal and Berrigan.
Community consultation	The council conducted a telephone survey of 350 residential and 101 business residents in Berrigan Shire in January 2015. 53% of residents opposed the merger with Jerilderie (20% strongly), 15% neither supported nor opposed it and 26% supported the merger (4% strongly).

Other relevant factors

Water and/or sewer	The council notes that it does not currently achieve the requirements of the NSW Government Best Practice Management of Water Supply and Sewerage Framework. The council postponed the implementation of its IWCMP to 2015-16 and receives 35% of its water revenue from consumption charges. In 2014-15 it met the 50% benchmark. It reported a water and sewer backlog of \$2.6m in 2013-14 but notes that there are no water and sewer infrastructure assets that are currently not fit for purpose or unfunded.
Submissions	There were no submissions received in relation to Berrigan's proposal.

COROWA SHIRE COUNCIL – CIP

NOT FIT

Area (km ²)	2,407	Population 2011	11,300
OLG Group	11	(2031)	11,250
ILGRP Group	D	Merger 2011	12,500
		(2031)	12,050
Operating revenue (2013-14)	\$18.6m	TCorp assessment	Moderate FSR Negative Outlook
ILGRP options (preference in bold)	Council in Upper Murray JO (all shaded) or merge with Urana Shire Council (yellow).		



Assessment summary

Scale and capacity	Does not satisfy
Financial criteria:	Satisfies overall
• Sustainability	Satisfies
• Infrastructure and service management	Satisfies
• Efficiency	Satisfies

Fit for the Future – NOT FIT

- The council does not satisfy the scale and capacity criterion.
- Scale and capacity is a threshold criterion which councils must satisfy in order to be assessed as Fit for the Future.
- The council satisfies the financial criteria overall. It satisfies the sustainability, infrastructure and service management and efficiency criteria.

Scale and capacity – does not satisfy

- The council was required to consider the ILGRP preferred option and demonstrate its proposal is at least as good to achieve the scale and capacity objectives for the region.
- In the absence of willing merger partners, Corowa has not undertaken a business case or explored a merger that establishes the stand-alone position is at least as good as the merger option.
- Corowa's proposal does not address all of the elements of scale and capacity in detail. However, where we have been able to gather information on some elements of capacity, our analysis indicates a merger would generally benefit both councils, even though for some elements the improvement for Corowa is modest.
- A merged council is likely to have improved capabilities and a more robust revenue base, greater scope to undertake new functions and projects, improved integrated planning and regional collaboration.
- The merger with Urana would provide greater scale and capacity for the system of local government in the area.

Sustainability – satisfies

- The council satisfies the criterion for sustainability based on meeting the benchmarks for the operating performance ratio, the building and infrastructure asset renewal and the own source revenue ratios by 2019-20.
- The council was granted special variations in 2013-14 and 2014-15. We observe the council's rates were 36% lower than the OLG Group 11 average prior to the first of these. The council plans to apply for two consecutive special variations:
 - Commencing in 2016-17 of 31.1% cumulative over 4 years (20.7% above the rate peg). The council consulted on this special variation as part of FFTF and claims it has community support.
 - Commencing in 2020-21 of 40.3% cumulative over 5 years (27.1% above the rate peg). It does not appear to have consulted on this special variation.
- The council estimates its planned special variation would generate an additional \$13m in rate income over the ten year period to 2024-25. It indicates its operating performance ratio would break even in 2017-18 and then rise to 4% by 2024-25 without the planned special variations. Based on this, the council meets the benchmark from 2017-18, with or without the additional special variations.

Infrastructure and service management - satisfies

- The council satisfies the criterion for infrastructure and service management based on meeting the benchmarks for the infrastructure backlog, asset maintenance and debt service ratios by 2019-20.

Efficiency - satisfies

- The council satisfies the criterion for efficiency based on a decline in real operating expenditure per capita over the period to 2019-20.

Other relevant factors

Social and community context	Corowa Shire has a population of around 11,000 people. Within Corowa Shire, the main towns are Corowa (population of 5,600), Howlong (population 2,553) and Mulwala (population 2,028). The unemployment rate (4.7%) is relatively low in Corowa Shire, with manufacturing, agriculture and tourism being key industries. Agriculture, forestry and fishing accounts for around 12% of employment and manufacturing accounts for around 19% of employment. Agriculture comprises a mix of dryland and irrigated cropping, grazing and small areas of forestry. Major employers in Corowa Shire include the munitions factory at Mulwala and the Riverlea piggery and stockfeed plant. Corowa Shire is regarded as a retirement destination and, as a consequence, has a high pensioner base.
Community consultation	Corowa had a web page for FFTF information, community information sessions were held in five towns, there was media commentary, and an information pack and survey were distributed to all households. The information pack explained the FFTF process and stated that Corowa had resolved to submit a CIP having failed to secure amalgamation partners. The survey was distributed to residents and non-resident ratepayers by Australia Post, and was available from council offices. There were 283 survey responses. The survey found over 60% of respondents showed some level of support for Corowa considering amalgamation opportunities. Over 70% of respondents were supportive of Corowa submitting a FFTF proposal to stand alone.
Water and/or sewer	Corowa operates its water and sewerage operations on a break-even basis. However, Corowa does not achieve the requirements of the NSW Government Best Practice Management of Water Supply and Sewerage and it does not pay a dividend. The current water and sewerage infrastructure backlog is over \$19m. There are three capital projects valued at \$3.7m planned for the period 2015-16 to 2017-18. Corowa reported an operating surplus of \$1.6m on its water and sewerage operations in 2013-14 (source OLG).
Submissions	There were no submissions received in relation to Corowa's proposal.

JERILDERIE SHIRE COUNCIL – RURAL COUNCIL PROPOSAL

NOT FIT

Area (km ²)	3,352	Population: 2011	1,550
OLG Group	8	(2031)	1,250
ILGRP Group	B	Merger 2011	9,850
		(2031)	9,050
Operating revenue (2013-14)	\$6.5m	TCorp assessment	Moderate FSR Negative Outlook



ILGRP options (preference in bold) **Merge with Berrigan (yellow) or Rural Council in Mid-Murray JO (all shaded).**

Assessment summary	Scale and capacity	Does not satisfy
	Financial criteria:	Does not satisfy overall
	• Sustainability	Does not satisfy
	• Infrastructure and service management	Satisfies
	• Efficiency	Does not satisfy

Fit for the Future – NOT FIT

- The council does not satisfy the scale and capacity criterion.
- Scale and capacity is a threshold criterion which councils must meet to be Fit for the Future (FFTF), therefore the council is not fit.
- The council does not satisfy the financial criteria overall. Although it satisfies the infrastructure and service management criterion, it does not satisfy the sustainability and efficiency criteria.
- The council does not satisfy the sustainability criterion based on its forecast for continuing operating deficits.
- We consider the operating performance ratio benchmark is a key measure of financial sustainability that all FFTF councils should meet, therefore the council is not fit.

Scale and capacity– does not satisfy

- The council was required to consider the ILGRP preferred option and demonstrate its proposal is as good an option to achieve the scale and capacity objectives for the region.
- The proposed Rural Council Proposal is not as good as the ILGRP's preferred option to merge with Berrigan. When compared to the merger, the council's small and declining population of 1,250 in 2031 means it is unlikely to cost-effectively provide services to the local communities.
- The council submitted a business case assessing the costs and benefits of merging Jerilderie with Berrigan. The business case showed the merger of Jerilderie and Berrigan could deliver benefits to the local community of between \$1.4m and \$12.5m over 10 years (using a discount rate of 5.5%, not including the \$5m Government funding).

Sustainability – does not satisfy

- The council does not satisfy the criterion for sustainability based on its continuing operating deficit. The operating performance ratio was -11.5% in 2014-15 and is forecast to reach -5.7% by 2024-25, which is below the benchmark of break-even.
- The council's figures include a previously approved and adopted special variation of 21.0% over 2 years from 2015-16 (15% above the rate peg).
- The council's own source revenue ratio was 49.1% in 2014-15 and is forecast to reach 52.0% by 2019-20 without the inclusion of FAGs, which is below the benchmark. The inclusion of FAGs increases the ratio to 80.7% by 2019-20.
- The building and infrastructure asset renewal ratio was 74.2% in 2014-15 and is forecast to reach 97.2% by 2019-20. This is close to the benchmark of 100%.

Infrastructure and service management - satisfies

- The council satisfies the infrastructure and service management criterion. It is forecast to meet the benchmark for the infrastructure backlog, asset maintenance and debt service ratios over the outlook period to 2019-20.

Efficiency – does not satisfy

- The council does not meet the criterion for efficiency based on its forecast to maintain its level of service for a declining population. Real opex per capita was \$5,170 in 2014-15 and is forecast to be \$5,580 in 2019-20.
- The increase in real opex per capita is 8% over the period, compared with a forecast decline in population of 1.2% over the same period.

Other relevant factors

Social and community context	While Jerilderie and Berrigan are both agricultural areas, the councils maintain there are differences in their respective focus. Berrigan considers its orientation is to the south of the Murray River, ie, towards Victoria. Berrigan states it collaborates with the Victorian municipality of Moira on tourism and for shared services. Jerilderie has a low rates base which is further impacted by population decline. Berrigan considers its rates base is stronger due to a steady population and increasing property values. It considers this may have implications for rates harmonisation in a merger. Jerilderie is the main town in the Jerilderie LGA and is surrounded by farmland. We note that most of Berrigan and Jerilderie's boundaries would be accessible from Berrigan within 90 minutes.
Community consultation	The council consulted the community over two years in conjunction with its special variation application consultation. It used newsletters, questionnaires, public meetings, Mayoral Columns, newspaper articles and media releases to engage with the community. In general the majority of the community voted for the council to submit a Rural Council Proposal.
Water and/or sewer	The council does not meet all the requirements of the NSW Best Practice Management framework. A section 64 Development Servicing Plan is not in place as there is no new development in the township. It notes with less than 400 residential and 100 non-residential assessments, the ability to obtain the required usage criteria is limited. The Fund is showing a diminishing deficit over the next 10 years which is to be addressed by a 5% annual increase in fees and charges with a review on depreciation. The council will also conduct a service delivery and administrative cost review which it states will remove the deficit earlier than currently predicted. It reports it has no water and sewerage infrastructure backlog.
Submissions	There were no submissions received in relation to Jerilderie's proposal.

URANA SHIRE COUNCIL – RURAL COUNCIL PROPOSAL

NOT FIT

Area (km ²)	3,356	Population: 2011	1,200
OLG Group	8	(2031)	800
ILGRP Group	B	Merger 2011	12,500
		(2031)	12,050
Operating revenue (2013-14)	\$6.8m	TCorp assessment	Weak FSR Neutral Outlook

ILGRP options (preference in bold) **Merge with Corowa** or Rural Council in Upper Murray JO (all shaded).

Assessment summary

Scale and capacity	Does not satisfy
Financial criteria:	Satisfies overall
• Sustainability	Satisfies
• Infrastructure and service management	Satisfies
• Efficiency	Satisfies



Fit for the Future – NOT FIT

- The council does not satisfy the scale and capacity criterion.
- The council satisfies the financial criteria overall. It satisfies the sustainability, infrastructure and service management and efficiency criteria.
- Scale and capacity is a threshold criterion which councils must satisfy to be Fit for the Future (FFTF), therefore the council is not fit.

Scale and capacity – does not satisfy

- The council was required to consider the ILGRP preferred option and demonstrate its proposal is as good an option to achieve the scale and capacity objectives for the region.
- The proposed Rural Council Proposal is not as good as the ILGRP's preferred option to merge with Corowa. When compared to the merger, the council's small and declining population of 800 in 2031 means it is unlikely to cost-effectively provide services to the local communities and advocate and partner with government.
- The business case and qualitative analysis provided by the council did not demonstrate the proposal to become a Rural Council was at least as good as, or better than, a merger with Corowa.
- A merged council is likely to have improved capabilities and a more robust revenue base, greater scope to undertake new functions and projects, improved integrated planning and regional collaboration.

Sustainability - satisfies

- The council satisfies the criterion for sustainability based on meeting the benchmark for the operating performance ratio by 2024-25 and the building and infrastructure asset renewal ratios by 2019-20.
- The own source revenue ratio was 30% in 2014-15 and is forecast to reach 45% by 2019-20 without the inclusion of FAGs, which is below the benchmark. The inclusion of FAGs will increase the ratio to 73% by 2019-20.
- The council's forecasts assume the successful application for and adoption of a special variation from 2016-17 of 63.1% cumulative over 4 years (52.7% above the rate peg).
- Although the proposed special variation is large, the council claims community consultation as part of FFTF shows the community is prepared to pay higher rates.
- On the figures provided, if the council were to adopt a lower real rate increase of about 20%, it would still generate a positive operating performance ratio by 2024-25.

Infrastructure and service management - satisfies

- The council satisfies the infrastructure and service management criterion. It is forecast to meet the benchmark for the infrastructure backlog, asset maintenance and debt service ratios over the outlook period to 2019-20.

Efficiency - satisfies

- The council satisfies the criterion for efficiency based on a forecast decline in real opex per capita to 2019-20.

Other relevant factors

Social and community context	<p>The council has been a member of both the Riverina East Regional Organisation of Councils (based in Wagga Wagga) and the Riverina and Murray Regional Organisation of Councils (based in Albury).</p> <p>The council believes the area's strongest links are in the direction of Wagga Wagga. The council notes the area's links to the Riverina area include water reticulation (provided by Riverina Water County), membership of REROC, that Urana is within the Riverina Tourism area and that grain harvest forums are usually held in Wagga Wagga.</p>
Community consultation	<p>The council has undertaken an extensive community consultation process and was an advocate for a stand-alone council position. The council informed the community through a series of five public meetings, information provided through the council's newsletter, news releases, and through the council's website. The council undertook a survey of attitudes to a merger, with the survey form mailed to all households and also distributed at community events such as football matches. There were 281 respondents. The survey showed 88% of respondents favoured the option of remaining as a stand-alone rural council with 8% favouring amalgamation with another council.</p>
Water and/or sewer	<p>The council does not provide water services although it does provide sewerage services. The council does not achieve the requirements of NSW Government Best Practice Management of Water Supply and Sewerage and does not pay a dividend. The sewerage system was only installed in 1995-96 and there is no infrastructure backlog.</p>
Submissions	<p>There were no submissions received in relation to Urana's proposal.</p>
