

Chapter 5

Local Government Amalgamation in New South Wales

5.1 Introduction

Chapter 5 seeks to establish the context for the forcibly imposed 2004 Clarence Valley Council amalgamation, through an examination of the recent history of amalgamations of New South Wales councils and other structural reform initiatives in local government. The focus is primarily upon reforms of the past two decades. Brief reference is made to the early history of local government development in NSW and to attempts at council consolidation prior to the 1990s.

Chapter 5 is divided into six parts. Section 5.2 considers early local government in NSW and local government amalgamation prior to the 1990s. Section 5.3 chronicles structural reform and voluntary amalgamations in the 1990s. Section 5.4 addresses the forced amalgamation of some NSW councils in 2003-04. Section 5.5 considers more recent structural reform initiatives and attendant official Reports that investigate the matter of financial sustainability of NSW local government. Section 5.6 suggests shared characteristics with structural reform and amalgamation in other states and the Northern Territory. Chapter 5 ends with some brief concluding remarks.

5.2 Local Government in NSW prior to the 1990s

5.2.1 Early Local Government in New South Wales

As a student of local government in the mid-1960s, the writer was tutored by F. A. (Fred) Larcombe who, between 1973 and 1978, published a trilogy of scholarly work detailing the early history of local government in NSW. The first municipal legislation in the state was the 1835 Sydney Town Improvement Act, followed, in 1840, by the beginnings of local government with the *Parish Roads*

Trust Act and the *Municipal Corporations Act*. The Bill contained the first plan for a general system of local government in the colony (Larcombe, 1973, p.30, 39-45, 53-4). In 1842, District councils were mandated and 28 were proclaimed, In that year, Sydney became the first incorporated municipality and was proclaimed a city (Larcombe, 1973, p.87, 202, 205). The *Municipalities Act* of 1858 introduced a system of local government (Larcombe, 1973, p.261). Municipalities were compulsorily incorporated by legislation in 1876, the third *Municipalities Act* of 1897 consolidated municipal law, and in 1905 legislation was enacted to establish Shires (Larcombe, 1976, p.172-3, 268-85, 288-90).

During development of local government in NSW and other Australian state jurisdictions, a similarity emerged in that local government evolved along analogous lines in each state. Their functions were primarily minor and oriented towards service provision to property. Given the challenges of developing the new nation and because of financial implications, the motivation of local communities to seek local control over other services, such as health and education, was weak (McNeill, 1997, p.20). Reduction in the number of local government entities in NSW commenced with a 1946 Royal Commission concerning council boundaries in the County of Cumberland. This resulted in eight industrial suburbs being amalgamated with the City of Sydney and some major boundary changes and amalgamations around Strathfield (Jones, 1993, p.236-7).

5.2.2 Local Government Acts 1906 and 1919

The 1906 Local Government Act reformed the NSW municipal system. It required staff training and qualifications, introduced Unimproved Capital Value for property rating, urban areas, women's franchise, and ordinances to replace the power to make by-laws (Larcombe, 1976, p.297-9). In 1919, a new Local Government Act was legislated as the principal law to govern New South Wales local government for the next 74 years (Larcombe, 1978, p.476, 486). More

than 100 State Government Acts still govern NSW councils, the most important being the 1993 *Local Government Act* (Allan, 2001, p.11).

5.2.3 Barnett Committee Review of Local Government Areas - 1973-74

I witnessed and had involvement with various New South Wales amalgamation initiatives and proposals, including and subsequent to the 1974 major review of local government boundaries, termed the '*Barnett' Committee Inquiry into Local Government Areas and Administration*. The main arguments presented to the Barnett Committee in favour of retention of small council areas were the desire to keep local government 'local'; to maintain public interest and participation; incompatibility between some urban and rural areas; a desire for local "democracy" over local "efficiency"; local responsibility rather than uniformity; and the citizen as a participant in government rather than simply as a consumer of services (Larcombe, 1978, p.418).

The Barnett Committee sought to create stronger economic local government entities through a substantial reduction in council numbers (Larcombe, 1978, p.419). The Barnett Report recommended the forced merging of the then 223 existing local government entities into 97 districts. Despite intense pressure and opposition, in April 1974, the government rejected the Barnett Report and its recommendations for compulsory amalgamation (Larcombe, 1978, p.422). In 1980, the Committee recommendations were the catalyst for amalgamation by legislation, of 38 councils into 17 entities, some of which were voluntary (Jones, 1993, p.237), after several references to the NSW Local Government Boundaries Commission (LGBC) (Pearson, 1994, p.8).

The Barnett Committee Report and its recommendations caused concern and protest across NSW, especially in rural areas. One proposal, for example, was amalgamation of the Municipality of Muswellbrook with Denman Shire, and two of the three ridings of Merriwa Shire with the other Merriwa riding to be ceded to Mudgee Shire. I appeared before the LGBC and ultimately Merriwa

(but not Denman) Shire was spared, in large part because of vigorous community opposition in a state electorate held by the government.

5.2.4 Bains Report 1978

In 1978, Malcolm Bains, a former British local government Chief Executive reported to the NSW government concerning local authority management. He influenced adoption of corporate management in councils whereby council affairs were dealt with as a whole and with co-ordinated forward planning, comprehensive distribution of resources and proper performance monitoring (Jones, 1993, p.151, 237). The Bains Report had major influence on change in NSW local government. Its proposals, including engagement of more powerful Chief Executive Officers, councillors becoming policy makers, and staff free from administrative councillor interference, were to become central aspects of the 1993 Local Government Act (Jones, 1993, p.150-1).

5.2.5 Review of 1970's and Early 1980's Amalgamations

In 1984, a review by the LGBC of new rural and regional councils formed since 1976 demonstrated that many of the major amalgamations had experienced problems and that anticipated economies of scale in service provision were not delivered. Towns that had been amalgamated with rural areas were accused of exploiting the rural areas and vice versa; in particular, because of smaller populations, often residents in the rural areas believed they had lost their political power and level of representation through the introduction of the one vote one value principle (Jones, 1993, p.223). Economies of scale were less than anticipated because little or no human or capital resource rationalisation followed the amalgamations. In addition, significant costs were associated with such amalgamations (Soul & Dollery, 2000, p.37). Over the next two decades, the Bains report contributed to ending gradual council consolidation in NSW (Jones, 1993, p.150-3). Another factor in the lack of enthusiasm for the

amalgamation of councils was that the process itself was painful, disruptive, wasteful of human and material resources and could take years to accomplish (Vince, 1997, p.152).

5.3 Structural Reform in the 1990s

5.3.1 Local Government Act 1993

The major reform to NSW local government during the 1990s was introduction of the 1993 Local Government Act (Local Government Managers Australia NSW Division, 2002, p.4). This Act introduced and mandated a major overhaul of previous legislation which had been prescriptive, inhibited effective governance at the local level, and restricted performance of councils in managing assets and carrying out functions in response to community needs (Department of Local Government, 1999, p.2). The new Act gave a more precise definition of the role of local government, especially in relation to the state/local government nexus; provided an agenda for management improvement; and applied national competition policy and efficiency reforms to local government (Aulich, 1999, p.16).

The 1993 Act provided councils with general competence powers aimed at avoiding unnecessary state government intervention in local affairs, and ensuring that councils were properly accountable to the public (Department of Local Government, 1999, p.3-4). The conferring of general competence powers was viewed as a genuine attempt to strengthen local governance, by enabling councils to engage more in enterprise activities free of the prescriptiveness of the former Local Government Act and more than 100 associated ordinances. The powers in the 1993 Act enabled the state to reduce its responsibilities for, and burden of, financing local government (Aulich, 1999, p.14).

The core principles of the 1993 legislative reforms were threefold. Firstly, there was greater accountability by councils to their communities through better reporting, management plans, consultation on key issues, and access to

information. Secondly, there were changes to the relationship between councillors and staff, whereby the elected council held all powers given under the Act, but could delegate most powers and appoint General Managers to have responsibility for “day-to-day” management, council staff and financial resources. Finally, a better distinction between service provision and regulatory activity was drawn. Maximum flexibility was given in respect to service provision, with some constraints, and accountability was increased. In regard to regulatory functions, proper attention had to be given to due process and procedural correctness (Department of Local Government, 1999, p.3-4).

In 1999, a review of the 1993 Act found that although a number of changes had since been made, the underlying principles in the legislation remained undiluted in respect of greater autonomy and accountability for councils (Department of Local Government, 1999, p.1). Major areas of review in 1999 were in respect of the management planning process, contracts of employment for senior staff, employment matters for other staff, and the relationship between Mayors and General Managers (Department of Local Government, 1999, p.8-12).

Despite the reforms of the *Local Government Act 1993*, local government in NSW remained subservient to the state, with reserve powers retained by state government. The outcomes in NSW were similar to those in other states and the Northern Territory, which reviewed their local government legislation between 1989 and 1995.

5.3.2 New South Wales Government and Forced Amalgamations

NSW had 327 councils in 1906 (Pearson, 1994, p.8), and 324 in 1910. By 1991 these had been reduced to 176 (Jones, 1993, p.247). A year later, Pittwater Council in Sydney was created by being severed from Warringah Council (Jones, 1993, p.237). At that time, there were 39 specific purpose county councils (Jones, 1993, p.258). By June 2006, this number had reduced to 14 (Department of Local Government NSW, 2006, p.4). In 2000, the ratio of councillors to population in NSW was one per 3643 persons and average

council area populations were 37,887 (Dollery, Marshall, & Worthington, 2003, p.81, 109). However, these ratios and average populations varied considerably between large metropolitan and small rural councils.

Boundary reform in the 1990s was not a major issue in NSW. Since 1906 council numbers had been reduced by almost 50 per cent and there had been a long history of ongoing amalgamations (Sproats, 1996, p.193). It was likely that structural reform activity had been more subdued due to those earlier reforms (Worthington & Dollery, 2000a, p.15). In 1996, the Building Owners and Managers Association unsuccessfully proposed to state government that Sydney metropolitan councils be reduced from 46 into 15 “super councils” and there was debate about whether rural “doughnut” councils surrounding urban areas should be amalgamated (Sproats, 1996, p.193).

A disincentive to amalgamation in the 1990s was the emerging evidence of a ‘crisis in the bush’. Rural dwellers in New South Wales witnessed the impact of “economic rationalism”, experienced job losses, declining services and infrastructure in regional communities (such as bank branch office closures, reduction in rail services and the withdrawal of state government agencies) and centralisation of economic functions (Collits & Gustin, 1996, p.9-10). Rural disquiet was manifested during 1996 in the form of protests, a march on Canberra, criticism of government policies, lobbying for a new state separate from NSW, a national public service strike, the formation of an ALP Federal Regional Taskforce, and a Country Summit at Tamworth.

There was resentment due to loss of population from the inland to the coast and from small towns to nearby larger regional centres and concerns about centralised decision-making in Sydney and Canberra (Collits & Gustin, 1996, p.10-11). Rural area concerns may have influenced state government to accept that reductions of rural councils through imposed amalgamation would exacerbate rural disenchantment, poverty and alienation.

In the 1990s, NSW rejected compulsory amalgamations as unnecessary and the Minister for Local Government sought to encourage councils instead to consider cooperative activity (Marshall, 2008, p.18). During this period, NSW had one of the stronger Australian state economies and had not considered imposed local government structural reform, but rather focused on corporate management improvements. The work and recommendations of the NSW Independent Commission Against Corruption (ICAC) helped set an agenda in local government to improve organisational culture (Dollery, Marshall, & Worthington, 2003, p.119). Until this time, in NSW there existed a collaborative and consultative approach to local government reform which had been essentially managerialist and focused on issues of efficiency, effectiveness and accountability. There had been attention to workplace reform in terms of labour markets, accounting practices, asset management, regulatory reform and the separation of powers between councillors and staff (Sproats, 1996, p.185).

Other changes in NSW local government in the 1990s included internal reorganisation, purchaser/provider models, service level agreements, business units, customer and competitor awareness, competitive tendering, outsourcing, staff training and support, benchmarking, establishment of key performance indicators, staff redundancies, enterprise and workplace agreements, union and industrial involvement, resource sharing, and best practice initiatives (although not necessarily all changes occurred in all councils) (Barnes, 2002, p.6-7).

5.3.3 Local Government Reform Task Force and Regional Cooperation

In December 1995, the newly-elected Carr Labor government convened the Local Government Reform Task Force to develop a strategic plan to improve the efficiency and effectiveness of local government, performance of individual councils, customer focus on services and facilities provided by councils, and policies and practices to implement competition policy. The Task Force was to develop strategic tasks for continuing reform of local government (Minister for

Local Government, 1997, p. 2). The Victorian experience from 1993 in terms of customer focus and Compulsory Competitive Tendering influenced the NSW Task Force, which provided recommendations to state government for local government in respect of competition policy, competitive tendering, regional cooperative arrangements, as well as access, equity and social policy (Minister for Local Government, 1997, 48-51). In February 1997, the Minister for Local Government issued a Discussion Paper containing proposals to encourage regional co-operation between local government authorities and greater roles for the 13 Regional Organisations of Councils (Minister for Local Government, 1997, p.1).

It appears that local government seems to have realised that it was preferable to engage in resource sharing and other structural reform rather than to face the prospect of imposed amalgamation. For example, the Northern Regional Organisation of Councils (NOROC) established a General Managers' Group to initiate resource sharing and other inter-council co-operation measures under the auspices of a NOROC Local Government Reform Committee.

In July 1998, the Property Council of New South Wales issued a Report entitled *Reinventing Local Government in New South Wales, Econometrics Study 1998*, prepared by KPMG concerning NSW councils (Property Council of Australia NSW Division, 1998). This Report criticised the state government for not acting on a body of reports which had suggested that significant change should occur to local government. The Property Council argued that the time frame for implementation had been too lengthy, and that the methodology for reform of local government was too cautious. It claimed that much inefficiency existed in the local government system; administrative inefficiencies, as well as in service delivery, were apparent particularly in non-urban councils; and the benefits of outsourcing and competitive tendering had not been achieved.

The KPMG Report also asserted that disparities and inefficiencies existed among councils, as well as structural weakness across a broad range of councils,

and further, that economies of scale had not been achieved. The Property Council maintained that population size affected and influenced economies of scale; that resistance to local government change in NSW highlighted inequities and inefficiencies; and that the local government sector had largely been insulated from reforms that had occurred in other sectors (Property Council of Australia NSW Division, 1998, p.20, 43, 60, 70). While this Report was in favour of forced amalgamation, the econometric evidence in the Report was seriously incomplete (McNeill, 2000, p.12).

The Report was criticised, for example, by Dean Newbery Consulting (1999, p.9) which stated that nowhere in the Report was there any realistic substantiation of the projected indicative annual savings from amalgamation of up to \$845 million, which, in order to achieve, would require the equivalent of up to 60 per cent of the total local government workforce in NSW to be made permanently redundant. The report also failed to highlight the cost or extent of separation packages, estimated to be potentially up to one billion dollars. Newbery contended that

[t]he KPMG Report places emphasis on the irresistible expectation of realising massive annual savings for return to ratepayers, when ... based on the actual results ... of structural reform in other states, the reality is that the actual level of such savings will almost certainly be substantially less. The KPMG Report has not adequately recognised or acknowledged in its recommendations, the purpose and value of community consultation (Dean Newbery Consulting, 1999, p.10).

In the late 1990s, other writers criticised local government on grounds that while small local government entities hoped to preserve society, it was accelerating its deterioration, that small councils held little economic, political or social advantage, and that in its present form the sector did little to advance the public interest or local government's long term interest (Soul, 1997, p.7-8).

5.3.4 Voluntary Structural Reform

The NSW Local Government and Shires Association (LGSA) (1998b, p.22) issued a Discussion Paper in early 1998 providing a strategy to encourage councils to explore possibilities for more extensive resource sharing and voluntary boundary change where appropriate. It gave guidance to councils concerning issues such as competition policy, competitive tendering and boundary restructuring. The Paper suggested a three-stage review process for participating councils to follow and provided an overview of the strengths and weaknesses of structural change options. It was suggested that given NSW local government's long history of regional voluntary cooperation, including Regional Organisations of Councils, the LGSA initiative was unlikely to facilitate radical structural change (Worthington & Dollery, 2000a, p.15).

In October 1998, as part of its Local Government Development Program, the LGSA produced a second Paper on three possible models for voluntary structural reform - resource sharing through service agreements; resource sharing through joint enterprises; or merger/amalgamation. The Paper was part of a strategy to encourage councils to discuss how they might work more cooperatively to provide improved services to communities and suggested that voluntary structural reform provided councils with the opportunity to jointly develop the reform model most appropriate for their council and community. This Paper outlined the opportunities embodied in structural reform, including service, operational and financial benefits, scale economies and economies of scope. No mention was made in the Paper of the potential loss of local democracy or representation from voluntary mergers. The Commonwealth Local Government Development Program made funds available to support groups of councils and, in October 1998, assistance was provided for six projects involving 40 NSW councils (Local Government and Shires Association of NSW, 1998a, p.3, 7, 11-12), with encouragement for community and employee engagement in the process.

Casino Municipal Council, a NOROC member, articulated in early 1998 that councils faced pressure for change from the Commonwealth and state governments and from community business organisations and some academics and argued that scale economies increased markedly at populations over 28,000. Casino Council suggested that a strong state government at some point would amalgamate councils without consultation. In cooperation with the surrounding Richmond River Shire a voluntary structural reform research project was undertaken (Vasan, 1998, p.2-3). The consultants suggested three options. These included the status quo, resource sharing, and amalgamation, but recommended amalgamation of the two councils as the option which could maximise potential financial, organisation and service provision opportunities, whilst reducing existing representational levels (Hoffman Consulting & Larcombe and Associates, 1997, p.47-8). Recognising the desirability of being in a strong position against potential forced amalgamation, in June 1998 the two councils commenced a voluntarily merger process.

In May 1999, a speech in State Parliament by the Minister for Local Government Harry Woods gave renewed focus to voluntary structural reform. The Minister announced that his Department intended to provide regular financial assessment of the long and short-term position of councils and provide comparative feedback on council performances (Woods, 1999, p.2). He expressed concern that 40 per cent of councils were spending more than 20 per cent of income on administration when the norm was ten per cent. He noted that some councils were examining voluntary amalgamations or boundary adjustments, but reiterated that there would be no “Kennett-style” forced amalgamation in NSW. The Minister invited councils to initiate improvements and nominate reform initiatives by 23 July 1999, to include current financial position and inventive options to manage resources which would guarantee a financial future. He also advised that he would introduce legislation to accelerate the process of voluntary boundary adjustments (Woods, 1999, p.1-3).

Immediately prior to the scheduled September 1999 council elections, the Minister secured passage of the *Local Government Amendment (Amalgamations and Boundary Changes) Act*, which streamlined the procedure for voluntary amalgamation of council areas and postponed local government elections to April 2000 for those councils which undertook to formulate proposals and participate in a voluntary structural reform process. The Act amended the functions of the LGBC in terms of its capacity to hold inquiries and also specified the information required of councils ("Local Government Amendment (Amalgamations and Boundary Changes) Bill ", 1999, p.7-11).

In August 1999, the LGBC issued guidelines to assist councils prepare proposals for merger by voluntary amalgamation and specified proposal requirements and steps entailed. It stated that government policy was to leave the final decision on amalgamation to the councils involved. A proposal could be submitted by an affected council or by a petition by an appropriate minimum number of electors (Local Government Boundaries Commission of NSW, 1999, p.3, 6, 8-14). A total of 21 councils participated in the voluntary amalgamation process, but the eventual net reduction in council numbers at February 2001 was only four entities, leaving a total of 173 continuing councils (University of Technology Sydney Centre for Local Government, 2001, p.10). One amalgamation was Casino Municipality and Richmond River Shire, and another was in the Clarence Valley involving Nymboida and Ulmarra Shire Councils. The latter amalgamation is addressed in detail in Chapter 6.

5.3.5 Sproats Inquiry into Inner-Sydney City Council Boundaries

The Sproats Inquiry, into the structure of local government in eight council areas of the Inner City and Eastern Suburbs of Sydney was commissioned by the state government in October 2000. The first major inquiry into inner city council boundaries in a quarter of a century revealed tensions between efficient delivery of services and democratic representation (Dollery, Marshall, &

Worthington, 2003, p.87). When announcing the Sproats Inquiry, the Minister stated that the government had received numerous requests and petitions from both councils and residents to examine questions in local government. A large proportion of submissions dealt with proposed boundary alterations, the need for consistent administration, the quality of existing council performance, anticipated rate increases, and “community of interest” matters (May & Sproats, 2000, p.1-2).

The Property Council of New South Wales proposed to the Sproats Inquiry that savings could be achieved through the amalgamation of councils and sought assessment of four NSW merger options; 20 amalgamations based on Regional Organisations of Councils; creation of two large super councils in the Sydney metropolitan area; reduction of the number of NSW councils to 100; and decrease of council numbers to 50 (Dollery, Marshall, & Worthington, 2003, p.93).

The Institute of Municipal Management (2000, p.2), representing council General Managers, acknowledged to the Inquiry that the voluntary approach to achieving government objectives was inadequate and incompatible with councils being sustainable in the long-term. The Institute signified its support for structural reform as an appropriate process of reviewing effectiveness of local government and articulated its role in provision of professional advice to enable informed community debate and decision making, with amalgamation left as a political decision. The Institute suggested that any revision of existing Sydney city boundaries could achieve elimination of service overlap, uniformity in policy implementation, consistency in planning and environmental responsibilities, enhancement and coordination of technology strategies, improved linkages with government and agencies, and more synergy in strategic planning (Institute of Municipal Management Divisional Council, 2000, p.2, 8, 15, 19).

The Sproats Inquiry found that there was a wide disparity of representation ratios across Sydney metropolitan area. It concluded there was no ideal optimal ratio, but that opportunities needed to be pursued that enhanced democracy and facilitated community participation in information sharing and decision making (Dollery, Marshall, & Worthington, 2003, p.87). The Inquiry's view was that structural "recasting" was preferable to amalgamation. The recasting objective was to provide strategically focused, better resourced councils to enhance capacity to deal with local, suburban and regional problems. Enhancement of capacity was afforded a higher priority by the Inquiry than achieving economies of scale (Dollery, Marshall, & Worthington, 2003, p.97).

Professor Sproats made eight recommendations to government, the primary one being recasting inner Sydney city local government into four "beacon" councils to provide a model for advancing reform. Other recommendations related to strengthening State and community partnerships; strengthening the integrity of the suburbs; council strategic and management plans to identify specific provision for service delivery and governance in the suburbs; how to manage the recommended boundary changes; establishment of mechanisms to create inter-governmental relationships; amendment of the rate pegging formula; and that the Department of Local Government formulate and communicate a program of ongoing local government reform (Sproats, 2001, p.2-7).

When the Sproats Report was delivered, the Minister for Local Government stated that unless the councils agreed to the proposed changes, government would take no action, given its policy of no forced amalgamations. The Report had captured the views of a substantial segment of practitioners within the local government sector (Grennan, 2002, p.40). With the exception of Sydney City, the other involved councils determined that they would not voluntarily support the mergers. This implied that an opportunity was lost to "rationalise" longstanding inner city local government boundaries. The media was critical of the government and suggested it had mishandled an attempt to enlarge the area

administered by Sydney City. South Sydney successfully challenged the merger scheme in the Land and Environment Court on the basis that its affected constituents had been denied natural justice, given that affected residents and employees had not been properly consulted (Editor Sydney Morning Herald 2002b, p.14).

During the Sproats inquiry, the LGSA issued another Discussion Paper highlighting the role, potential and pressing issues facing local government; addressing trends in local government in NSW; and focusing on perspectives such as community expectations, subsidiarity, integrated planning, place management, service delivery and best value (University of Technology Sydney Centre for Local Government, 2001, p.8-25). The Paper, which had input from councils and Regional Organisations of Councils (ROC's), and drew upon the prior experience of other states, addressed a proposed state/local Government protocol and argued the need for implementation of a set of principles for the negotiation of local or regional partnership agreements. The LGSA promoted cooperative action involving state agencies, councils and other parties as appropriate, to ensure that implementation of such program focused on community circumstances and needs (University of Technology Sydney Centre for Local Government, 2001, p.4) . The Discussion Paper suggested that the next steps in local government reform in NSW ought to be constitutional recognition, state/local partnerships, review of the Local Government Act to enhance councils' charter, and better financing arrangements, including replacement of rate-capping, and sharing of competition payments and future GST revenue growth (University of Technology Sydney Centre for Local Government, 2001, p.33-34).

It was recognised that amalgamations were unlikely to be viable for sparsely populated areas of the state, and that the history of structural reform had demonstrated that objective rationale was not the sole determinant of imposed amalgamations (Worthington & Dollery, 2000a, p.16). Other critical factors that

had encouraged earlier structural reform had been economies of scale, the concept of communities of interest and the relative lack of attention to amalgamation alternatives in structural inquiries (Worthington & Dollery, 2000a, p.17).

Eighteen months later in July 2002, and in the months leading up to the 2003 state election, Local Government Managers Australia (LGMA) (formerly Institute of Municipal Management) released a Discussion Paper on continuing reform of the local government sector. The Paper canvassed views on desirable future local government directions from a management perspective (Local Government Managers Australia NSW Division, 2002, p.2). LGMA encouraged debate and analysis concerning why reform was needed and what it should achieve. It made the case for further reforms and the need for local government to adapt to a range of impacts which differed across the sector and between the metropolitan and rural areas. The Paper addressed issues of governance, management and finance, infrastructure provision, community engagement, development control, inter-government relations and the long running rate-pegging issue. LGMA suggested to the political parties that a central issue for debate was whether local government needed fundamental reform or more gradual improvement (Local Government Managers Australia NSW Division, 2002, p.8-9). Total policy reversal by the state government to imposed council amalgamations almost immediately after the 2003 State election would indicate that the LGMA perspectives may have been influential.

5.4 Imposed Mergers of the Early 2000s

5.4.1 Vulnerability of Local Government to Amalgamation

The vulnerability of NSW councils to amalgamation was underlined by their legal position as part of the lower tier of government created by state government legislation. Section 51(1) of the *New South Wales Local*

Government Act 1993 determined that local government existed in the state with duly elected or appointed local government bodies constituted with responsibilities for acting for the better government of those parts of the state that were from time to time subject to that system of local government. Section 51(2) stated that the manner in which local government bodies were constituted and the nature and extent of their powers, authorities, duties and functions should be as determined by or in accordance with the laws of the Legislature (Vince, 1997, p.155). Chapter 9 of the 1993 Act, which provides the mechanism for alteration of council boundaries (Pearson, 1994, p.9), is addressed in Chapter 6 in conjunction with consideration of the imposed amalgamation, which resulted in formation of Clarence Valley Council.

The “merger susceptibility” in NSW was exacerbated by the constant, often negative media focus on the local government sector, especially during 2002, in the aftermath of the largely unsuccessful voluntary reform process of 1999-2000 and the lack of outcomes from the Sproats Inquiry. There were concerns that NSW local government reform had remained at a standstill for nearly a decade, that the state trailed other Australian jurisdictions, and seemed unwilling to pursue reform strategies. In advance of the 2003 election, there were calls for the government to act as a role model for best practice in Australia and to take the lead on local government reform (Grennan, 2002, p.40). The media suggested that if redrawing council boundaries was to qualify as reform it had to be more than changing lines on a map, and should benefit a clear majority of affected ratepayers. Genuine reform meant achieving improved services and preferably lower rates through greater efficiency (Editor Sydney Morning Herald 2002a, p.10). One editorial suggested that NSW had too many councils, that there was a need for a thorough review on the broad question of council amalgamations as it affected all 173 councils in the state, and that the review should not be allowed to be distorted in the “hothouse” atmosphere of political campaigning (Editor Sydney Morning Herald 2002b, p.14).

The issue of local government efficiency (or lack thereof) in respect of service delivery was an ongoing debate which highlighted the calls for structural reform. Scholars suggested that there was evidence of interplay between the efficiency and productive performance of local governments and intergovernmental grants, and perhaps also in the revenue raising devices which councils operated such as user charges, fees and contributions (Property Council of Australia (Queensland Division), 2007, p.12) (Dollery & Grant, 2010, p.16) (Woodbury, Dollery, & Rao, 2003, p.78-80, 89-90). Given the diminution of government grants to NSW local government as a proportion of total revenue, and the growing significance of other revenue raising inhibitors especially rate-pegging, the scope for the grants mechanism to enhance efficiency of local government service delivery was argued to be limited (Worthington & Dollery, 2000b, p.119).

5.4.2 Post-2003 NSW State Election Amalgamation Impetus

Within two months of the Carr Labor government return to office in March 2003, it abandoned its long-held policy of no forced amalgamations, and within one year, council mergers were imposed across the state. Results were that numbers of councils reduced from 177 to 152, with 22 new entities created (Department of Local Government NSW, 2006, p.6). In particular regional “super” councils were legislated for Inner Sydney, surrounding Canberra, Goulburn and Tamworth; four general purpose and two county councils were merged in Clarence Valley, as well as a number of other smaller-scale rural council amalgamations.

Immediately following the state election the LGMA (2003a, p.1-33) issued a further Discussion Paper on local government reform and articulated a case for change. It argued that there were a number of outstanding or emerging problems with local government that demanded attention. There was an urgent need for a coherent framework and concerted action to be based on a thorough analysis of

problems. It argued for a Task Force or Commission of Inquiry to guide reform and provide expert advice to councils (Local Government Managers Australia NSW Division, 2003a, p.2, 29). However, the Paper suggested that adjustment should occur where appropriate, but that structural reform should only be considered as part of a much larger reform agenda and in the context of other fundamental issues including effective representation, community of interest, economic viability, regional and local economic considerations, and administrative and service delivery efficiency and effectiveness (Local Government Managers Australia NSW Division, 2003a, p.3-4, 6).

In response to a request from the Local Government Association of NSW to allow for more financial responsibility and control for newly elected officials, on 15th April 2003 the government announced deferral of local government elections from September 2003 to March 2004 (Local Government Managers Australia NSW Division, 2003b, p.1). The Premier stated that councils needed to consider amalgamations in the following six months and advised establishment of a high-level Cabinet sub-committee to consider reforms that would accelerate amalgamations. On 15th April, Local Government Minister Kelly expressed concern that some councils had costs four to five times those of neighbouring councils and requested councils to undertake a critical self-examination. He reiterated that the government stood by its policy of no forced amalgamations, but advised that the LGBC had received 30 applications for mergers or boundary adjustments (Davies & O'Rourke, 2003).

The first day of June 2003, the Shires Association of NSW Annual Conference was addressed by Premier Carr and Local Government Minister Kelly. Both raised the prospect of local government reform in their presentations to Conference. The Premier stated that deferral of council elections represented one of the best opportunities in decades for local government structural reform, and argued that there existed strong willingness in communities to accept major reform, that too many councils had narrow rate bases, and that substantial

economies of scale could be achieved from sensible mergers and other forms of cooperation (Carr, 2003b, p.9-10). He advised that 43 country councils, 35 of which were losing population, had fewer than 5000 residents, with Blacktown city having a greater population than those councils combined. There were 47 country councils with income of less than \$10 million per year, with seven councils surviving on income of less than \$5 million per year. 27 councils were on the Department of Local Government financial “watch list”. The Premier believed that one quarter of all shire councils were living on the edge of economic viability (Carr, 2003b, p.11-13). He nominated for amalgamation a number of “doughnut” councils where often council chambers of municipal and shire councils were located in the same major population centre. He issued a challenge for councils to take responsibility, look at the opportunities and to make some hard decisions (Carr, 2003b, p.17-23). With this address the Premier effectively elevated NSW local government structural reform to the status of a priority matter across the state.

Minister Kelly put the case and outlined the pressure for reform and argued that the government was working on structural reform. He also expressed particular concern about “doughnut” councils, but acknowledged that, for some rural councils, amalgamation was not always appropriate. The Minister had written to some councils inviting them to submit proposals for boundary adjustments and had referred submissions from Queanbeyan and Yass Councils to the LGBC for consideration (A B Kelly, 2003d, p.1-4).

The second reading speech on the *Local Government Amendment (Employment Protection) Act* was delivered by the Local Government Minister to the Legislative Council on 25th June 2003 and paved the way for forced council mergers. The legislation enabled staff transfers and security of employment between councils where councils were constituted or amalgamated; provided a moratorium, for a minimum period of three years, on staff sackings or redundancies and preservation of employment provisions in such circumstances;

and prevented excessive payouts to senior staff (A B Kelly, 2003, p.46-7). The Act was introduced to prevent “staff shedding” in anticipation of amalgamation or boundary change and required affected councils to notify staff vacancies internally and select candidates from within where an adequately trained pool of staff existed. Termination payments not exempted by the Regulations and not approved by the Minister were recoverable as a debt to the council or the Minister (Payne, 2003, p.1-2). The financial and organisational impacts of this legislation on the merged Clarence Valley Council, is addressed in Chapter 8.

In July 2003, in a *Government News* article Minister Kelly acknowledged that the government’s voluntary amalgamation policy had been problematic because councils had believed that the government would not act on amalgamations. He also acknowledged there had been suspicion of the NSW government for declaring it did not have a plan for an optimal number of councils or any planned specific reduction in councils. It was noted in this article that little reference had been made to metropolitan councils in the merger debates, with the primary focus on rural and regional areas (Hassan, 2003, p.9-10).

In July 2003, in an address to a Certified Practising Accountants Local Government Symposium, Minister Kelly admonished 30 councils on the government’s financial “watch list”, of which 27 were in country areas, and argued that it was not acceptable to balance budgets by cutting services. He told the Symposium there was no optimum number of councils for the state, but he nonetheless encouraged councils to have dialogue with each other about ways to achieve better services, cost savings and economies of scale. The reform process had to continue because bigger rate bases were needed to support growing populations with growing service needs (A B Kelly, 2003b, p.1-5). Three days later at the Country Labor Conference, the Premier again specifically addressed local government reform and advised that the government ‘meant business’ and anticipated major change in the near future

(Carr, 2003a, p.15). The stage had been set for significant structural reform of NSW local government.

By means of a letter dated 30th July 2003 to all NSW Mayors and General Managers, the Minister formalised activation of an amalgamations process. He expressed concern that expenditure on asset maintenance was not keeping pace with the rate of asset deterioration, with a gap in 2001-02 of \$205 million across local government. He stated that most councils were financially hard pressed, with 116 councils spending more than they earned as income (A B Kelly, 2003a, p.3). He encouraged councils to consider changes more fundamental than minor boundary changes or alterations, contending there was nothing to suggest that existing arrangements for the structure, areas or number of local councils was ideal. After 31st August 2003 he intended to contact all councils that had not responded to his call for structural reform, asking them why they believed they should not participate. The letter foreshadowed the establishment of Regional Reviews, managed by “Independent Facilitators” to examine and discuss structural reform options for groups of councils (A B Kelly, 2003a, p.4). In a mid-August address to LGMA, the Minister stated that the 31st August deadline was set to ensure that the LGBC had time to consider structural reform proposals before the March 2004 elections. The Minister promised that structural reform would not come at the expense of local economies or representation of the community (A B Kelly, 2003c, p.1-2).

These Ministerial announcements created considerable media commentary across the state. For example, one Tamworth newspaper stated that amalgamations had thrown country councils into turmoil and sparked a flurry of merger proposals that pitted council against council, such that the government would have to untangle the maze of proposals and counter-proposals after the 31st August Ministerial deadline. The urban/rural divide surfaced with fears of “super” councils based around large regional centres. The state opposition

threatened legislation to stop government from forcing amalgamations (Dick, 2003, p.2-3).

In August 2003, the Shires Association and the Local Government Association each issued local government structural reform Discussion Papers intended to provide advice and support to member councils in relation to the state government imperative to consider amalgamations and boundary changes. Separate Papers were distributed because of policy differences between the Associations on the issue of review of boundaries.

Over many years the Shires Association had opposed amalgamations. In 2003, its policy was that boundary changes should only occur on the basis of cooperation and agreement between the councils concerned (Shires Association of NSW, 2003, p.1). The Shires Association attempted to assist councils to determine a 'realistic position' on amalgamation should the government require the merger of council areas, and detailed the information that should be prepared to meet the requirements of Section 263 of the Local Government Act (Shires Association of NSW, 2003, p.2-8). The Shires Paper concluded there was no agreed formula for assessing whether amalgamation was advantageous, but councils needed to be informed to enable debate on amalgamations or boundary changes with the state government, communities and neighbouring councils (Shires Association of NSW, 2003, p.8-9).

The Local Government Association took a more positive stance to the state government announcements and determined to take a leadership role in the restructuring process and assist those councils wishing to pursue voluntary amalgamations (Local Government Association of NSW, 2003, p.1). Its Discussion Paper was more detailed in terms of how councils needed to prepare information under Section 263 of the Local Government Act and encouraged councils to participate in the reform process, whilst stressing the need for broader reform rather than a singular focus on amalgamations (Local Government Association of NSW, 2003, p.10).

In August 2003, the New South Wales Parliament, Legislative Council General Purpose Standing Committee Number Five, established ten self-referred Terms of Reference and conducted an examination calling for submissions into local government issues including funding arrangements, unfunded mandates and community expectations of service provision. The primary thrust of the examination lay in council structures and amalgamations. The Committee considered optimum local government organisational structures; the criteria under which amalgamations, boundary changes or major reorganisations should be decided; the methods by which changes should be implemented; the role of state government in any changes; the views of residents and ratepayers; and the financial implications of amalgamations for Commonwealth Financial Assistance Grants (General Purpose Standing Committee NSW Government, 2003, p.iv).

The Standing Committee Report was published in December 2003 and promoted the Committee view that amalgamations did not necessarily lead to greater efficiencies and economies of scale; it considered that local government was not funded adequately to provide services congruent with community expectations or to fulfil its required functions; there was a declining sense of community with councils being integral to community spirit; and whereas smaller councils engendered a “sense of place”, larger local government bodies would lead to alienation (General Purpose Standing Committee NSW Government, 2003, p.ix).

The Standing Committee made 21 recommendations to the government concerning local government roles and responsibilities seeking, inter alia, a review of rating and rate-pegging; a two year term for council-elected mayors; better councillor remuneration and better state/local partnership arrangements. Concerning structural reform, the Committee produced five specific recommendations that future structural reform proposals be rejected unless wide community consultation had been demonstrated; that future regional reviews

provide more scope and time for more inclusive community consultation, with reports from such reviews to indicate time expended on consultation; all amalgamation and boundary adjustment proposals to involve more than a ten per cent variation to population; area or rate base be referred to the LGBC for public inquiry; and a polling technique be introduced as part of future community consultation processes (General Purpose Standing Committee NSW Government, 2003, p.x-xii). However, the government proceeded with an imposed amalgamation process and the Standing Committee recommendations were essentially ignored.

The final Standing Committee recommendation was that the Department of Local Government investigate the feasibility and cost of applying a model for determining local government boundaries developed by the Institute of Rural Futures at University of New England (General Purpose Standing Committee NSW Government, 2003, p.xii). The Institute, with lavish funding from the NSW Department of Lands, had developed a model called “Eco-civic Regionalisation”, which was intended to combine social and local environment data to identify regions that better reflected the social functionality of rural communities and the ecological functions of the landscape (Dollery & Crase, 2004, p.290-291). The Standing Committee Report indicated that the model had been applied to an unnamed case study region in northern New South Wales (General Purpose Standing Committee NSW Government, 2003, p.93-4). As a member of Maclean Shire Council at the time, the writer was aware that the model referred to the Clarence river catchment which, only three months after the Report was released, experienced amalgamation of most councils in the catchment to form Clarence Valley Council.

The Institute suggested three principles for establishment of boundaries (Dollery & Crase, 2004, p.290). The Institute model was critically analysed by Dollery and Crase (2004, p.297-8), who concluded that alternative economic criteria provided a more robust basis for allocating services to regional or state

authorities than those suggested by the Institute, and the benefit to regions of council service delivery should be the primary determinant of council boundaries. Dollery and Crase (2004, p.296) argued that

It would thus appear that no solid conceptual or empirical case can be made in support of the claim that eco-civic regionalisation should form the basis for local government boundaries in Australia. Not only do the computations that underpin the basis of the calculation of social surfaces and eco-civic regions bear no relationship to actual municipal service benefit regions, but also there are neither compelling scale economy arguments nor spill over effects that can overturn the prescriptions of the decentralisation theorem.

Small local government areas maximised economic efficiency because of the limited benefit to regions for the majority of council services. The critique concluded that use of the Institute model, which held that natural geographic boundaries also being council boundaries, would mean “direct costs of municipal boundary changes be enormous, but the indirect economic and social costs will be very high indeed” (Dollery & Crase, 2004, p.299). The establishment of Clarence Valley Council, substantially based on the Clarence river catchment, might indicate that the government accepted the Institute model, at least in respect of the Clarence Valley amalgamation.

On 18th September 2003, the Director General, Department of Local Government, considered the Regional Review and structural reform process, and indicated that Regional Reviews, which could have some impact on some council elections, would be conducted by “Independent Facilitators” with Departmental administrative support; have a limited consultation period of four weeks; would report to the LGBC within 30 to 40 days thereafter, with a likelihood of four to six regional reviews initially, half in 2003/04 and the remainder the following financial year (Local Government Managers Australia NSW Division, 2003c, p.2-3). The LGBC would report to the Minister within eight to ten weeks of receipt of each Regional Review Report. The Director

General stated there was no intention to reduce democratic representation and that the reforms were aimed at building capacity and a stronger “voice” for local government by adopting a regional approach (Local Government Managers Australia NSW Division, 2003c, p.3) .

Regional Facilitators were appointed by the Minister for Local Government without an advertising process. This proved controversial. Allegations were made that the selection was corrupt and the Regional Facilitators were political appointments to ensure the outcomes desired by the state government were achieved. For example, the Regional Facilitator for the Clarence Regional Review was a former Minister for Local Government in the Keating Federal Government. The subsequent perfunctory consultation process left many people across NSW angry at the paucity of genuine community consultation and apparent ‘lip service’ to an issue of vital importance to many local communities across the State.

5.4.3 Regional Review City of Sydney and South Sydney Councils

In late 2008, the Minister for Local Government requested Professor Sproats to review and update his 2001 Inner-City Inquiry. In December 2003, he reported that the proposition of the merger of Sydney City and South Sydney councils could be submitted to the LGBC, but he still believed the structure of local government in the Inner-Sydney City region should be recast, by creation of four new councils in lieu of the existing eight (Sproats, 2003, p.4-5). Sproats suggested to the Minister that matters that should be addressed by the LGBC included financial factors, community of interest and geographic cohesion, historical and traditional values, residents’ and ratepayers’ attitudes, representational issues, service delivery and access, and employment impacts (Sproats, 2003, p.8-13).

The Minister referred the proposal to the LGBC which, after examining each of the matters suggested by Professor Sproats, recommended in February 2004 that

the amalgamation proposal proceed. The LGBC suggested six key benefits of the proposal including that it would provide adequate future financial capacity and resources; overcome issues of infrastructure provision and services; enhance Sydney City with a larger resident population and incorporation of significant and strategic gateway access points; and would enable the City to form strategic alliances with other significant institutions in representing Sydney to the world and in attracting international interest and investment (Local Government Boundaries Commission, 2004, p.48). The Minister adopted the LGBC recommendations and new Sydney City boundaries were proclaimed on 6th February 2004 ("Special Supplement Government Gazette of the State of New South Wales," 2004). It was suggested that the Sydney City merger was the most controversial of all the forced amalgamations and was pursued to give State Labor control of Town Hall (Skulley, Mellish, & Ludlow, 2004, p.60). The Sydney City process was typical of similar processes conducted across the State between November 2003 and February 2004, where similar outcomes, including several regional "super councils", resulted. Following the early 2004 series of imposed amalgamations, on 15th March 2004 the Shires Association of NSW conducted a special conference and issued a strongly worded communiqué that demonstrated major opposition to mergers in rural and regional areas. The Association condemned the process followed by the government as lacking transparency and ignoring input from local communities. It reaffirmed its opposition to forced amalgamations, supported voluntary reform processes if there was agreement with the neighbouring council(s), and sought legal advice on the amalgamation process (Miller, 2004, p.1).

After the 2004 amalgamations, the state government was criticised for the controversial process which many believed would create long term discontent (Skulley, Mellish, & Ludlow, 2004, p.60). Critics disparaged the 'urge to merge'. Whilst it was understood that achievement of greater local government efficiency was a primary reform driver, the Minister for Local Government was

also concerned that an impending review of Federal Assistance Grants to local government could disadvantage smaller communities through redistribution of grants away from stronger to weaker states (Skulley, Mellish, & Ludlow, 2004, p.60).

Subsequent to the 2004 amalgamations, an evaluation was undertaken of local government performance-monitoring in NSW including the Local Government Department method of identifying so-called 'at risk' councils (Murray & Dollery, 2006, p.54) (Dollery & Crase, 2006, p.4-5), which had also been referred to during the amalgamation process as the government's 'financial watch list'. The evaluation demonstrated that local government in NSW was characterised by a high degree of diversity against several criteria, but because of the Department of Local Government's "minimalist" grouping of councils, certain categorisation criteria were ignored. Failure to provide group specific, key performance indicator cluster commentary limits had prevented the use of comparative measures as a means of discharging accountability. According to the evaluation, monitoring lists within NSW could be at best described as a measure of financial soundness, but performance monitoring methods provided little to indicate that an adequate analysis had occurred. It was argued that monitoring lists were primarily prepared on a subjective basis and the ability of NSW councils to manage their accountability requirements was described as a compromise which the monitoring activity had failed to address (Murray & Dollery, 2006, p.59).

Murray and Dollery (2005, p.342) argued that the methodology used by the Department of Local Government to analyse councils' financial data was not valid; there was considerable unexplained variation in the proportion of correctly predicted 'at risk' councils against the actual monitoring lists; the methodology employed could not be considered sufficiently robust; and the monitoring lists could not therefore be considered an adequate tool in discharging accountability requirements. Murray and Dollery (2005, p.343)

argued that one would expect that councils facing cost and revenue disabilities would be at greatest financial risk.

Walker and Jones (2006, p.347) criticised the Murray and Dollery statistical model for measuring 'at risk' councils and promoted an alternative modelling approach, in which distress was interpreted as an inability to maintain service delivery at pre-existing levels, as being more appropriate to the public sector. The Walker/Jones study reached different conclusions using a different selection of performance indicators and a distress variable construct that was more appropriately linked to service delivery (Walker & Jones, 2006, 352-4).

In a rejoinder to Walker and Jones, Dollery (2006, p.360) suggested that their distress variable construct model measured against 'maintaining service delivery at pre-existing levels' carried risk because it required that 'yesteryear's' levels of service would be acceptable to 'tomorrow's' local government community. Dollery (2006, p.361) disputed their claim that "water and sewerage operations are largely insulated from general operations" and could thus be excluded from the 'at risk' assessment exercise, on the basis that there was often internal cross-subsidisation in internal service provision across units within local authorities .

However, it was obviously the responsibility of the Department of Local Government to closely monitor those NSW councils with less than satisfactory financial performance and there was naturally going to be criticism of monitoring focus, criteria and methodology, especially by those who perceived that the government was using the 'financial watch list' as a lever to justify council amalgamations.

During the two years to June 2005, six major reviews had been conducted and the LGBC had examined and reported on 11 proposals resulting from those reviews (Department of Local Government NSW, 2006, p.6). Local Government Ministers Hickey in 2006 and Lynch in 2007, at the Annual Shires Association Conferences, did not refer to the 2003-04 forced amalgamations,

but focused upon efficiency issues and change management in councils with encouragement to extend resource sharing opportunities to meet community needs. The emerging local government strategic alliance models were also promoted by the Ministers (Hickey, 2006, p.9) (Lynch, 2007, p.2).

5.5 Post 2004 Structural Reform and Financial Sustainability

5.5.1 Strategic Alliances of Councils

An example of the strategic alliance model of cooperation between councils was that of Armidale-Dumaresq, Guyra, Uralla and Walcha councils (NESAC), which sought to provide an alternative option to improve council efficiency and to avoid a forced merger of the councils. Under the arrangement, each council retained its political autonomy while staff and resources were pooled and divided into specialised functional units which provided services to each of the participating councils. Each council continued to provide its resources and recover the cost of those resources used in provision of shared services, on an agreed basis from the other councils, using the shared services (Dollery, Burns, & Johnson, 2005, p.7-8).

Savings achieved under the NESAC arrangement were small and administrative overheads continued at unsustainable levels. Conway and Dollery (2009, p.18-20) analysed the NESAC alliance and concluded that NESAC should have been designed initially as a “binding alliance” model so that member councils could not have exited. In addition

NESAC was founded not as an entity in its own right, but rather as a vehicle to assist its members in avoiding forced amalgamation in 2004. Since it is widely held throughout NESAC that this goal has now been achieved, the perceived rationale for NESAC is thus undermined.

In July 2009, a Forsyths Report (Finch, 2009, p.15-22) to the NESAC Advisory Committee canvassed five alternative structures for the member councils including individual autonomous councils; enhancing the current alliance

model; business units with the existing councils; a separate service entity; and amalgamation. The Report recommended a voluntary amalgamation of Armidale-Dumaresq, Uralla and Guyra (but not Walcha) councils and the New England Weeds Authority, with a fallback option of a separate service entity (Finch, 2009, p.24-25). In early 2010, the Department of Local Government appointed Ms Gabrielle Kibble (Guyra Shire Council, 2010, p.1-6) to report by 31st May 2010 as to the most suitable local government structure for New England councils. It is possible that the option of amalgamation of the councils will come under close scrutiny.

5.5.2 Independent Inquiry into Financial Sustainability of NSW Local Government

Since the 2003-04 forced council amalgamations, several reports have been produced that highlight the ongoing unsustainable financial position of some NSW councils, thus keeping ‘alive’ the possibility of further imposed amalgamations. One NSW Inquiry and at least three Reports, which are now briefly considered, have given credibility to the view that state government focus will return to structural reform and council mergers, as the preferred method of addressing systemic financial difficulties in some local government entities. The data that has been derived may be used by the government as “leverage” to secure further reduction in NSW local government entities.

In 2005, the LGSA commissioned the *Independent Inquiry into the Financial Sustainability of Local Government in New South Wales* (Dollery, Byrnes, & Crase, 2008, p.335). The Inquiry headed by Professor Allan assessed the financial position and performance of the NSW local government sector, determined the adequacy of existing NSW local government infrastructure and service delivery, evaluated the financial capacity of local government, and identified potential reform options to address problems (Dollery, Byrnes, & Crase, 2008, p.336). The major Report, with far reaching implications for the future of NSW councils, was released in May 2006. It underscored substantial

and continuing fiscal and resource difficulties confronting the NSW local government sector.

The Allan Report stressed the major challenges that NSW local government faced including a major infrastructure funding crisis; an inadequate revenue base; skills shortages; and increasing demands placed on local government by the community and other spheres of government. The major finding was a backlog of over six billion dollars in infrastructure renewal needs, expected to increase to \$21 billion within 15 years if the annual renewals gap remained at \$500 million per annum (Allan, Darlison, & Gibbs, 2006, p.7). The Report suggested that one quarter of NSW councils were unsustainable and another 50 per cent would continue to struggle to maintain financial sustainability.

The Report contained 49 recommendations which were adopted by the LGSA and most NSW councils. Recommendations highlighted many challenges facing local government including the need to define the local government sector role relative to other spheres of government; renew infrastructure to overcome a growing backlog; implement Total Asset Management; prioritise services to better reflect public preferences; reform development controls at both state and council levels; improve strategic planning and operational efficiency; remove rate-pegging; boost revenue from rates, fees and grants; strengthen governance structures and procedures; and achieve long-term financial sustainability (Allan, Darlison, & Gibbs, 2006, p.298-316).

The Allan Report rejected council amalgamations and stated

The Local Government Inquiry examined the considerable research into whether council mergers would result in greater cost efficiencies. It found that the evidence was inconclusive, except perhaps for the smallest councils (i.e. under 8,000 in rural areas. Yet in those cases other factors better explained higher costs per resident, especially low population density in remote areas. For those activities that might be more economical to operate on a larger scale, service sharing, joint processing and external resourcing might be a more targeted way to realise savings than amalgamating the entire operations of councils within a region (Allan, Darlison, & Gibbs, 2006, p.21-22).

To date the Report has not resulted in government action to force further amalgamation and neither have any voluntary amalgamations resulted. However, substantial development planning reforms have occurred since release of the Report. For example, Joint Regional Planning Panels were created in 2009, which have reduced the planning assessment powers of councils. The government has also mandated asset management planning, improved governance structures, and accountability, transparency and reporting reforms.

5.5.3 Price Waterhouse Coopers (PWC) National Financial Sustainability Study of Local Government

The Price Waterhouse Coopers Report was commissioned by the ALGA in order to determine “key financial issues” affecting financial sustainability and to develop recommendations for improving financial sustainability. The Report (PriceWaterhouseCoopers, 2006) released in November 2006 was, in contrast to the May 2006 NSW Allan Report, a nation-wide perspective on local government, and found that “up to ten to 30 per cent of councils nationally may face sustainability challenges” (Dollery, Byrnes, & Crase, 2008, p.337), thus largely confirming findings of the Allan Report and underlining the long-term financial sustainability crisis in the local government sector. However, the PWC Report gave some considered attention to the question of structural reform and strongly rejected amalgamation. For example, in its formal recommendations the PWC Report (2006, p.149) (Dollery, Byrnes, & Crase, 2008, p.337) contended that

[e]fficiency, effectiveness and scale could be improved through regional service provision, shared service arrangements, outsourcing, state-wide purchasing initiatives, and the like, rather than by means of council amalgamation.

5.5.4 Fiscal Star Reports – Financial Sustainability of New South Wales Councils.

In October 2007, an independent commercial assessment was released in respect of the largest 96 NSW councils, based on their audited 2005-06 financial statements (Allan, 2007, p.15). Prepared for ‘Review Today’ by Professor Allan, director of the earlier 2006 Financial Sustainability Inquiry, this Report again underlined the financial sustainability challenges of NSW councils and reinforced the findings of the PWC Report. Fiscal Star found that almost one in two councils was financially sustainable, that approximately a quarter of all councils were unsustainable, and that if existing revenue and spending policies continued, only one in every four of the larger councils would remain sustainable in the longer term (Allan, 2007, p.1). In May 2009, Professor Allan released a further Report (Allan, 2009) concerning financial sustainability of NSW councils. Of the 100 largest councils surveyed, the overall assessment was that 46 were sustainable, 16 were vulnerable, one not assessed, and 37 unsustainable (Allan, 2009, p.ii).

These Reports underscore the seriousness of the matter of financial sustainability of the NSW local government sector and demonstrate the major consequences of over 22 years of rate-pegging and consequent resource scarcity in NSW local government. In 2008, the Productivity Commission provided an Overview of a Report entitled *Assessing Local Government Revenue-Raising Capacity*, and noted that “in New South Wales, rate pegging and only partial reimbursement of concessions appear to dampen revenue raised by councils in that State” (Australian Government Productivity Commission, 2008, p.XVIII).

5.5.5 Association of Consulting Engineers Australia (ACEA) – Sydney Towards Tomorrow.

The debate on council amalgamation was again ignited in October 2009, when the ACEA released a key Report recommendation to “consolidate local urban

councils from 42 to 11 in the Sydney Basin and one regional council for each of Newcastle, Illawarra and the Central Coast” (Association of Consulting Engineers Australia, 2009, p.1). The ACEA argued that “reform of local government had proceeded slowly in NSW and had not kept pace with reforms successfully delivered in both Victoria and Queensland” and that its recommendation to consolidate councils between Newcastle and Wollongong would enable “new, more efficient regional governments to replace current local councils” (Association of Consulting Engineers Australia, 2009, p.19). The ACEA stated, that it believed there would be an expected overall 20 per cent savings in administration costs as a result of amalgamation, which would fund services and much needed asset maintenance, and allow rationalisation of council assets and release of capital for re-investment in line with community expectations (Association of Consulting Engineers Australia, 2009, p.23).

5.5.6 NSW Business Chamber Report – 10 Big Ideas to Grow NSW

In March 2010, the debate on NSW council amalgamation continued with release of a NSW Business Chamber Report (2010) entitled *10 Big Ideas to Grow NSW*. The Report promoted that Sydney should prepare for the future by creation of ten strong super councils to overcome what the Business Chamber regarded as a “patchwork approach towards planning, growth and infrastructure”. The Chamber argued that the super councils should be aligned with the subregions of Sydney as identified in the Metropolitan Strategy so that governance and accountability could be improved to enable better management of growth (NSW Business Chamber, 2010, p.9, 48). The Report highlighted the disparity in local representation for Sydney residents, identified preferred subregions, and provided costs of the proposal (NSW Business Chamber, 2010, p.49-53). Calls from various sector interests for further structural reform of NSW local government are likely to continue.

5.6 Common Themes in NSW

During the period from the early 1990s, as with most other state and territory jurisdictions, successive NSW state governments had maintained a policy of ‘no forced amalgamations’ of local government entities. However, as with some other jurisdictions, when the government chose, it used the blunt and direct instrument of forced amalgamation to achieve structural reform in the local government sector, in the belief that

[a]malgamation represents the most powerful policy tool available to improve both the operational efficiency of municipal authorities and enhance local government service provision (Dollery, Byrnes, & Crase, 2008, p.333).

Immediately after the March 2003 state election, with a four year electoral term buffer and a comfortable majority in Parliament, the Carr government moved to bring about a reduction in the number of local government entities. The speed with which the NSW amalgamations occurred rivalled that in the other states and the later mergers in Queensland and the Northern Territory.

Indications of the determination of the NSW government to secure amalgamations as quickly as possible were provided by the hastily convened and tight time-frame Regional Reviews with government appointed “Independent Facilitators”, the Minister’s insistence of speedy receipt of facilitators’ reports, and of LGBC recommendations when reports were referred to that entity. During the process there was scant regard for community or local government views and aspirations. It could be argued that NSW paid less regard and attention to effective community consultation than other jurisdictions. In common with other states, various inquiries have emphasised the continuing financial plight of many local government entities across the nation, providing evidence that amalgamation is not a solution to the fiscal problems of local government.

5.7 Conclusions on NSW Local Government Reform

At the present time, there remain 152 local government entities in NSW. When compared to the substantial reduction of council numbers in nearly all other states and the Northern Territory since the early 1990s, and given that a significant number of NSW councils are known to face long term financial sustainability problems, as well as asset maintenance and infrastructure provision disabilities, it is likely that further amalgamations of councils will be imposed, particularly if a state government, with the necessary political will, emerges from a future state election with a change of policy direction for local government.

It is clear from the financial sustainability Reports referred to in Chapter 5 that forced amalgamation in NSW has not remedied many council financial problems. Continued imposition on local government of “rate-pegging” by succeeding NSW governments since 1978, has been a major contributing factor to ongoing financial problems of councils.

One could argue that it is unreasonable to continue to justify, on economic grounds, continuance of over 40 local government entities in the Sydney metropolitan area. Equally, the long-term sustainability for example, of five councils in the Richmond Valley on the Far North Coast must also be questionable. Alternative cooperative models such as, for example, strategic alliances have not demonstrated significant savings, efficiency gains or service delivery enhancements. The failed New England Strategic Alliance of Councils (Finch, 2009, p.24-5) (Conway & Dollery, 2009, p.19) and the current NSW Department of Local Government Inquiry regarding an appropriate structure for local government in the New England, is likely to result in the imposed merger of the four councils involved. Whilst there is probably not scope for council amalgamations in the large, remote western areas of the State, several smaller shire councils east of the Great Dividing Range, such as Kyogle, Bellingen,

Nambucca and Gloucester, would appear to be natural future targets for State imposed amalgamations.

Chapter 6 considers the case study of the failed voluntary amalgamation process of the late 1990s in the Clarence Valley, the imposition of a single Clarence Valley Council in 2004, and some of the subsequent challenges and outcomes for the new council.

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