



Submission on *Future Directions* for NSW Local Government Consultation Paper

21 June 2013

SUBMISSION TO:

Local Government Independent Review Panel

Ashfield Bankstown Botany Bay Burwood Canada Bay Canterbury
City of Sydney Hurstville Kogarah Leichhardt Marrickville Randwick
Rockdale Sutherland Waverley Woollahra

Introduction

Before commenting on specifics contained in the "Future Directions for NSW Local Government" paper it is acknowledged that the Panel has been given a difficult and somewhat daunting task and that whatever is proposed will have some negative impacts and will not please everyone.

It is SSROC's view that these issues should not be considered as criteria as to whether the paper offers viable solutions. It should be evaluated on the basis of what the Panel was established to achieve, which was:

- To improve the strength and effectiveness of Local Government
- To help drive the key strategic directions set out in the Destination 2036 Action Plan, and
- To further the objectives of the State Plan for NSW.

Based on these objectives the Panel summarised its goal for local government as:
"A more sustainable system of democratic local government that has added capacity to address the needs of local and regional communities, and to be a valued partner of State and Federal governments."

This submission attempts to assess the Panel's recommendations based on the objectives and goals identified above and raises questions as to what some of the proposals are attempting to achieve and how they meet these objectives. It also reiterates the previous submission made in relation to the Council of Mayors model and what SSROC is currently working towards in that area. It also questions the TCorp analysis and the impact it may have on the determination of the financial sustainability of Councils.

The Approach taken in the Future Directions Paper

In summary SSROC was anticipating that this paper would offer more solutions than it does. Perhaps that is a deliberate decision as the paper's title "Future Directions" may suggest it is a "potentials" paper rather than making strong recommendations, although on page 3 of the report it does state that *"this paper fulfils the panel's commitment to ensure that all concerned can see and discuss the likely content of the final report"*.

The general consensus amongst SSROC Councils is that the paper, in many areas, does not build a strong case for the changes recommended, in particular the recommendations in relation to Metropolitan Sydney governance models. The Panel has indicated regularly that changes will be based on evidence. Yet many of the recommendations do not appear to be supported by such evidence. Should the evidence exist it needs to be clearly enunciated as at the moment this is a major shortcoming in assessing the Panel's position on a variety of issues.

Specific Comments

This submission will now comment on the recommendations contained in the paper and will utilise the Key Proposals and Options headings shown on page 5 of the report.

Sustainability and Finance

The issue of financial sustainability, or fiscal responsibility, as the Panel now describes it, is the key issue facing local government whether there are 152 or 10 Councils in NSW. The key proposals contained in this section of the paper may assist but are they going to address the limited options available to local government in general to achieve ongoing "breakeven operating results"? Also, acknowledging that there is "no pot of gold" and the vertical fiscal imbalance that exists in the federal system, has the panel considered this issue?

The proposal to employ a qualified Chief Financial Officer is clearly aimed at rural Councils. And although a logical recommendation, the key issue here would seem to be workforce shortages in rural areas, in Finance and in other professional areas. Although the recommendation to create larger rural entities may make these positions more financially attractive, has the general issue of workforce shortages been considered?

The establishment of a state-wide Local Government Finance agency is a good initiative and may well result in lower debt servicing costs, but in itself will not overcome the ongoing financial sustainability issues as the debt still needs to be serviced and for metropolitan Councils may simply mean a break even result should Financial Assistance Grants be redirected to rural areas.

On the issue of streamlining/removing rate pegging there are varying views on this issue amongst member Councils. However, the existing special rate variation option is one that currently can be utilised.

Questions:

- 1) What are the anticipated positive impacts of the proposals in \$ terms? And similarly;
- 2) How do the proposals create a "robust revenue base" and increase strategic capacity of Councils?
- 3) Is the Panel giving consideration to the vertical fiscal imbalance issues and how that could be remedied?

Infrastructure

The general proposals outlined in the paper are supported. SSROC acknowledges that there is an infrastructure backlog but believes the level is significantly overstated. It contends that there are shortcomings associated with the TCorp methodology and the various ratios it has utilised in assessing the financial sustainability of Councils in NSW. It is considered that it does not appropriately establish, measure and/or report on their financial performance and financial position of Councils, nor the long term approach to managing Councils' asset management obligations. SSROC has identified a number of issues associated with the TCorp analysis, which are attached as Appendix 1.

As a result SSROC is in the process of engaging a consultant to review the methodology used by TCorp in its assessment process. In summary the project is seeking a report that, as a minimum:

- Identifies an appropriate definition of financial sustainability for local government.
- Reviews and comments on the appropriateness of the ratios used by TCorp to determine the financial sustainability of local government.
- Recommends what ratios should be used to determine the financial sustainability of local government.
- Discusses the subjectivity and accuracy of the financial outlook rating.
- Tests the new recommended ratios in a mutually agreed manner.
- Recommends changes, improvements and/or inclusions to the current annual financial reporting structure for the Local Government Sector, which will appropriately define Council financial performance, financial position and approach to managing its long-term asset management obligations. Any changes should include a consistent approach by Councils in relation to the completion of Special Schedule.

Questions

- 1) **Is the Panel committed to the TCorp analysis or would it consider an alternative view?**
- 2) **Would an alternative view re-quantifying the infrastructure backlog cause the Panel to reconsider its position on any of its proposals?**

Productivity and Improvement

The proposals identified on page 5 of the report are generally supported. Although they will not have significant impact on financial sustainability issues, nor boosting strategic capacity, they are nevertheless positive initiatives.

The Division of Local Government has a key role to play here and needs to move away from its role of policeman and compliance monitor to one of educator, facilitator and advisor.

Question

Will the final report contain recommendations to expand upon the capacities and skills within the Division of Local Government so that the organisation's focus changes from one of compliance to one of support and assistance?

Better Governance

The governance issue has been one that is extremely complex.

Although the proposed requirement for mandatory training of Councillors has a certain logic, will it improve governance and ultimately increase the strategic capacity of Councils? Will it reduce conflict within Councils? The answer in both cases is probably not. Although there is great benefit in improving Councillors education (with the South Australian model a good example), the fundamental issue is that potential Councillors need to have clear understanding of their potential roles before deciding to stand. This is identified in section 10 but SSROC suggests that the Division of Local Government needs to play a role in an education program as it would be seen to be at arms length from Council operations.

The concept of providing adequate support and advice to Councillors is supported.

Perhaps that should be somehow independent to the Council organisation structure?

Turning to Council structures, section 10 of the paper highlights the difficulties of what model to adopt. The City of Adelaide model has a split grouping of councillors with some in wards and the other "at large" councillors, with the latter having the freedom to take a strategic view. If the thrust of the reform process is to create Councils that have a greater strategic capacity, should not all elected Councillors have a strategic view?

The issue of increased remuneration of both mayors and councillors is one on which there are varying views and one that, ultimately, will be the decision of the remuneration tribunal which must reflect whatever changes to the respective roles occur as a result of the reform process.

Question

- 1) Does the Panel have a view as to whether Council meetings should be "cabinet" based and not public?**
- 2) Why should Councils with a population below 20,000 not benefit from a popularly elected mayor, if it is the Panel's view that popularly elected Mayors is a preferred model?**
- 3) Has the Panel considered a population formula for the number of Councillors.**
- 4) Has the panel any evidence on whether wards or "at large" Councils assist in raising or limiting the strategic capacity of Councils?**

Structural Reform

SSROC will make no specific comments in relation to many of the proposals that do not relate to metropolitan Sydney. However, it has major concerns with the Metropolitan governance framework proposed in section 15.

From an SSROC perspective it is particularly disappointing that regional collaboration in metropolitan Sydney will be significantly diminished if the recommendations contained in the Future Directions paper are adopted. The Future Directions paper in discussing metropolitan governance does not attempt to build upon the potential that exists, but rather proposes to diminish it by suggesting small County Councils be created if amalgamations do not occur. This clearly fails to recognise that the success of SSROC is based on its size and the correlation between size and the capacity to achieve results. How does a County Council comprised of 4 existing Councils significantly improve strategic capacity?

SSROC in the past has been encouraged by the Minister for Local Government's open and public praise of the success of regional collaboration and in particular SSROC's efforts, and has welcomed the opportunity to develop approaches that can build a stronger model for regional collaboration.

Unfortunately, it appears that from the Panel's perspective that regional collaboration, at least at the metropolitan level, is no longer a key focus of the reform agenda. SSROC has proposed for some time now that the current regional organisation structures that exist in NSW need reform. It is apparent that neither the current structure of ROCs, nor their existing capacities, are appropriate to deliver the outcomes that could be achieved given an appropriate framework. Nevertheless, SSROC due to its size and capacities, has achieved excellent results in this restricted framework. SSROC has previously proposed a model based on a strong Council of Mayors, as a way forward, not only for SSROC, but also as a model for expanded regional collaboration across NSW. However, it appears the Panel have chosen to ignore the potential that exists within the SSROC proposal.

SSROC has repeatedly demonstrated its potential to deliver exactly the strategic capacity, cost-efficiency and effectiveness that Local Government requires and it believes it can offer a strong, reasoned, and evidence-based approach through this regional model to build on this success. Professor Gary Sturgess has been engaged to develop an evidence-based case as to how the model will work and explore if necessary other options.

The Panel stated on page 28 of its report "**Better, Stronger Local Government**" that it "*will formulate proposals for amalgamations and/or new regional entities and expanded shared services to build strategic capacity and sustainability throughout NSW.*" It appears that from this statement, and other comments about amalgamations not necessarily being the best solution for rural Councils, that amalgamations are seen as the solution for the Sydney Councils and *new regional entities and expanded shared services* are viewed as the regional and rural solution. Why can it not be a solution in both contexts? There is the strong possibility that such a model with strong business case could be applied across metropolitan Sydney. Perhaps the groupings need to be re-assessed to create 5-6 strong regional bodies. The name of the regional groups is not important.

What is crucial is that they are structured to provide a regional vision and a coordinated approach to infrastructure and strategic planning and deliver a range of shared services. There is a golden opportunity to align these regions with the regional State agency groupings in particular those being considered as "sub-regional" planning groups in the White paper, "A New Planning System for NSW".

In relation to the Global Capital City concept, SSROC believes this can be readily accomplished through a Council of Mayors model.

A copy of SSROC's previous submission is attached.

Questions

- 1) Will the Panel give consideration to the SSROC Council of Mayors model as a pilot program as outlined in its previous submissions?**
- 2) What evidence is there that a County Council of a relatively small number of Councils will strengthen the strategic capacity of the area covering those Councils?**
- 3) Is the Panel considering an alignment between regional groupings of Councils that match those proposed in the new planning regime?**
- 4) What happens if Councils opt for voluntary amalgamations that are different from the groupings in the Panel's proposals?**

Implementation

SSROC supports the proposals outlined on page 5 of the paper. As indicated above, there is a need to align regional groups of Councils with State government regions, in particular the sub-regional planning areas identified in the Planning White Paper.

Depending upon the outcomes of the Government's final determinations in relation to reform, SSROC is of the view that any Local Government Development Board needs to be fully resourced. Simply establishing a small section within of the Division of Local Government will not produce the results intended of such a major change program.

Conclusion

SSROC reiterates its support of the need for change in local government in NSW and supports the reform process.

SSROC again submits that its pilot program involving a Council of Mayors model is a reasoned approach to creating an improved framework for delivery of increased strategic capacity within the Sydney metropolitan area, and possibly elsewhere in NSW.

Appendix 1

Financial Performance of Councils

- Significant emphasis is placed on assessing Council's sustainability by analysing its annual Income Statement (IS). Possibly a more appropriate financial reporting mechanism should be determined for local government, which supplements the current reporting requirements and provides the reader and community with a more complete assessment of income and expenditure cashflows (opex and capex), movement and use of restricted funds, payment of relevant liabilities and proceeds from the sale of assets.
- The Financial Sustainability Ratings use a Council's Income Statement to assess its ability to manage unforeseen financial shocks and adverse changes to its business. This approach fails to take into account Council's cash reserves, in particular those established to manage outstanding liabilities and asset- or service-related reserves.
- Councils are required to recognise Grants and Contributions when they are received rather than applying the matching principle. This can significantly distort Councils' annual reporting, particularly seen in recent years with the FAG allocation, and creates difficulty in explaining the issue in financial reports.
- The concept of a Profit and Loss position is not applicable, nor is it an appropriate measure for local government. Interestingly, the TCorp Ratios indicate that an Operating Ratio of negative 4% is benchmark, which suggests that a Council is in a sound position if it shows a deficit position: a measure difficult to explain to the Community.
- TCorp makes no comment on, or assessment of, a Council's Balance Sheet in detail. This is the most crucial report in determining an organisation's financial position from a commercial perspective, yet the review ignores the report, implying that it is not important in assessing a Council's financial sustainability.

Approach and Views on Borrowings

- Whilst it is acknowledged that borrowings can be an important mechanism to support a Council's growth and expansion, borrowings should not be used to fund capital maintenance.
- TCorp has suggested that Councils have the capacity to borrow more to address backlog issues. Before embarking on a long term debt strategy across the sector, some consideration should be given to issues such as: a Council's current performance, opportunities to drive efficiencies and clear servicing needs, opportunities around contestability, competition, Federal and State Government funding and regional solutions.

Approach to Managing Assets and Reporting

- There is a lack of a consistent and broad approach to defining capital expenditure, maintenance, what should be capitalised, depreciation, useful lives etc. This lack has a significant impact on Council's financial performance according to its Income

Statement, so Councils could manipulate their assets' useful lives to show a better financial result.

- Presently engineering and accounting methodologies are mixed, resulting in a complex reporting structure.
- A more appropriate approach would be for Councils to focus on acceptable asset conditions and how far assets depart from that benchmark. That departure would represent the value of deferred maintenance (backlog). Should Councils adopt a condition-based approach, based on engineering principles, community expectations and/or accepted standards or service levels? This would result in less emphasis on revaluations, useful lives, capitalisation, and determining what constitutes "maintenance".
- Councils do not let their assets reach the end of their useful lives: applying a rough estimate to measure or determine annual consumption is artificial and inappropriate, particularly given the number of interventions to prevent them from becoming useless.
- Special Schedule 7 has now become one of the most utilised reports in assessing a Council's long term financial sustainability. Consideration should be given to formally auditing the information. A summary of a number of Council's Depreciation Expense, WDV and Backlogs is as follows. It demonstrates how varied Council's approach is and what impact it has on their Income Statement. A summary of a number of Council's Depreciation Expense, WDV and Backlogs is as follows

| Council | Depn \$M | WDV \$B | Backlog \$M |
|---------|----------|---------|-------------|
| 1 | 24.6 | 1.6 | 34 |
| 2 | 34.4 | 3.6 | 77 |
| 3 | 54.0 | 2.4 | 53 |
| 4 | 22.4 | 1.3 | |
| 5 | 23.5 | 1.1 | 96 |
| 6 | 39.4 | 1.8 | 146 |

Review of Ratios

- Several ratios rely on information in Special Schedule 7, which is an unaudited report and prepared in an inconsistent manner across councils in NSW
- Councils vary greatly in depreciation rates assigned to assets. Across Group 3 councils the average depreciation rate for buildings and infrastructure assets ranges from 53.6 years to 112.2 years. Longer depreciation periods result in more favourable ratios. (SSROC is currently involved in a project with its member councils to standardise Special Schedule 7).
- The Operating Ratio's focus should be on EBITDA reporting and separately applied for services and assets.
- The Cash Expense Ratio does not include internal restricted investments; hence it is difficult to gain any information regarding liquidity from the inclusion of this ratio.

- The Buildings and Infrastructure Renewals Ratio does not include capital expenditure on all asset classes. In particular, open space assets are excluded as these are not defined as infrastructure in the NSW Local Government Code of Accounting Practice and Financial Reporting. However these assets are just as important to the community as assets such as buildings.
- The Unrestricted Current Ratio can be influenced by a Council's investment policy and whether investments have been classified current or non-current assets. While acknowledging investments that are due to mature in more than 12 months are considered a non-current asset, in reality these funds are available at any time (albeit with penalty).
- The Debt Servicing Ratios are confusing to the reader, and should be similar to current reporting.
- The Capital Expenditure Ratio includes the value of new assets dedicated to the Council. The inclusion of asset dedications in this ratio is very misleading and results in some wild ratios. This is especially evident when councils in developing areas are included in the benchmarking comparison. For example a Council in such an area received \$72.5m and \$80.4m in dedications in the financial periods 2010-11 and 2011-12 respectively. Possibly TCorp should consider amending the ratio to exclude capital dedications.

**ATTACHMENT TO SUBMISSION ON
*FUTURE DIRECTIONS FOR NSW LOCAL
GOVERNMENT CONSULTATION PAPER -***

**SSROC SUBMISSION ON *BETTER, STRONGER LOCAL
GOVERNMENT CONSULTATION PAPER***



Submission on “Better, Stronger Local Government” Consultation Paper

21 March 2013

SUBMISSION TO:

Local Government Independent Review Panel

Ashfield Bankstown Botany Bay Burwood Canada Bay Canterbury
City of Sydney Hurstville Kogarah Leichhardt Marrickville Randwick
Rockdale Sutherland Waverley Woollahra

Introduction

Southern Sydney Regional Organisation of Councils (SSROC) is an association of sixteen Councils formed for mutual benefit through collaboration and cooperation. Collectively, the group extends across an area covering more than 600 square kilometres, with a population in excess of 1.4 million people. Member Councils deliver and maintain in excess of \$20 billion of local infrastructure and other assets. Key state and national infrastructure is located within our geographical area, including the City of Sydney, Sydney Airport, Port Botany, the M4 and M5 as well as major health (Prince of Wales hospital) and education centres (University of NSW and UTS). The SSROC region forms a critical part of the economy of the state and the nation.

The strength of SSROC reflects the enthusiasm of its member Councils for working together to achieve common objectives, whilst maintaining the independence of each to address its own local issues. SSROC has succeeded in delivering real benefits to Councils over more than 25 years.

In SSROC’s original submission to the Panel it was highlighted that “Nowhere in the various analyses mentioned in this report, is there a conclusion that larger Councils provide better or more efficient and effective Local government. The comparative analysis in relation to infrastructure management across Australia does not support the contention that those States that have gone through an amalgamation process are in some way in a better position in relation to financial sustainability or infrastructure management. It is acknowledged that in some instances smaller Councils do face issues acquiring skilled resources and technology. However, SSROC’s experience suggests this can be overcome by a cooperative regional approach.”

It is SSROC’s view therefore, that if fundamental change to local government in NSW is being considered, the amalgamation “position” should not simply be identified as a solution. It may ultimately be a result that flows from a major structural overhaul, but it does not seem logical that it is identified as a solution without exploring other potential structural change options. Perhaps an analysis of new potential regional service delivery and shared service models should be undertaken first, then the results potentially achievable in each of the four “attributes” as described in Table 2, could be compared to amalgamations. All that Table 2 does at the moment is compare existing arrangements. The panel highlights on page 28 that it “will formulate proposals for amalgamations and/or new regional entities and expanded shared services to build strategic capacity and sustainability throughout NSW.” It appears that from this statement, and other comments about amalgamations not necessarily being the best solution for rural Councils, that amalgamations are seen as the solution for the Sydney Councils and *new regional entities and expanded shared services* are viewed as the regional and rural solution. Why can it not be a solution in both contexts?

A Proposed New Regional Structure

This proposal has been developed in conjunction with SSROC member Councils and proposes a model for regional collaboration that will ultimately require legislative change. The proposal involves a new structure and governance framework for SSROC to

complement the proposed model with participating SSROC member Councils acting in accordance with the new framework.

It is proposed that SSROC be a pilot program for a regional model for service delivery and advocacy. The model, as a pilot, does not involve the dissolution of SSROC as an entity. It will continue to operate side by side with the new model. The success of the pilot program, and the necessary legislative change that will need to follow, will determine whether the pilot model ultimately replaces the existing SSROC.

SSROC has previously promoted the idea that its current structure works well and should be used as a model with the following legislative changes:

- Inclusion of “gateway” provision in the Associations Act which allows the scope for the “carve out” of ROCs to remove restrictions against trading or securing pecuniary gain for its members;
- LGA amendments to allow ROCs to call and award tenders and to apply and receive grants; and
- Removal of limitations to incorporate.

However, based on the Gooding Davies paper “Options to Enhance Regional Collaboration amongst Councils in NSW: the Role of Regional Organisations of Councils” and SSROCs experiences, it is apparent that neither the current structure of ROCs, nor their existing capacities, would be appropriate to deliver the outcomes required. SSROC believes that one option could involve taking the best from the options for regional collaboration highlighted in Gooding’s paper.

The proposal utilises much of the analysis contained in the Gooding Davies paper and sets out the broad framework in simple terms under the key features “headings” utilised in that paper. The proposal closely reflects the Council of Mayors model described by Gooding and Davies with some important amendments including the option to include commercial /technical experts on the Council of Mayors and on the general managers’ group as advisors. There is also the clear distinction made between the advocacy arm of the organisation and the shared services/commercial operations arm. It is also highlighted that a mechanism is required to allow the Board to agree to operate trading concerns without restrictive covenants.

The proposed model builds on the outstanding success of SSROC in improving the strategic capacity of the region as a whole. Examples of that success include the street lighting improvement program, waste management strategies including alternative waste treatment and regional procurement strategies. These examples show what can be achieved simply through voluntary collaboration, despite the lack of structure and the legal impediments. The model proposed builds on this success without pushing towards a consolidation solution, which at best has questionable benefits. SSROC can assist in further raising the strategic capacity of local government across the region, if provided with the opportunity.

The Model

| | |
|------------------------------|--|
| Objective: | This is a model aimed at increasing the strategic capacity of Councils by delivering a range of services on a shared basis enabled by a new appropriate legislative framework. |
| Key Features | |
| Baseline assumptions | <p>Increased emphasis on the role of mayors and a strategic focus by councils with greater emphasis on regional collaboration</p> <p>A model that will assist greatly in improving the strategic capacity of participating Councils.</p> |
| Key organisation | An organisation based on SSROC membership (possible name change) |
| Legislation | Requires enabling legislation that establishes a requirement for participation regional activities. There is a need to have a mandated set of core functions and objectives. Councils can delegate any function in addition to mandated activities. Capacity to operate trading concerns required. |
| Incorporation options | A Council of Mayors model with a Mayor/delegate of each council. |
| Governance | A delegate from each Council with options to access independent, commercially focused people with the appropriate skills and expertise to act in an advisory capacity. |
| Participation | Councils currently in SSROC are invited to participate. Participation in regional collaboration and shared services required as part of this involvement |
| Structure | <p>Structure to contain:</p> <ul style="list-style-type: none"> • A Regional Entity to oversee broad direction, advocacy and strategic planning with options to include independent, commercial/technical focused people with the appropriate skills and expertise to act in an advisory capacity. • A General Managers Shared Services group to oversee development of shared services, joint procurement and other operational activities with the option to access commercial/technical people with the appropriate skills and expertise to assist in the development of operational companies. • A regional entity administration |
| Shared Services | <p>Councils are required to delegate a range of shared services to the regional entity. The range of services to be determined (don't focus on "back of office" only). The responsibilities of the two entities would include:</p> <ul style="list-style-type: none"> • Regional Entity provide strategic direction and implementation of shared services framework • Service delivery units including companies reporting to the regional entity. |

eg Staff Training; Procurement; project management; industrial relations.

This should not preclude the option of member Councils providing services to other member Councils on a demand driven basis.

Compulsory for market contestability of all shared services each 4 years

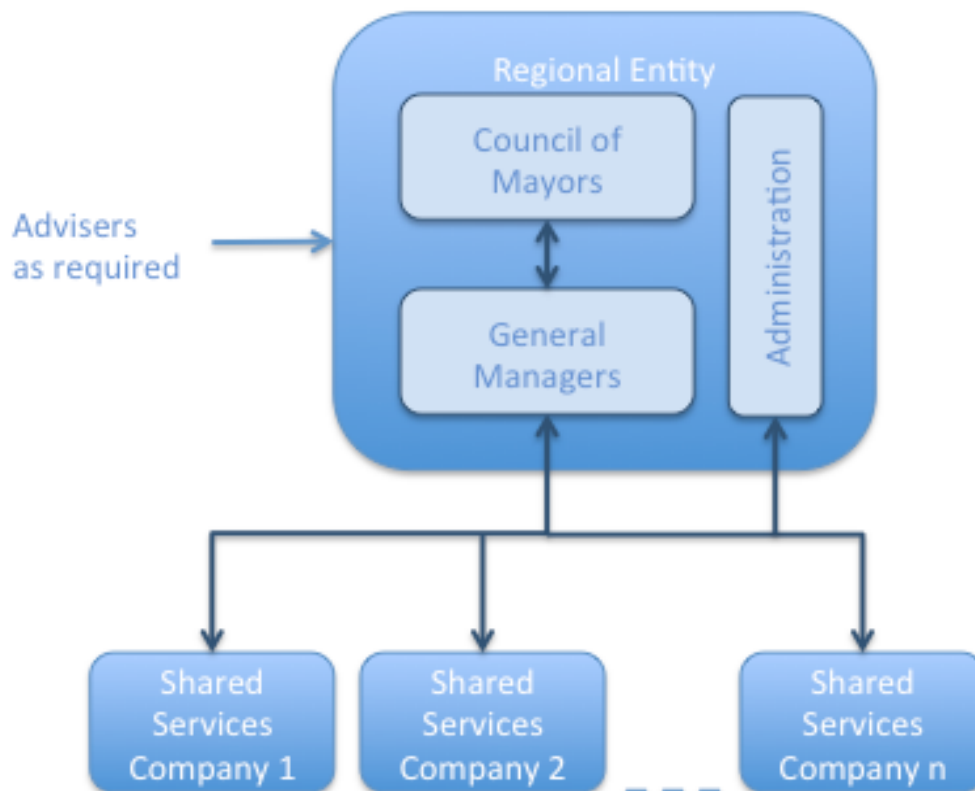
Employment

Staff employed in providing core council functions as part of a regional entity, are to be employed under the Local Government (State) Award.

Government Relations

Relevant government agencies required to consult collaborate in developing regional plans and to harmonise regional boundaries that work not based on governments existing boundaries

A pictorial summary of the proposal is shown below:



Possible Implementation Strategy

The implementation strategy is based on the following;

1. **The NSW State Government agreeing that SSROC** be a pilot program for regional collaboration in NSW Local government broadly based on the model as described with further detailed development of the model to be undertaken in April 2013.
Timeline: 3 June 2013
2. **SSROC member Councils** commit in principle to their involvement subject to final design.
Timeline: 1 July 2013
3. **Existing SSROC member Councils and the NSW State Government** enter into an agreement to set up the necessary framework to establish an operating model. The initial design and legal framework to be jointly funded.
Timeline: 1 August 2013
4. **SSROC member Councils** commit to involvement in project following legal framework being agreed upon. Councils not wishing to participate continue to be a member of SSROC, which continues to operate side by side the new model organisation
Timeline: 1 September 2013
5. **Implementation of Structures and operational activities**
Timeline: 30 December 2013