



23 February 2016

The Hon Paul Toole MP  
Minister for Local Government

By email: [office@toole.minister.nsw.gov.au](mailto:office@toole.minister.nsw.gov.au)

Dear Minister Toole,

**Re: Transition of Contracts after Proclamation**

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The Southern Sydney Regional Organisation of Councils (SSROC) is an association of sixteen councils. SSROC provides a forum for the collaboration between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member Councils cover a population of over 1.6 million, (one third of the population of Sydney), and an area of 680 square kilometres. Our member Councils are: Ashfield, Bankstown City, City of Botany Bay, Burwood, City of Canterbury, City of Canada Bay, Hurstville City, Kogarah City, Leichhardt, Marrickville, Randwick City, Rockdale City, Sutherland Shire, City of Sydney, Waverley and Woollahra.

Councils have joined together for many years now through SSROC to exploit the opportunities for saving on procurement by aggregating their spend and by implementing strategic procurement practices. Today SSROC manages more than 30 contracts with a value in excess of \$100 million per year on behalf of its member councils.

We have also worked with eight member councils to enable them to enter into contracts that will see the delivery of new waste infrastructure, with a transfer station in the region and a new waste processing facility in regional NSW. These contracts will collectively be of similar value again, once the services are fully operational in 2017.

Where councils have very specific local requirements, or contracts terms are not aligned, councils have also established their own individual contracts.

I write now on behalf of SSROC to ask that Councils be allowed to manage the transition of their existing contracts to the new Council entity. Legal advice sought by SSROC highlights some of the risks that could eventuate if Councils are not allowed to manage the transition of their contracts in the best interests of their communities.

For example, waste management contracts often grant a particular waste service provider the exclusive right to all of a council's waste stream. If Councils A, B and C were merged to form a new Council ABC and the Governor's Proclamation stated, for example, that "all the contracts of Councils A, B and C are novated to Council ABC" or "Council ABC is the successor of Councils A, B and C". There is a risk that Council ABC would have three different contracts with different waste service providers, all of whom have an exclusive right to all the waste. These contracts are typically multi-million dollar agreements, and the waste service providers would be likely to seek to compel Council ABC to abide by the contract, creating an untenable situation.

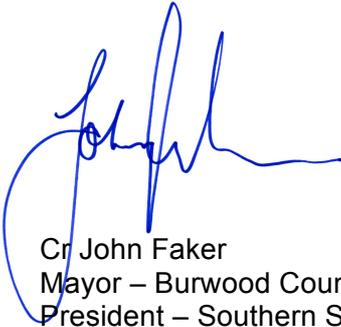
SSROC recommends that the Proclamation should state that contracts remain on foot in so far as they relate to existing boundaries. This would allow the new entities to make a decision on the most appropriate course of action for their community.

SSROC would also urge that OLG seek the views of Councils as to the wording of the Proclamation.

The Proclamation could create transitional committees empowered with analysing contracts and assets of Councils, and with making a determination as to what should be terminated, novated, varied or otherwise dealt with in an appropriate manner. This would be similar to the process used in Queensland for the merger of Councils in 2007.

Further, SSROC supports the LG NSW's recent submission seeking provision for a transition period between Proclamation and creation of the new council entity, for the reasons outlined in that submission.

Yours sincerely,



Cr John Faker  
Mayor – Burwood Council  
President – Southern Sydney Regional Organisation of Councils

cc:

Mr Stephen Orr, Executive Director - Local Government Reform, Department of Premier and Cabinet  
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