

IPART REPORTING AND COMPLIANCE BURDENS – RECOMMENDATIONS AND FINDINGS

Recommendations	OLG Comment	Support/Partially Support/Don't Support
Systemic Issues		
<p>1 That the Department of Finance, Services and Innovation (DFSI) revise the <i>NSW Guide to Better Regulation</i> to include requirements for State agencies developing regulations involving regulatory or other responsibilities for local government, as part of the regulation-making process, to:</p> <ul style="list-style-type: none"> – consider whether a regulatory proposal involves responsibilities for local government – clearly identify and delineate State and local government responsibilities – consider the costs and benefits of regulatory options on local government – assess the capacity and capability of local government to administer and implement the proposed responsibilities, including consideration of adequate cost recovery mechanisms for local government – take a coordinated, whole-of-government approach to developing the regulatory proposal – collaborate with local government to inform development of the regulatory proposal – if establishing a jointly provided service or function, reach agreement with local government as to the objectives, design, standards and shared funding arrangements, and – develop an implementation and compliance plan. 	<p>Treasury is currently developing a new regulatory policy guideline, which will provide guidance on undertaking proportional assessments of the costs and benefits of regulations, including the cost impact on State and Local Government, consideration of alternatives, and engagement with all affected stakeholders to inform the development of regulatory policies. In December 2017, the Premier assigned responsibility for the NSW regulatory framework to the Treasurer. This means Treasury is now the lead agency for the whole-of-government regulatory initiatives (instead of DPC).</p>	<p>Support</p>

<p>7 That the Department of Premier and Cabinet amend the <i>Good Practice Guide to Grant Administration</i>, to:</p> <ul style="list-style-type: none"> – recognise local government as separate from non-government organisations – remove acquittal requirements for untied grants – explicitly address ongoing maintenance and renewal costs when funding new capital projects – require agencies to rely on existing council reporting to assess financial stability and management performance of councils – lengthen acquittal periods for ongoing grant programs to four years, and use Memorandum of Understanding (MOU) arrangements, rather than requiring councils to reapply annually, and – provide for a streamlined acquittal process for grants of less than \$20,000 in total, examples of streamlining include: <ul style="list-style-type: none"> o not requiring further external financial audit o using risk-based controls and requirements, and o confining performance measurement to outcomes consistent with the purpose of the grant. 		<p>Partially support.</p> <p>A better balance between the state demanding results from councils and the real costs that councils bear in bringing multiagency partnerships together in local communities to deliver desirable outcomes, especially in relation to one-off infrastructure projects.</p> <p>Infrastructure maintenance is a significant forward challenge for councils, so SSROC welcomes explicit recognition of this need in funding capital projects.</p> <p>Streamlined acquittal is supported, but \$20,000 is too low: \$50,000 would be a better level.</p> <p>Acquittals for the Stronger Communities grants were overly onerous, particularly as councils bore the costs of coaching effective proposals and case managing results from grant recipients.</p>
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<p>8 That NSW Government agencies collecting local government data and information make this data discoverable through the Data NSW open data portal or the Information Asset Register maintained by the Department of Finance, Services and Innovation.</p>		<p>Support.</p> <p>Councils should have greater access to all data provided by local government, to support more sophisticated local planning. Waste and resource recovery data is well outdated before it is released for councils and ROCs to use in planning.</p>
<p>9 That the Department of Finance, Services and Innovation:</p> <ul style="list-style-type: none"> – support NSW Government agencies to use the Open Data Rolling Release Schedule to establish clear timeframes for publishing local government data and information in Data NSW (in machine readable formats) – support councils to make local government data and information available for discovery through Data NSW or the Information Asset Register, and – support the Office of Local Government to develop a central portal for local government reporting and streamlined data collection. 		<p>Support.</p> <p>Local government needs access to data held by the state government for planning and monitoring purposes. That data should be timely as it loses its relevance over time and often quickly. Where local government provides the data to state government, there is no reason for this not be made available immediately.</p>

<p>Planning</p>		
<p>15 That the Department of Planning and Environment (DPE):</p> <ul style="list-style-type: none"> – Implement a data sharing model with the Australian Bureau of Statistics in relation to building approvals in NSW. – Introduce a consolidated data request of councils for the purposes of the <i>Local Development Performance Monitoring (LDPM)</i>, <i>Housing Monitor</i>, <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> (Affordable Rental Housing) and <i>State Environmental Planning Policy No 1 – Development Standards</i> (SEPP 1 variations). 		<ol style="list-style-type: none"> 1. Support – ABS data sharing. 2. Partially support, with sharing of the rationale for collection and of the data.

<ul style="list-style-type: none"> – Fund an upgrade of councils’ software systems to automate the collection of data from councils for the purposes of the LDPM, Housing Monitor, Affordable Rental Housing and SEPP 1 variations. – Publish the data collected from councils on Affordable Rental Housing and SEPP 1 variations data. – Seek agreement with the Land & Environment Court to obtain appeal data directly from the Court. – Remove the administrative requirement for councils to report to DPE on political donations or gifts under section 147 of the <i>Environmental Planning & Assessment Act 1979</i>. 		<p>3. System upgrade funding – support</p> <p>4. Partially support – ARH data. No comment – SEPP 1.</p> <p>5. Partially support (except confidential data)</p> <p>6. Support.</p> <p>Note: Standardisation of data collection is supported. Data from development approvals has a high value for strategic planning. Further data should be collected on approvals and be fed into a standardised system to which Councils have access.</p>
<p>18 That DPE amend the NSW Planning Portal to provide for online:</p> <ul style="list-style-type: none"> – payment of fees and charges by applicants and for the Planning Reform Fund fee to then be automatically directed to DPE – information or certificates under section 149(2) of the <i>Environmental Planning & Assessment Act 1979</i>, and – joint applications for development approvals and construction certificates. 		<p>Support.</p> <p>Note: A single, state-wide template for 149 certificates is strongly recommended. Additional time for Councils to update their 149 certificate systems in response to legislative change is also recommended.</p>

<p>20 That DPE manage referrals to NSW Government agencies through a 'onestop shop' in relation to:</p> <ul style="list-style-type: none"> – planning proposals (LEPs) – development applications (DAs), and – integrated development assessments (IDAs). 	<p>DPIE has begun rolling out a digital system that allows councils to lodge all documentation online and send requests for advice directly to agencies. A number of councils are currently using the digital system, with all councils to be trained and rolled into the system progressively through 2019. DPIE has also implemented various other regulatory measures to improve integrated development assessment processes.</p>	<p>Partially support – one-stop-shop is a good idea. All referrals to should be associated with a designated contact, and the details of that contact provided to councils on referral. All contacts through the one-stop-shop should be subject to time requirements and/or some form of performance measurement to enable assessment of the effectiveness of the agencies.</p>
<p>21 That DPE develop suites of standardised development consent conditions and streamline conditions that require consultant reports or subsequent approvals, in consultation with councils, NSW Government agencies and other key stakeholders.</p>	<p>The Standard Conditions and Compliance Reporting and Post Approval Requirements documents were published in 2018.</p>	<p>Support for DPE consents only.</p>
<p>Administration and governance</p>		
<p>23 Ahead of the 2020 IP&R cycle, that the Office of Local Government:</p> <ul style="list-style-type: none"> – provide councils with a common set of performance indicators to measure performance within the IP&R framework – conduct state-wide community satisfaction surveys and release the results to allow comparisons between councils and benchmarking – provide guidance to councils on the form and content of the End of Term Report and its relationship to local councils' Annual Reports – clarify for councils the purpose, form and content of the State of the Environment report and clarify its relationship to the End of Term Report 	<p>The requirement for State of the Environment reporting will be removed from the Local Government Act prior to the next cycle of reporting.</p> <p>Similarly, the IP&R framework recognises that each community is unique, with its own particular needs and priorities. Therefore a 'one size fits</p>	<p>Partially support common performance indicators. They should be developed with council participation to ensure that they are meaningful in the context of different community needs and development.</p>

<ul style="list-style-type: none"> – work with the Office of Environment and Heritage, the NSW Environment Protection Authority and other relevant agencies to develop performance indicators for councils to use, and – where relevant, amend the IP&R Guidelines and Manual to incorporate this material. 	<p>all' approach to measuring IP&R outcomes would not be appropriate. However, the Government acknowledges the need to support councils in developing suitable methods of reporting that are clearly focused on social, environmental, economic and governance outcomes and avoid unnecessary duplication.</p> <p>Therefore comments are sought with respect to how the IP&R framework could best be shaped to achieve this. As part of the Government's ongoing commitment to strengthening transparency and accountability in the local government sector, OLG will continue to work with local councils to improve how we measure their performance, clarify what is expected of them and provide better reporting.</p>	<p>Partial support for state-wide community satisfaction survey – further information required on how the surveys would be designed, implemented, interpreted and funded.</p> <p>Support – guidance of End of Term Report.</p> <p>Support – developing performance indicators.</p> <p>Support – amend IP&R materials as appropriate.</p>
<p>28 That the Department of Planning and Environment, through the Office of Local Government, review the requirements in the <i>Local Government Act 1993</i> for Ministerial approvals and remove those that are not justified on the basis of corruption prevention, probity or protecting the interests of the State.</p>		<p>Support</p>
<p>29 That the Office of Local Government introduce guidelines that specify maximum response times for different categories of Ministerial approvals.</p>		<p>Support</p>
<p>30 That the Department of Planning and Environment, through the Office of Local Government, review all approvals required under section 68 of the <i>Local Government Act 1993</i> in order to:</p> <ul style="list-style-type: none"> – determine the activities for which a separate local council approval under section 68 is necessary – revise the regulatory frameworks within NSW legislation to remove duplication – place as many approval requirements as possible in specialist legislation, and – where appropriate, enable mutual recognition of approvals issued by another council. 		<p>Support – subject to further consultation during the review process.</p>

31 That the <i>Local Government Act 1993</i> be amended to transfer current requirements relating to the length of time for temporary appointments under section 351(2) to the <i>Local Government (General) Regulation 2005</i> or the relevant awards.		Support
32 Extend the maximum periods of temporary employment from 12 months to four years within any continuous period of five years, similar to Rule 10 of the <i>Government Sector Employment Rules 2014</i> . 148		Support
Building and construction		
37 That the Building Professionals Board or the proposed Office of Building Regulation (in consultation with Department of Planning and Environment, Fire & Rescue NSW and local government) design the new online system for submitting annual fire safety statements (AFSS) to allow councils to identify buildings in their area that require an AFSS, and where follow up or enforcement action is required.		Support
39 That section 121ZD of the <i>Environmental Planning and Assessment Act 1979</i> be amended to allow councils to delegate authority to the General Manager to consider a report by the Fire Brigade, make a determination and issue an order, rather than having the report considered at the next council meeting.		Support
Findings		
<p>2 The draft recommendations of the <i>Independent Review of the Building Professionals Act 2005</i> (Lambert Building Review), if supported by the NSW Government, would:</p> <ul style="list-style-type: none"> – Substantially improve the funding and ability of councils to effectively undertake their compliance functions in relation to unauthorised building work and refer certifier complaints to the Building Professionals Board. – Introduce more effective disincentives (for example, penalties) for unauthorised building work. – Institute a system of electronic lodgement of certificates and documentation from private certifiers to councils in a standardised form. This should reduce current record management burdens on councils, which would allow the information to be used to inform building regulation policy development and better targeting of council and state resources in building regulation. – Reduce the frequency of accreditation renewals from annually to every three to five years. – Create a new category of regional certifier to reduce the accreditation burden on councils and increase the number of certifiers in the regions. 		Support

3 That under the <i>Local Government Act 1993</i> councils can set their fees for certification services to allow for full cost recovery. These fees can include travel costs.		Support
4 That the online Building Manual, proposed in the e-building initiative draft recommendation of the Lambert Building Review, would remove the current burden on councils of collecting and maintaining records of annual fire safety statements.		Support
Public land and infrastructure		
44 That the NSW Government streamline the provisions of the <i>Local Government Act 1993</i> relating to plans of management for community land to enable councils to align public notice and consultation with councils' community engagement for Integrated Planning and Reporting purposes.		Support
49. That the NSW Government, in consultation with councils, review how councils are currently applying Alcohol Free Zone (AFZ) and Alcohol Prohibited Area (APA) provisions in response to alcohol related anti-social behaviour and clarify the rationale and processes for declaring AFZs and APAs in the <i>Local Government Act 1993</i> and Ministerial Guidelines on Alcohol-Free Zones.		Support
50. That the NSW Government provide an efficient process for consultation and decision making on temporary and events-based alcohol restrictions.		Support