

LATE REPORT – PDC 6D – Officers Reports for Consideration

Circulated under separate cover via iPad on Friday 11 July 2014.

Response to IPART – “*Local Government Compliance and Enforcement Report (2014)*”

(DOC14/48606)

DATE 11 July 2014

CONFIDENTIAL

Personnel Matters

YES

Commercial

NO

Legal

If yes please tick one of the following reasons

Security

Personal Hardship

ITEM FOR DECISION

Meeting Date Monday 14 July 2014

ITEM FOR NOTING

Meeting Date

FURTHER ENQUIRIES TO

Michael Keys / John Mulvey
Planning & Environment

PHONE

60238289

Purpose of Report

The purpose of this report is to inform Council of a draft report on “*Local Government Compliance and Enforcement*” released by the Independent Pricing and Regulatory Tribunal (IPART). The report outlines the findings of IPART’s investigation into legislative and operational frameworks of Compliance and Enforcement in NSW.

The report provides 39 recommendations and highlights specific reform strategies to increase the level of consistency, coordination and cooperation amongst NSW councils in undertaking their regulatory functions and enforcement duties. The report also refers to five best practice examples that are relevant to local government authorities across the State.

This report provides a draft submission in response to the recommendations in IPART’s draft report and seeks Council consideration of the issues raised.

Background

Local government provides an important role as regulators of local communities across the state, undertaking and performing the regulatory functions across 67 separate Acts which are administered by 31 State Government agencies.

The NSW Government asked IPART to examine local government compliance and enforcement activities. This is part of the Government’s commitment to reduce “red tape” costs for NSW business and the community totalling \$750 million by June 2015.

IPART has released its initial draft report on “*Local Government Compliance and Enforcement*” and now invites all stakeholders, including NSW councils to review the report and make written submissions by 4 July 2014. Due to Council meeting schedules a request was made and an extension granted for a submission to be received from AlburyCity Council up until 17 July.

The “*Local Government Compliance and Enforcement*” draft report is available in full online via the following link:

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http://www.ipart.nsw.gov.au/Home/Industries/Regulation_Review/Reviews/Local_Government/Local_Government_Compliance_and_Enforcement/22_May_2014_-_Draft_Report/Draft_Report_-_Local_government_compliance_and_enforcement_-_October_2013

The report is very comprehensive and detailed and provides relevant examples and suggestions for improvements in current practices, procedures and policies. Some of the findings and discussions will be useful in planned Service and Efficiency Reviews relating to Council's regulatory services. A copy of the entire document is not provided with this report. Instead a copy of the summary fact sheet produced by IPART is included and provided as Attachment 1. The summary fact sheet includes 39 recommendations and five findings on best practice.

Issues

The draft report highlights the extensive role of NSW councils as regulators within their local communities. The report indicates a strong case for increased consistency, coordination, cooperation and harmonisation across enforcement and compliance agencies, including councils, in undertaking their regulatory roles.

The report promotes significant gains for business and the community and suggests these can be achieved through enhanced:

- Interaction between State Government agencies and local councils during the development and implementation of new regulations;
- Council regulatory capacity and capability through reduced delays and more consistency across and within councils;
- Collaboration between councils to maximise economies of scale and share expertise; and
- Sharing of ideas and best practice amongst councils.

The findings and recommendations include detailed consideration and discussion throughout the report. Council's officers have considered the information contained in the report and provided a response to the recommendations which is attached to this report for Council's information.

Some of the key issues for consideration include:

- i) Recognition of the complexity of legislation that is imposed on local government by the State without regard or consideration of the impost or impact on local government;
- ii) Continuous rollout of new legislation and guidelines across various functions and services operated by or that are the responsibility of local government;
- iii) A lack of funding or provision for cost recovery to facilitate the roles and responsibilities provided to local government;
- iv) Prevalence of some organisations to rely on bureaucracy for regulation as opposed to AlburyCity's "Red Carpet not Red Tape" approach;
- v) The suite of recommendations and actions provided in recent reviews of the NSW Planning system, the Local Government Act and the Food Authority Review that impact on compliance and licensing in NSW;
- vi) Opportunities for standardised approaches to regulation, inspection and enforcement procedures; and

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- vii) The State Government needs to provide and promote resourcing for efficiency gains and improvements, including service levels across various agencies.

Key Issues and Recommendation

Regulation is one of the key tools government uses to achieve its economic, social and environmental objectives. However, it must be well designed, targeted and efficiently administered to achieve its objectives at a minimal cost to the community.

The draft IPART report considers a broad range of local government compliance and enforcement activities, including the regulatory powers conferred or delegated under NSW legislation and highlights recommendations that may reduce regulatory burdens for business and the community. The report considers:

- Ways to improve governance of local government compliance and enforcement activities;
- Ways to improve the capacity and capability of local government to undertake their regulatory responsibilities;
- Ways of improving the quality of regulatory administration by local government;
- The existing culture of regulatory services;
- Issues relevant to priority regulation, such as planning, building, parking, transport, community health, environmental regulation and companion animals;
- Best practice approaches to local government compliance and enforcement; and
- Ways to ensure regular assessment or regulatory performance.

Council's officers have reviewed the recommendations and provided a response in the attached draft submission (Attachment 2).

Risk

- Business Risk – There is no business risk to Council by providing a written submission to the report.
- Corporate Risk – The preparation and submission of a formal response to IPART's report demonstrates Council's commitment to represent the community in matters of local government compliance and enforcement.
- WHS and Public Risk – There is no risk to public health or safety.
- Delivery Program Risk – There is no risk to any works projects, programs or schedules.

Community Engagement

The draft report has been placed on public exhibition by IPART and submissions invited from relevant stakeholders, business and the general community.

The community is invited to familiarise themselves with the findings and recommendations included in the report and make their own representation either to Council or IPART. The findings have not been raised with Council by any interest groups or individuals within the community at this point in time.

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Options

Council has the following options in relation to the draft report:

1. Council can actively participate in the consultation process of IPART's investigation and make a submission in response to the draft report; or
2. Council note the findings and recommendations and take no further action at this point in time. This would enable Council to reserve judgement on the findings and await the outcomes of further investigations.

It is recommended that Council formally respond to the recommendations of the draft report and make a formal submission; Option 1 is therefore preferred. This option is supported as the recommendations and findings specifically relate to the operations, functions and services that Council provides to our community and it is important that we are involved in any review to protect our community and Council's interests.

Conclusion

IPART's draft report on "Local Government Compliance and Enforcement" is the first in a series of Red Tape Reviews, undertaken on behalf of the NSW State Government. The report contains 39 proposed recommendations which primarily aim to improve the existing regulation currently in force in NSW and improve the regulatory assessment processes for compliance and enforcement.

The report also highlights 14 examples of best practice regulatory approaches which were provided to IPART by stakeholders during the course of the review which may have further scope to reduce "red tape" and benefit agencies, councils, businesses and the community, if more broadly adopted in the longer term.

IPART is now inviting all stakeholders including businesses, business groups, councils, community groups, individuals and government departments or agencies to make written submissions in response to the draft report on local government compliance and enforcement.

Submissions on the draft report were originally due 4 July 2014. Due to the scheduling of Council's committee meetings an extension of this deadline was requested from IPART and Council was granted an extension until 17 July. The draft submission is provided as Attachment 2 to this report for Council's consideration.

Recommendation

That the Committee recommends to Council that Council:

- a. Endorse the draft submission and respond to the IPART "*Local Government Compliance and Enforcement Report*".

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- **Attachments**

1. Local Government Compliance and Enforcement - summary of draft report. (IPART 2014).
2. Draft AlburyCity submission.

ATTACHMENT TO PDC 6D – 07/2014

**RESPONSE TO IPART – “*LOCAL GOVERNMENT
COMPLIANCE AND
ENFORCEMENT REPORT (2014)*”**

ATTACHMENT 1

**LOCAL GOVERNMENT COMPLIANCE
& ENFORCEMENT
SUMMARY OF DRAFT REPORT
(IPART 2014)**

FACT SHEET

Local government compliance and enforcement – summary of Draft Report

May 2014

Overview

The NSW Government has a target of \$750 million in reduced 'red tape' costs for business and the community by June 2015.

To help achieve this target, the NSW Government has engaged IPART to undertake a review of local government compliance and enforcement activity in NSW. This is the first in a series of red tape reviews IPART will be undertaking on behalf of the NSW Government.

Our draft recommendations are expected to:

- ▼ reduce red tape to businesses and individuals by at least \$177.7 million per year
- ▼ save councils approximately \$42.4 million per year
- ▼ save the NSW Government about \$1.3 million per year
- ▼ provide net benefits to the community of NSW of \$220.5 million per year.

What have we found?

The draft report highlights the extensive role of NSW councils as regulators of local communities across the State. We identified that councils have 121 regulatory functions, involving 309 separate regulatory roles, emanating from 67 State Acts, which are administered by approximately 31 State agencies.

We have found a strong case for increased consistency, co-ordination, co-operation and harmonisation amongst councils in undertaking their regulatory roles. At the same time, we recognise the need to reflect local preferences in council approaches where appropriate.

Significant gains for business and the community can be achieved through enhanced:

- ▼ interaction and coordination between State Government agencies and local councils – during both the development and implementation of new regulation
- ▼ council regulatory capacity and capability (eg, through reduced delays and more consistency across and within councils)
- ▼ collaboration between councils (to maximise economies of scale, improve consistency where appropriate and share expertise)
- ▼ sharing of ideas and leading practices amongst councils (to also maximise the benefits of separate councils).

Impact and recommendations

The savings identified above relate to proposed recommendations which aim to improve the *existing stock* of regulation currently in force in NSW.

In addition, our draft recommendations to improve regulatory impact assessment processes would prevent \$48 million per year of *new* red tape, on average, over the next 10 years. This would also provide a further \$21 million per year in net benefits for NSW,¹ assuming:

- ▼ the loss of community benefits that could potentially be gained from new regulation
- ▼ no estimated change in costs to local councils, and
- ▼ an increase in costs to the NSW Government.²

The draft recommendations that account for the largest reductions in red tape are:

- ▼ \$59.2 million per year saved in improving road access for heavy vehicles. Potentially the gains are far larger, with heavy vehicle access restrictions estimated to cost \$366 million per year in NSW.
- ▼ \$36 million per year saved by preventing councils from imposing conditions of consent above what is required by the Building Code of Australia.
- ▼ \$19.4 million per year saved in implementing a partnership arrangement between the NSW Department of Planning and Infrastructure and local government, with net benefits of \$17.9 million per year. There are substantial additional benefits possible from continued improvements in planning, with the excessive costs associated with planning estimated to be in the order of about \$300 million per year.

In addition, draft recommendations regarding increased sharing of regulatory services and resources across councils could reduce council costs by \$30 million per year.

¹ The Better Regulation Office's guidelines for estimating red tape savings towards the \$750 million target indicate that these savings should be considered separately, as they relate to minimising the burden of potential future regulation, rather than minimising the impact of the existing stock of regulation.

² The CIE, *Local Government Compliance and Enforcement – Quantifying the impacts of IPART's recommendations*, June 2013, pp 23-25.

Our draft recommendations are intended to complement the work of the NSW Planning System Review, Independent Local Government Review Panel and the Local Government Acts Taskforce.

Our report highlights a number of examples of best practice regulatory approaches stakeholders have provided to us in the course of the review. These practices may have scope to further reduce red tape and benefit councils, businesses and the community, if more broadly adopted.

Our draft recommendations and best practice findings are listed at the end of this Fact Sheet in **Attachment A**.

The Draft Report, along with further information on IPART's review, is available at IPART's website <<http://www.ipart.nsw.gov.au>>.

What happens next?

We invite all stakeholders including businesses, business groups, councils, community groups, individuals and NSW Government departments or agencies to make written submissions in response to our Draft Report by **4 July 2014**.

Late submissions may not be accepted at IPART's discretion.

Submissions may comment on any or all of the draft recommendations and findings made, or on any other issues stakeholders consider relevant to the review.

We would prefer to receive them electronically via our online submission form <www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission>.

You can also send comments by mail to:

Regulation Review - Local government compliance and enforcement

Independent Pricing and Regulatory Tribunal
PO Box Q290

QVB Post Office NSW 1230

Our normal practice is to make submissions publicly available on our website on <www.ipart.nsw.gov.au> as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed on the previous page.

If you would like further information on making a submission, IPART's submission policy is available on our website.

After we have considered all the information and views expressed in submissions, we will provide our Final Report to the NSW Government in September 2014.

Attachment A

Draft Recommendations

A new partnership between State Government and local government

- 1 Subject to cost benefit analysis, the NSW Department of Planning and Infrastructure (DoPI) should engage in a Partnership Model with local government, similar to the Food Regulation Partnership, to enhance the capacity and capability of councils to undertake their regulatory functions. This should include:
 - enshrining the partnership model in legislation
 - clear delineation of regulatory roles and responsibilities
 - a risk-based approach to regulation supported by a compliance and enforcement policy
 - use and publication of reported data to assess and assist council performance
 - a dedicated consultation forum for strategic consultation with councils
 - ability for councils to recover their efficient regulatory costs

- a system of periodic review and assessment of the partnership agreement
- a dedicated local government unit to provide:
 - o a council hotline to provide support and assistance
 - o a password-protected local government online portal
 - o guidelines, advice and protocols
 - o standardised compliance tools (eg, forms and templates)
 - o coordinated meetings, workshops and training with councils and other stakeholders.

- 2 Subject to cost benefit analysis, the NSW Environment Protection Authority should engage in a Partnership Model with local government, similar to the Food Regulation Partnership (as per Draft Recommendation 1).

Improving the regulatory framework at the State level

- 3 The Better Regulation Office (BRO) should revise the *NSW Guide to Better Regulation* (November 2009) to include requirements for developing regulations involving regulatory or other responsibilities for local government, in particular:
 - consideration of whether a regulatory proposal involves responsibilities for local government
 - clear identification and delineation of State and local government responsibilities
 - consideration of the costs and benefits of regulatory options on local government
 - assessment of the capacity and capability of local government to administer and implement the proposed responsibilities, including consideration of adequate cost recovery mechanisms for local government
 - consultation with local government to inform development of the regulatory proposal

- if establishing a jointly provided service or function, agreement with local government as to the objectives, design, standards and shared funding arrangements, and
 - development of an implementation and compliance plan.
- 4 The NSW Government should establish better regulation principles with a statutory basis. This would require:
- amendment of the *Subordinate Legislation Act 1989* (NSW) or new legislation, and
 - giving statutory force to the *NSW Guide to Better Regulation* (November 2009) and enshrining principles in legislation.
- 5 The NSW Government should maintain the register of local government regulatory functions (currently available on IPART's website) to:
- manage the volume of regulation delegating regulatory responsibilities to local government
 - be used by State agencies in the policy development of regulations to avoid creating duplications or overlaps with new or amended functions or powers.
- 6 The BRO should:
- Develop a Regulators' Compliance Code for local government, similar to the one currently in operation in the UK, to guide local government in undertaking enforcement activities. This should be undertaken in consultation with the NSW Ombudsman and State and local government regulators.
 - Include local government regulators in its Regulators' Group or network.
 - Develop simplified cost benefit analysis guidance material for local government to undertake proportional assessments of the costs and benefits of regulatory actions or policies, including consideration of alternatives.
- Develop simplified guidance for the development of local government policies and statutory instruments.
- 7 The NSW Ombudsman should be given a statutory responsibility to develop and maintain a more detailed model enforcement policy and updated guidelines for use by councils to guide on-the-ground enforcement:
- The model policy should be developed in collaboration with State and local government regulators.
 - The model policy should be consistent with the proposed Regulators' Compliance Code, if adopted.
 - The NSW Ombudsman should assist councils to implement the model enforcement policy and guidelines, through fee-based training.
 - All councils should adopt the new model enforcement policy, make the policy publicly available and train compliance staff in exercising discretion and implementation of the policy.
- 8 The *Local Government Act 1993* (NSW) should be amended to abolish Local Orders Policies (LOPs), as the function of LOPs will be replaced by adoption of the new model enforcement policy.
- 9 The NSW Government should publish and distribute guidance material for:
- councils in setting their regulatory fees and charges (to apply to fees and charges, where councils have discretion), and
 - State agencies in setting councils' regulatory fees and charges.

This guidance material should include principles and methodologies for estimating efficient costs, setting fees and charges, and reviewing and updating these fees and charges over time.

Enhancing regulatory collaboration amongst councils

10 The *Local Government Act 1993* (NSW) should be amended to remove any impediments to, or facilitate the easier use of, shared regulatory services. In particular, consideration should be given to:

- removing or amending section 379 – which currently restricts the delegation of a council's regulatory functions under Chapter 7 of the *Local Government Act*, including to shared services bodies
- amending section 377, which prohibits any delegation by a council of the acceptance of tenders.

If Regional Organisations of Councils (ROCs) continue as the preferred form of council collaboration, consideration should also be given to whether the Act should specify how and in what form ROCs should be established (including whether management frameworks should be prescribed).

11 The NSW Government should encourage and develop incentives to form collaborative arrangements in relation to regulatory functions. This should include training, guidance and promotion of leading practice collaborative arrangements, and the establishment of a small repayable fund to assist in setting up shared regulatory services. Councils could obtain a loan with a concessional rate of interest that is repayable within a specified period. This should tend to be cost neutral over time, as cost savings to councils would be achieved from the collaborative arrangements.

Improving the regulatory framework at the local level

12 The *Local Government Act 1993* (NSW) should be amended to:

- remove duplication between approvals under the *Local Government Act 1993* (NSW) and other Acts, including the *Environmental Planning & Assessment Act 1979* (NSW) and *Roads Act 1993* (NSW) in terms of: footpath restaurants; mobile vendors; installation of amusement devices; installation and operation of manufactured homes; stormwater drainage approvals
- remove low-risk activities from the list of activities currently requiring approval under section 68 of the *Local Government Act*, including: Busking; Set up, operation or use of a loudspeaker or sound amplifying device; and Deliver a public address or hold a religious service or public meeting
- allow for longer duration and automatic renewal of approvals
- provide more standard exemptions or minimum requirements from section 68 approvals, where possible, initially in the areas of: footpath restaurants; A-frames or sandwich boards; skip bins; domestic oil or solid fuel heaters
- abolish Local Approvals Policies (LAPs) or, alternatively: reduce the consultation period to 28 days in line with Development Control Plans; remove sunset clauses; require Ministerial approval only for amendments of substance; centralise LAPs in alphabetical order in one location on DLG's website; consolidate activities within 1 LAP per council; and DLG to provide a model LAP in consultation with councils
- enable councils to recognise section 68 approvals issued by another council (ie, mutual recognition of section 68 approvals), for example with mobile vendors and skip bins.

- 13 The NSW Government, as part of its reforms of the *Local Government Act 1993* (NSW), should amend the Act to provide a modern, consolidated, effective suite of compliance and enforcement powers and sanctions for councils and council enforcement officers.

The powers would be applicable to all new State Acts or regulations. This suite should be based on the best of existing provisions in other legislation and developed in consultation with the NSW Ombudsman, Better Regulation Office, State and local government regulators. This should include effective cost recovery mechanisms to fund enforcement activities.

- 14 Councils should support the use of alternative and internal review mechanisms (for example, the NSW Ombudsman, NSW Small Business Commissioner, and private providers of ADR services) to provide business and the community with a path of redress for complaints (not including complaints concerning penalty notices) that is less time-consuming and costly than more formal appeal options.

Improving regulatory outcomes

- 15 As part of the State's Quality Regulatory Services initiative, the NSW Government should require all State agencies that devolve regulatory responsibilities to local government to:
- consider councils' responsibilities in developing their risk-based approach to compliance and enforcement
 - consider councils' responsibilities in defining the regulatory outcomes and setting monitoring mechanisms to measure the outcomes, and
 - identify what information needs to be obtained from councils in relation to their regulatory activities to measure regulatory outcomes and how this data will be used or published to assess and assist council performance.

These requirements should be developed in consultation with local government regulators and commence by the end of 2014.

Planning

- 16 DoPI, in consultation with key stakeholders and on consideration of existing approaches, should:
- identify which development consent conditions may be applied across council areas, including regional groupings of councils, and which conditions will vary across council areas
 - then develop (where appropriate) a standardised and consolidated set of development consent conditions for councils to utilise for different forms of development.
- 17 The NSW Government (eg, DoPI) should enable building owners to submit Annual Fire Safety Statements online to councils and the Commissioner of the Fire and Rescue Service.

Building and construction

- 18 The NSW Government should:
- subject to a cost benefit analysis, create a stronger, single State regulator, the Building Authority, containing, at a minimum, the roles of the Building Professionals Board and the building trades regulation aspects of NSW Fair Trading, and
 - create a more robust, coordinated framework for interacting with councils through instituting a 'Partnership Model' (as discussed in Chapter 2).
- 19 The Building Professionals Board or Building Authority (if adopted) should:
- initially, modify its register of accredited certifiers to link directly with its register of disciplinary action

- in the longer term, create a single register that enables consumers to check a certifier’s accreditation and whether the certifier has had any disciplinary action taken against them at the same time.
- 20 Councils seeking to impose conditions of consent above that of the Building Code of Australia (BCA) (now part of the National Construction Code (NCC)) must conduct a cost benefit analysis (CBA) justifying the benefits of these additional requirements and seek approval from an independent body, such as IPART, under a ‘gateway’ model.
 - 21 Certifiers should be required to inform council of builders’ breaches if they are not addressed to the certifier’s satisfaction by the builder within a fixed time period. Where councils have been notified, they should be required to respond to the certifier in writing within a set period of time. If council does not respond within the specified period, then the certifier can issue an occupation certificate.
 - 22 The Building Professionals Board (BPB) or Building Authority (if adopted) should incorporate into the current Principal Certifying Authority signage information setting out contact details for specific complaints (eg, off-site impacts like building refuse or run-off and onsite issues). The BPB or Building Authority should trial the use of such a sign in a specific local government area to see if time is reduced in redirecting complaints for councils, the BPB/Authority and certifiers.
- 24 The NSW Food Authority, in consultation with councils, should stipulate a maximum frequency of inspections by councils of retail food businesses with a strong record of compliance to reduce over-inspection and costs.
 - 25 The NSW Food Authority should finalise its internal review and work with councils to implement its reforms within 18 months of its review being completed to:
 - remove any regulatory overlap (eg, of related retail and non-retail food business on the same premises)
 - develop a single register of notification for all food businesses, or a suitable alternative, to avoid the need for businesses to notify both councils and the Food Authority
 - review the notification system to determine whether negligible risk food businesses should be exempt from the requirement to notify
 - ensure the introduction of the standard inspections template for use by all councils in NSW, to enhance the consistency of inspections across the State.
 - 26 DLG should:
 - develop a ‘model’ risk-based inspections program to assist councils in developing their own programs under the *Swimming Pools Act 1992* (NSW)
 - issue guidance material on the implementation of amendments to the *Swimming Pools Act 1992* (NSW)
 - provide a series of workshops for councils (by region) on how to implement and comply with their new responsibilities under the *Swimming Pools Act 1992* (NSW)
 - promote the use of shared services or ‘flying squads’ for swimming pool inspections, if a backlog becomes apparent under the new regulatory regime

Public health, safety and the environment

- 23 All councils should adopt the NSW Food Authority’s guidelines on mobile food vendors. This will allow for food safety inspections to be conducted in a mobile food vendor’s ‘home jurisdiction’, which will be recognised by other councils.

- review the *Swimming Pools Act 1992* (NSW) in less than 5 years to determine whether the benefits of the legislative changes clearly outweigh the costs.

27 Ageing, Disability and Home Care, in consultation with the Division of Local Government, should:

- develop a ‘model’ risk based inspections program, including an inspections checklist, to assist councils in developing their own programs under the *Boarding Houses Act 2012* (NSW)
- issue guidance material on the implementation of the *Boarding Houses Act 2012* (NSW)
- co-ordinate a series of workshops for council employees (by region) on how to implement and comply with responsibilities under the *Boarding Houses Act 2012* (NSW).

28 DoPI, in consultation with the EPA and other relevant stakeholders, should:

- develop standard waste management requirements for inclusion in the NSW Housing and NSW Industrial and Commercial Codes, which establishes site waste management standards and requirements for exempt and complying development, and
- remove the need for applicants to submit separate Waste Management Plans to councils for these types of developments.

Parking and road transport

29 Councils should either:

- solely use the State Debt Recover Office (SDRO) to handle parking fine requests for review or appeals to remove current confusion, duplication and reduce costs, or

- adopt the SDRO’s guide for handling representations where a council is using SDRO’s basic service package and retains the role of handling parking fine requests for review or appeals, to ensure consistency and fairness across the state.

30 DLG should review and, where necessary update, its free parking area agreement guidelines (including model agreements). Councils should then have a free parking area agreement in place consistent with these guidelines.

31 That the NSW Government:

- notes the potential red tape savings and net benefits that could accrue to NSW through the National Heavy Vehicle Regulator (NHVR) providing:
 - o technical assistance to councils in certifying local roads for access by heavy vehicles, and
 - o guidelines to councils for assessing applications for heavy vehicle access to local roads in relation to potential amenity and safety impacts; and
- in the event of delay in the NHVR providing these elements of the national reforms, funds an interim unit to provide this assistance to local government.

Companion animal management

32 DLG should allow for an optional 1-step registration process, whereby:

- the owner could microchip and register their pet at the same time
- the person completing the microchipping would act as a registration agent for councils either by providing access to online facilities (per recommendation below) or passing the registration onto councils (on an opt-in, fee-for-service basis).

33 DLG should allow for online companion animals registration (including provision to change details of registration online).

- 34 DLG should implement targeted, responsible pet ownership campaigns with councils in particular locations/communities of concern with the input of industry experts, providing accessible facilities for desexing where these campaigns are rolled out.
- 35 DLG should amend the companion animals registration form so an owner's date of birth is mandatorily captured information, as well as other unique identifiers such as driver's licence number or official photo ID number or Medicare number.
- 36 DLG should amend the *Companion Animals Act 1998* (NSW) to enable fees to be periodically indexed by CPI.

Other areas

- 37 The NSW Government should amend section 125 of the *Roads Act 1993* (NSW) to extend the lease terms for footway restaurants to 10 years, subject to lease provisions ensuring adequate access by utility providers.
- 38 DLG should collect data on the time taken for Section 68 approvals to be processed by councils. This data should be collated and reported as an indicator of performance in this area to reduce delays.
- 39 Councils should issue longer-term DAs for periods of 3-5 years for recurrent local community events (subject to lodging minor variations as section 96 EP&A Act amendments).

Findings on best practice

- 1 The use of portable technology such as iPads by council enforcement officers (eg, in tree assessments by Sutherland Shire Council) has the potential to cut costs to councils and the public.
- 2 Greater use of existing networks such as AELERT and HCCREMS (Hunter Councils Inc) provide greater resources, consistency of approach and build expertise or capability in undertaking council environmental compliance activities.

- 3 Councils would benefit from the use of the following self-assessment tools:
 - the Hunter Council Inc (HCCREMS) Compliance System Self-assessment tool to assess regulatory capacity to enhance regulatory performance
 - the Hunter Council Inc (HCCREMS) Electronic Review of Environmental Factors (REF) Template to assist councils in undertaking Part 5 assessments under the *Environmental Planning & Assessment Act 1979* (NSW) of their own activities
 - the Smart Compliance Approach, currently used by Newcastle City Council and adapted from the US EPA, to provide a framework for using performance data to achieve better regulatory outcomes
 - the NSW EPA's online "Illegal Dumping: A Resource for NSW Agencies" tool/guide available through AELERT and EPA websites.
- 4 Publication of more significant individual local government regulatory instruments on a central site, such as the 'NSW Legislation' website, will allow a stocktake, and facilitate review and assessment, of such instruments. These regulatory instruments would be formal plans or policies developed by councils under State legislation (eg, Local Environmental Plans, Development Control Plans, Local Approvals Policies and Local Orders Policies).
- 5 The use of 'SmartForms' by councils, through the Federal Government's 'GovForms' or individual council websites, reduces costs to businesses and councils by enabling online submission and payment of applications directly to councils.

- 6 The provision of guidance material to assist businesses in obtaining approvals and complying with regulatory requirements, such as the guidance provided by the Federal Government's Australian Business Licence and Information Service (ABLIS) or the Queensland Local Government Toolbox (www.lgtoolbox.qld.gov.au), can reduce the regulatory burden on businesses and the community.
- 7 Projects like the Electronic Housing Code provide considerable benefits to businesses and the community by providing a single, consistent, time-saving, online process to obtain an approval.
- 8 The development of central registers (eg, Companion Animals register) by State agencies that devolve regulatory responsibilities to councils can substantially reduce administrative costs for regulated entities and councils, and assist with more efficient implementation of regulation (eg, assist with data collection and risk analysis).
- 9 Memorandums of Understanding between State agencies and councils in relation to enforcement and compliance activities (eg, between local police and local council) facilitate information sharing to achieve better communication, coordination and enforcement outcomes.
- 10 Councils engaging independent panels or consultants where development applications or DAs relate to land owned by local government improves transparency and probity.
- 11 Where proponents seek to develop infrastructure on public land owned by the council, providing notice of the relevant leasing or licencing options and conditions likely to be attached to the use of the land (where practical) prior to the requirement for a DA to be submitted could reduce unnecessary costs for proponents.
- 12 Councils can use Order powers under the *Environmental Planning & Assessment Act 1979* (NSW) (eg, under s121O) to allow certain modifications to developments. This circumvents the need for the applicant to obtain additional council approvals or development consents when there are concerns with existing structures (eg, safety concerns).
- 13 Council policies that identify, prioritise and if possible, fast-track emergency repair works within existing regulatory processes (eg, urgent tree trimming work following a storm or urgent repair works following a flood) would reduce costs.
- 14 Broadening the scope of DLG's current Promoting Better Practice program would strengthen its assessment of regulatory performance. Greater promotion of DLG's better practice findings amongst all councils would improve regulatory outcomes.

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COMPLIANCE AND
ENFORCEMENT REPORT (2014)*”**

ATTACHMENT 2

DRAFT ALBURYCITY SUBMISSION

11 July 2014

Regulation Review – Local Government Compliance and Enforcement
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

Dear Sir or Madam,

Albury City Councils Submission in Response to IPART's "Local Government Compliance and Enforcement" Report 2014

I would like to offer the following submission in response to IPART's Draft Report on *Local Government Compliance and Enforcement* (2014).

In principle, AlburyCity supports the intent and key objectives of the report to:

- Reduce "red tape" to businesses and individuals by \$177.7 million per year;
- Save councils approximately \$42.4 million per year;
- Save the NSW government \$1.3 million per year; and
- Provide a net benefit to the community of NSW of \$220.5 million per year.

Albury City acknowledges and advocates for the active and critical role that local government plays in providing an extensive and multi-faceted regulatory function within our local communities. Any proposal or recommendation to increase consistency, co-operation and co-ordination between NSW councils to develop and improve the current level of regulatory services will benefit our communities, business and industry. Enhanced interaction and cooperation between NSW local government bodies and state government agencies will also increase consistency and improve the regulatory capability of local government across the state.

The IPART Report is comprehensive and seeks to address the wide variety of services, functions and responsibilities that are the domain of, or fall under the auspices of, Local Government. There is some recognition of historical cost-shifting and over-regulation in legislative provisions that increase the burden on Local Government, our community and businesses alike.

AlburyCity is a strong and keen proponent of facilitating and reducing bureaucracy, we actively promote a key principle for our organisation of "*Red Carpet – Not Red Tape*". In support of this Council actively seeks to manage and resolve issues and encourage IPART and the NSW Government to do the same. To assist we offer the following comments and suggestion on the Draft Report.

Recommendations 1 & 2 - A new partnership between state government and local government.

The development of a partnership, similar to the Food Regulation Partnership model, between Local Government and the Department of Planning and Environment as well as the Environment Protection Agency, is generally supported. However up front consultation and planning is required to avoid duplication, bureaucracy and divestment of responsibilities without appropriate measures to cover costs and provide services in a long term sustainable manner.

AlburyCity would express some caution in regards to the reports strong support and promotion of a new partnership model that is based on the recommendations of the *Planning Reform White Paper*. The reforms proposed in the *Planning Reform White Paper* have stalled and the way forward remains uncertain and unclear. This is not recognised in the Draft Report and therefore key elements of the proposed partnership model may be less certain or unclear.

AlburyCity is concerned that the recommendation for a Partnership Model appears to be based upon the foundation that the Department of Planning and Environment already engages in a number of elements of a 'good' Partnership Model. Most recently there has been a significant improvement in the level of involvement, interaction and consultation with Local Government in many regards. AlburyCity supports the intention and efforts to date but also adds some caution that the system is still not at a satisfactory level. This would appear to be in some regards due to the complexities of the system and various fronts on which the Department operates, further recommendations of this report in relation to coordination of a whole of government approach may also assist in dealing with these issues. In addition AlburyCity suggests further improvements should include a commitment that local government is given adequate time to consider, and prepare for, any substantial changes to legislation, planning guidelines, objectives or principles especially, albeit generally inevitably, where there are impacts on, or implications for, local government.

There are concerns that the White Paper consistently appears to have adopted a position that culture change in town planning (especially at a local level) is the answer to the ailments of planning in NSW. There are many facilitative and pro-active councils in NSW where there is a culture that embraces a facilitative role, of looking for solutions to planning issues, and an understanding of the intent of planning controls and outcomes of development, rather than just undertaking 'planning by numbers' based upon generic planning controls. Improvements in the regulatory system require all stakeholders to hold a positive and committed approach. Cultural change is not the sole bastion of Local Government or the Department of Planning and Environment but rather there are opportunities for all stakeholders. This needs to be recognised and embraced by the industry as a whole.

Recommendations 3 to 9 - Improving the regulatory framework at the state level

AlburyCity supports the recommendation to revise the NSW Guide to Better Regulation. A long term concern for Council has been the development and implementation of legislative requirements without consideration or appreciation of the impacts on Local Government. The integration of Local Government as a core consideration in the Guide will go some way to addressing this in conjunction with a commitment to value adding and accounting for the impacts that may be identified. This applies to recommendations 3 and 4.

Recommendation 5 focuses on the development of a register for local government regulatory functions. AlburyCity supports recognition of the role of State Government to create, maintain and give consideration to the register recognising Local Government and encouraging rationalisation over time. The suggestion that consideration be given to the service functions that are imposed or required to support regulatory requirements is encouraged. Either now or in the near future Councils across NSW will undergo a service or efficiency review to improve their financial sustainability and examine in detail their community's expectations with regards to service levels. The imposition of additional service functions through regulatory frameworks without consideration to the effects this has on limited resources is concerning especially where the State Government is restricting funding or revenue and encouraging efficiencies on one hand whilst tying them together with the other.

The development of a 'Regulators Compliance Code' as outlined in Recommendation 6 is encouraged and would be a welcome addition. A consistent approach, interpretation and application will assist in regulation, enforcement and cooperation across the State. This will avoid local interpretation and confusion for clients, customers and the community about the rules and regulations that apply in different locations. This is certainly evident in a cross border location such as Albury but also occurs across NSW Local Government boundaries and this leads to confusion, frustration and non-compliance in the community and business sectors.

The abolition of Local Orders Policies is supported (Recommendation 8).

A model enforcement policy developed and overseen by the NSW Ombudsmen is also supported (recommendation 9). As with a compliance code, the model policy could encourage consistency across the State and provide necessary resources for local government authorities that are under pressure to respond and react rather than spend time developing and implementing new processes and procedures. The reference to allowing discretion by Local Councils in the application of such a code is also supported and encouraged.

Recommendations 10 to 11 - Enhancing regulatory collaboration amongst councils

There are numerous studies and recent reports that advocate shared services across Local Government Authorities in NSW. Impediments that oppose or inhibit the ability to develop and implement such service arrangements are unnecessary or inappropriate. They do little to encourage and promote more efficient use of resources and delivery of services. This is especially the case in regional or rural areas where expertise can be utilised across local government areas to the benefit of all communities. AlburyCity supports the removal of impediments to shared regulatory services (recommendation 10).

Recommendation 11 promotes incentives to form collaborative arrangements for regulatory services. This is supported with caution, as noted in earlier comments there are benefits for collaborative arrangements however we believe there is more opportunity for improvement by reducing complexity and recognising the impost and impacts of regulations on Local Government than providing short term incentives for collaboration. Collaborative arrangements will work if there is long term sustainability to their operation. Albury City supports the promotion of best practice examples and recommends the Government provide a centralised resource that recognises and promotes best practice as a reference point for the State rather than funding individual programs.

Recommendation 12 to 14 – Improving the regulatory framework at the local level

The removal or elimination of duplication between the various NSW legislative Acts and Regulations for minor approvals and, or permits is supported. AlburyCity supports proposed amendments to the Local Government Act 1993 aimed at reducing duplication, removing low risk activities and providing for mutual recognition of approvals issued by other Councils (recommendation 12).

The current provisions in the Local Government Act relating to regulatory functions are not clear or transparent but rather complex, confusing and open to interpretation. A full review with the intent to provide a modern approach is supported and especially the final notation promoting appropriate cost recovery mechanisms (recommendation 13). This approach must be carried over to the full regulatory framework to ensure consistency and avoid the complexity that currently confronts both the community and Council as the regulatory authority.

Proposed reforms to the Local Government Act to provide a modern consolidated and effective suite of compliance powers and sanctions for councils which include the specifically developed cost recovery mechanisms is supported by council.

AlburyCity actively promotes and endorses the use of internal or alternative review mechanisms to address concerns and allow an avenue for redress of complaints (recommendation 14). This should be supported and encouraged through standard codes of practice and enforcement manuals as promoted earlier. A word of caution is provided with regards to providing these mechanisms that are subject to abuse and disregard by select members of the community.

AlburyCity also promotes the services of the Community Justice Centre to resolve neighbourhood disputes that do not involve a breach of local government legislation. Any proposal for councils to receive assistance from the NSW Ombudsman, NSW Small Business Commissioner or a designated dispute resolution provider to resolve disputes and reduce the associated costs and response times, would be fully supported and encouraged by council.

Recommendation 15 - Improving regulatory outcomes

AlburyCity recognises the long term benefits of performance monitoring and assessment of outcomes. Mechanisms to encourage, support and promote systems based on the Quality Regulatory Services Initiative would be encouraged with more understanding and appreciation of the potential impacts and imposts in the initial stages. It is also reiterated that further reporting should not become time-consuming or onerous. The information generated should be used to reinforce improvements and better performance rather than being used as a stick to punish poor performance.

Recommendations 16 & 17- Planning

AlburyCity has an extensive range of standardised conditions that we use in our assessment and determination of development applications. The development of a standardised and consolidated set of conditions which councils can utilise will be of benefit in both adopting a level of consistency in regards to key issues and also providing a level of support and resource for smaller councils.

It does need to be recognised though that there will be a number of circumstances where standard conditions cannot be created for a variety of reasons and therefore expectations will need to be managed appropriately to ensure it is clear for all stakeholders that additional conditions are likely to be imposed related to specific issues.

Caution with regards to a one size fits all approach is urged with regards to standardising conditions.

AlburyCity uses conditions to facilitate decision making rather than refusing applications or seeking additional amendments, further notification and delays in processing applications. We consider our role is to facilitate outcomes for both the community and proponents and have an outcomes based focus that allows for flexible application and use of conditions of consent to enable and support this approach.

AlburyCity supports the promotion of e-services for our community and businesses. This includes the provision for submission of online certificates and information. The submission of Annual Fire Safety Statements online to councils and the Commissioner of the Fire and Rescue Service is supported (recommendation 17).

Recommendations 18 to 22 - Building and construction

AlburyCity supports the establishment of a single 'Building Authority' to be responsible for building trades and certification (recommendation 18). This would reduce confusion and encourage coordination between the two agencies with regards to education, monitoring and reporting as well as dispute resolution or complaint handling.

The promotion of a partnership model with the new authority is strongly supported. A number of local government representatives, including AlburyCity, have been working with the Building Professionals Board to promote a partnership approach to building certification in NSW. This has been a refreshing and very positive approach with significant opportunity to provide benefits and deliver positive outcomes for the industry and government.

The proposal to raise the profile of certification, including greater transparency in disciplinary actions, aimed at enabling a more informed choice in relation to the certifier is encouraged but fails to recognise the fundamental operation of the system (Recommendation 19). There is very little opportunity for a home owner to select the certifier on any project where they employ a project builder. This is not to suggest that this encourages poor performance by certifiers but rather recognises the necessary relationships and operating environment for the building industry and certifiers. Further investigation into more robust disciplinary process by the building authority would discourage poor performance, and adequate penalties and disciplinary action should be taken by the authority where evidence is provided and available.

The longer term creation of a single register enabling consumers to check a certifier's accreditation and the existence of any disciplinary action that may have been taken against them would further enhance consumer awareness and this some degree of protection.

AlburyCity does not oppose a suitably designed cost benefit process to examine requirements for building construction over and above the National Construction Code (recommendation 20). However, AlburyCity is unaware of the prevalence of situations where conditions exceeding the requirements of the NCC have been imposed by Councils with an unacceptable cost impost for the client or applicant. The majority of conditions imposed – including those that may impose a cost - are not necessarily NCC related. Conditions related to construction standards are generally imposed to address a deficiency where a development application for a particular building does not satisfy the requirements of the NCC but a condition is used to enable processing of the application and keep the process moving.

There appears to be concern that Councils are not responding to notification of complaints regarding breaches of development consents from certifiers (recommendation 21). AlburyCity has not experienced this and finds it difficult to appreciate the circumstances that might exist for this to occur. Council has customer service targets across a broad range of our services and functions, including compliance and enforcement. It is suggested that certifiers are afforded a similar level of service and can expect a response within a reasonable time on the outcome or any initial findings with regards to a complaint. The onus should be on any certifier to report a breach of the Development Consent.

Recent work with the Building Professionals Board promotes the clarification of the role of a certifier and Council's enforcement obligations and this is essential in establishing a more open and transparent approach to dealing with these concerns. The suggested emphasis on Council responding or if they don't then a certifier is able to issue a Certificate of Occupancy raises a number of concerns including the inference that the breach only occurs prior to occupation and that Council is the cause for holding up the process. This is also skewed to suggest Local Government is automatically at fault.

A suitable and consistent mechanism to promote the awareness of the certifier on a building site so that complaints or enquiries regarding the project are directed to the appropriate person in the first instance is encouraged and supported (recommendation 22). There is an obvious lack of awareness and knowledge about the role, availability or responsibilities of certifiers (particularly private certifiers as opposed to Council certifiers) and this could assist in clarifying some of these points.

Public health, safety and the environment – Recommendations 23 to 29.

Recommendation 23 proposes a "Home Jurisdiction Rule" for Mobile Food Vending Vehicles. This proposal is supported and is in fact already being available in Albury. Council has an existing internal procedure where Mobile Food Vendors are required to register with Council for annual inspection purposes. If a mobile Food Vendor has previously been inspected or has an existing registration with another local government body, evidence is requested and honoured on presentation by council. There is one caveat on this and that is the reliance on the mobile food van operating in the home base area so as to enable an inspection to be undertaken on a regular basis. This could rely on an annual inspection of the facility as a minimum or bi-annual and should exclude the opportunity to register in one jurisdiction and never operate there, thus potentially avoiding future inspections.

AlburyCity supports a proactive risk based approach to food premises inspections in line with Recommendation 24. Council currently operates a risk based system for food premises and will undertake a minimum number of inspections per year subject to satisfactory performance or potential risk due to processes or operation of the business involved. This supports the recommendation.

Recommendation 25 relates to the internal Food Authority review with the actions recommended reflecting the key findings of the review. AlburyCity generally supports the recommendations including

removal of any regulatory overlap. More importantly the development of a single register would reduce duplication and save time and effort for both the food industry and Councils. A single register that is easy to use, open for access to accredited users and supported with appropriate framework to enable reporting to be produced for local Councils is recommended. The recently developed Swimming Pool Register is an example of a centralised system designed and established without consideration to future operation including reporting provisions for local government.

A standardised inspection template is also supported and encouraged. As with earlier comments Albury City supports the implementation of standard templates where they have been tested and developed in consultation with industry (including local government). Whilst a standardised template for food premises inspections is supported the next step of promoting and implementing a standard performance assessment system is not. The draft report refers to two systems used for food business performance assessment in NSW as the “Scores on Doors” and “Name and Shame” programs. While the “Name and Shame” program provides public access to a register of any food business that fails to meet the legislated food safety standards, Council is of the opinion that the “Scores on Doors” program should remain voluntary and not be made mandatory for all councils.

The “Scores on Doors” program is viewed by Council as a subjective process which is open to interpretation despite the scoring system being recently incorporated into the NSW Food Regulation Partnership, Food Premises Assessment Report sheets. It is considered that the implementation of a mandatory “Scores on Doors” system throughout NSW, at the expense of the “Name and Shame” program, would result in its own specific challenges, particularly in the smaller rural Shires with limited inspectorial resources, a close business community and a small number of food outlets.

The recently introduced Swimming Pools Act requirements are considered under Recommendation 26. AlburyCity generally supports the key actions recommended on this issue. The development of suitable resources and provision of training for Council staff should have been provided prior to the commencement of the new regulatory requirements. The government needs to ensure that adequate resources are provided to deliver on these recommendations. AlburyCity is one of the more proactive Councils in relation to swimming pools and we are still coming working through the demands of a long term program to inspect and assess swimming pools across our local government area.

The report also recommends that flying squads are formed to deal with backlogs. The report appears to acknowledge that there could be a significant impost on limited resources and therefore proposed that the flying squads or shared services arrangements could be used. The delay in the mandatory requirements for properties (those being sold or new leases) has eased some of the burden but this will only return in the future when these requirements are enacted.

The Office of Local Government is also suggesting that private certifiers could be utilised to take on some of the burden, this is not supported by local private certifiers who will not undertake this work based on the maximum fees imposed by the OLG. There is no mention in IPART’s report about

potential cost recovery and anecdotal advice from private certifiers is the fee is well below what they would charge as a minimum and therefore they will not seek to undertake the work. This is also supported by our initial random inspections under a local Council inspection program for swimming pools. Failure rates for swimming pools are high and regularly require detailed inspections, advice and consultation with owners and follow up inspections.

AlburyCity supports the development of a shared service arrangement and is currently working with the Upper Murray group of Councils to develop such a program. The program recognises the existing levels of expertise in AlburyCity due to our internal program developed prior to the new Act and long term desire to promote child safety in our community.

Recommendation 27 is supported but it is again highlighted that the recommendations are providing for actions that should have been in place prior to the rollout of the legislation. This would have saved significant resources for all Councils as well as provided a more consistent approach that would benefit industry and the community.

Recommendation 28 is particularly relevant to Urban Councils where waste dumping, site management and waste control are key issues. AlburyCity has not experienced significant issues with building and development waste in our local government area but would support the proposal for standard waste management requirements being included in the NSW Housing and NSW Industrial and Commercial Codes. A standardised approach would make it easier for industry, councils and the community to understand and appreciate the standards expected and regulated.

Recommendations 29 to 31 - Parking and road transport

AlburyCity has an existing full service agreement with the State Debt Recovery Office (SDRO) which provides a formal Review and Appeals process for any disputed Penalty Infringement Notice issued by council officers. Council would support the proposal for all Councils to use the services of the SDRO as a single point of reference for disputed Penalty Infringement Notices aimed at improving consistency between councils (recommendation 29). The review process conducted by the SDRO still requires investigation and review of local circumstances where a review is requested. Consideration of the SDRO's guidelines could be reviewed and used as a basis for preparation of responses to provide more consistency.

Recommendation 30 relates to the development of an updated standard agreement for regulating privately owned carparks. AlburyCity supports this approach and notes the report also recognises the need for local provisions. A reduction in time to prepare and execute these agreements will benefit all parties albeit the agreements tend to be long term and therefore there is a less frequent need to review and prepare new agreements.

Recommendation 31 encourages the provision of additional resources, both technical and physical to enable local government to deal with heavy vehicle access this is supported by AlburyCity. When we receive an application from a transport operator for us to consider access for their entire fleet of vehicles to our entire road network it is difficult to justify the scale of investigation necessary to make an informed decision on such a matter – hence our natural conservatism in doing so, and our tendency to limit approval of such applications to already-approved Restricted Access Vehicle (RAV) routes. In combination with educating the community on the benefits of permitting further heavy vehicle access, improving the capacity of Councils to make decisions as well as providing standard information and resources will strengthen capacity and ability to make these decisions.

Recommendation 32 to 36 - Companion animal management

Recommendation 32 proposing a change to the current Companion Animals register to enable a single step process is fully supported. The existing administrative burden, deterrents for authorised identifiers to enter information and delays in processing data all contribute to additional costs and obstacles to a more efficient system. The double handling of registration forms from third parties contributes to delays and also a lack of take-up in the system. A simpler process enabling additional parties to take on the burden of processing registrations is supported.

Recommendation 33 promoting an online register is also fully supported. However, any system needs to be appropriately designed and operated to ensure that data is accurate, reliable and accessible. There is no reason that a detailed authentic system for online registration and access to information for companion animals cannot be achieved. There needs to be a commitment from the government to provide the resources to develop systems to support the operation of the legislative framework. A central register is the most efficient system and therefore the Office of Local Government remains the most suitable and appropriate body to coordinate and operate. AlburyCity supports closer examination of the administration systems required to ensure the correct payment of fees, accurate recording of information for animals and formal identification of the owner to allow the application of penalties for legislative breaches and the pursuit of enforcement procedures for outstanding infringement notices.

Council is also aware that the NSW Companion Animals Task Force considered the development of a one-step identification and registration process which may have included a return to the annual registration procedures and subsequent payment of fees. While council appreciates the merit of a one-step companion animal identification and registration process, it does not support the return of the annual registration of companion animals. Council is of the opinion that any return to annual registration fees for companion animals would be counterproductive and have a negative effect on the already low rates for one-off life time registration fee that exists for companion animals in NSW. Improving access to registration details via an online portal will improve the ability for owners to update details and their records.

AlburyCity has previously developed its own Companion Animal Management Plan which includes specific strategies to promote responsible pet ownership through public education and information. Council also has its own Companion Animals Advisory Panel which represents animal welfare organisation, interested parties, Council, the RSPCA and veterinarians. A common discussion point within this Panel is the de-sexing of animals, any proposal for the Department of Local Government to play an active role in responsible pet ownership and animal de-sexing would be a positive step (recommendation 34).

Promotion of responsible pet ownership should not be restricted to the OLG website and especially for border communities and those outside the reach of centralised NSW media consideration must be given to alternate avenues for promotion and support. Albury and other communities in southern NSW (and alternatively in Northern and Western NSW) operate within a community of interest outside of mainstream NSW media, with a very heavy focus on Victoria in our case. Thus a centralised program based on metropolitan media in Sydney will achieve low levels of support and take up in our community. A more localised, targeted approach is recommended.

The proposed amendment of the companion animal registration form to include an owner's date of birth and other personal details such as their driver's license number is fully supported (recommendation 35). The ability to include these details on the animal registration form will reduce the number of outstanding infringement notices that have gone unpaid and presented for enforcement. Under the current system, the limited personal details recorded on the companion animal administration and the potential cost to pursue payment of the outstanding fines through debt collection or some other means, is considered uneconomical for councils. To resolve this issue, the proposal to include an animal owner's date of birth and driver's license number is imperative. This would also reduce the current number of outstanding animal infringement notices and increase the ability of councils or State Debt Recovery Office to identify and pursue enforcement procedures against offending animal owners.

Indexation of companion animal fees is supported (recommendation 36). The proposal to amend the Companion Animals Act to enable fees to be periodically indexed by CPI recognises increasing costs and relevance of fees to offset some of the costs of this service. This could provide additional revenue to be used for responsible pet ownership programs and community based campaigns. Companion animal management is a community service, it is not run as a profit making venture or service.

Recommendations 37 to 39 - Other areas

Recommendation 37 proposes amendments to the Roads Acts to enable longer term leases to be granted for footpath dining. This recommendation is supported on the premise that flexibility is retained in this regime. Different circumstances will dictate the need for varying terms for leases and this should be recognised and provided for on a local basis. Where a business seeks a 10 year lease to give some surety about investment and commitment this option should be available but not all locations or circumstances will require this.

AlburyCity does not object to the monitoring or reporting of processing times for Section 68 approvals as proposed in recommendation 38. Council encourages a proactive customer focused service; this includes a customer service guarantee aimed at processing Section 68 applications for onsite sewerage management systems within 5 business days (provided all information is supplied at the time of application). This approach requires a commitment from the organisation both in terms of resources but also culture and has been a long term focus of AlburyCity. It is recognised that annual performance reporting via the Department of Planning has resulted in improvements in the planning system. However it is also suggested that the monitoring must be used as an indicator to assist in improving performance with the support of OLG rather than a big stick to punish those who don't perform.

The proposal under recommendation 39 to issue longer-term development consents for recurrent local community events is supported. AlburyCity has adopted this approach for both community and commercial activities or events for a number of years. This has been well received and supported in our local community and assisted with the planning and running of local events. AlburyCity also has a strong and active events team that offers assistance to community groups and the private sector in planning for these events. This includes support and assistance with understanding and appreciating the approvals process, this definitely benefits all parties and reduces frustration and confusion for all concerned.

Conclusion

AlburyCity would like to thank IPART for the opportunity to consider the draft report on licencing and compliance for local government. Compliance and licencing is an integral part of the functions and services that local government offers and therefore any areas for improvement, efficiencies or removal of red tape will benefit our communities, industry and Council.

We encourage the NSW State Government to consider and commit to the recommendations as outlined in our discussion above and welcome the opportunity to be an active participant in the development and rollout of these improvements in the future.

If you would like to discuss any aspect of this submission further please contact Councils Director Planning and Environment, Mr Michael Keys, at your convenience.

Yours faithfully

Kevin Mack
Mayor