



Supplementary questions: Goldenfields Water County Council

1. Why would county councils be more vulnerable to privatisation, and what specific legislative protections against privatisation might a county council require?

Goldenfields Water appreciates the extension of time in which the committee has afforded it in order to adequately review this question. It is the intention of Goldenfields Water to provide the committee with an extensive response that may be used for the provision of reform of current legislation.

As detailed within our original submission, county councils are established under Chapter 12, Part 5 of the Local Government Act 1993 (LG Act). Relevantly, section 394 of the LG Act provides that the functions of a county council are set out in the proclamation establishing the county council, and that:

'A council (General Purpose Council) may not undertake a function conferred on a county council whose area of operations includes the whole or any part of the council's area, subject to the regulations or a proclamation made for the purposes of this Part.'

The process in which a county council could be transferred to a State-Owned Corporation (SOC), or be privatised, is a much simpler process than having to privatise the functions of water and sewerage services from a General Purpose council, simply because the services and functions of water and sewer have already been removed and are not tied with the general purpose functions (for example shared resources and financial systems). Therefore, a county council is at greater risk due to the simplicity that provides an easier process to transfer.

Specifically, the transition or transfer of a county councils' assets and functions is possible via two options:

1. privatisation of a county council is possible through the enactment by Parliament of enabling legislation, such as an amendment to the LG Act or a separate Act, in either case permitting the sale or disposition of a county council or its water supply undertaking to a third party, or
2. under the existing provisions of Part 5 of Chapter 12 of the LG Act, if a county council were to be dissolved by proclamation of the Governor, on the recommendation of the Minister and the proclamation vested a county councils' assets right and liabilities in the State, thereby effectively enabling a sale of the undertaking by the State to a third party,

In addition to this, county council's are a regional Authority for services that have been proven financially viable for operating a return on investment, this makes county council's a much more attractive acquisition to any private investor or the potential to become a SOC. Coupled with the ease of transfer mentioned above, Goldenfields Water believes the risk for county councils is greater than a general purpose council operation to be transitioned or transferred.

In terms of specific protections that Goldenfields Water would like to see in terms of protection against the removal of these services from Local Government operations, we provide the following response:

The only effective means of protecting county councils from privatisation, is for Parliament to either amend section 57 of the Constitution Act 1902 (NSW), to extend its application to county councils and their undertakings, or to amend the Constitution Act to insert an additional provision having a similar effect to section 57 so far as county councils and their undertakings are concerned.

Such an amendment to the Constitution Act would place GWCC and other county councils on an equivalent footing with Sydney Water Corporation and Hunter Water Corporation as far as protection from privatisation is concerned.

In addition to this and noting the ease in which a minister can make recommendation to the Governor to vest the asset right and liabilities to the State and thereby effectively enabling a sale of the undertaking by the State to a third party, Goldenfields Water strongly encourages an amendment to the Local Government Act.

Specifically and irrespective of whether the Constitution Act is amended, we strongly recommend that Part 5 of Chapter 12 of the LG Act be amended to prevent the Minister from recommending that the Governor makes a proclamation, and the Governor from making a proclamation, dissolving a county council for the purpose of facilitating the transfer or transition of a county councils asset and liabilities to the State and further sale to any third party/private undertaking.

2. If there were legislation to ban privatisation of local water utilities, what critical functions or operations would need to be protected (for example, ability to outsource to the private sector, ability for single counties or county councils to collaborate)?

Functions or systems of operation that would need to be protected would include but not be limited to, outsourcing of specific services and/or procurement of goods & services that a council may require specialisation, additional resourcing, or to gain an efficiency in operation for.

Any new legislation, must not hinder the ability for a council to seek partnerships with the private industry, such as through Private Public Partnerships that can see greater investment opportunities and see the delivery of larger scale projects that would otherwise not proceed due to capital and specialisation shortfall.

For example, large scale front of meter battery grid projects may require partnership with large energy providers to provide specialisation and investment support, where Councils can provide land and infrastructure investment.

An additional example of how Councils currently drive efficiencies through procurement of services is via the delivery of large-scale Design, Build & Operate (DBO) contract. This is relevant for the delivery of large water or sewage treatment facilities. The ability to include an operational component to Large CAPEX Projects, provides the councils the ability to minimise their upfront capital investment to accommodate costs over a period of time and to also upskill their internal resources alongside the technological specialists within the private sector, prior to taking back the assets and operations.

Remaining agile and flexible is critical for LWU operations in order to manage all external market risks.

3. Do you support a community service obligation (CSO) funding model for local water utilities? If so, why would this be preferable to other funding models?

Yes, Goldenfields Water does support a community service obligation model for operational support. As detailed within our original submission:

'LWU's with a low economy of scale are generally operating an essential service with limited options of recovering adequate funds or maintaining adequate resources, noting their remote and rural localities.

It is essential that these services be adequately funded as a Community Service Obligation (CSO) under, or similarly to how the existing Australian Government's Financial Assistance Grants (FAG's) are implemented.'

However, please note that Goldenfields County Council raises concerns that the current CSO funding model may only be limited to Public Non-Financial Corporations, State Owned Corporations and Public Financial Corporations in delivering these support services.

Goldenfields Water strongly believes that entities such as the NSW Water Directorate (who is already providing support from funding provided by all member LWU's), larger self-sufficient Local Water Utilities and Regional Water Authorities, such as County Council's are better placed to deliver support and expertise to rural utilities facing financial or resourcing hardship.

Any CSO funding model, should be re-defined to include the ability of these obligations being delivered from a local level to a local utility. The only obstruction to these entities delivering better support and resourcing to support other LWU's is, funding. A provision of funding under a CSO model will see a much more efficient and beneficial result to community services.

