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**CELEBRATING 10 YEARS
OF SUCCESSFUL COLLABORATION – 2003 - 2013**

**WBC STRATEGIC ALLIANCE
RESPONSE TO THE INDEPENDENT REVIEW PANEL
INTO LOCAL GOVERNMENT PAPER
“Twenty Essential Steps”**

June 2013



WBC Strategic Alliance Response to Independent Review Panel – June 2013

1

1 – INTRODUCTION:

The WBC Strategic Alliance has been proactive and participatory in the consultations over the last 12 months on the future of local government. We have provided detailed submissions to both the first and second round of consultations offered by the Independent Review Panel. The submissions outlined the history and success of the Alliance, and also **proposed a county council model for the delivery of shared services** as an option for regional collaboration into the future. (based on our research and experience having been a successful collaboration of 4 councils working together for 10 years)

This response focuses on the proposals **relating to county councils** outlined in the recently released Twenty Essential Steps paper from the panel. We believe this is a positive step forward in the future reshaping of local government in NSW. We have been a strong supporter and advocate for the benefits of collaboration for a long time and we have been working towards a new era for the WBC Alliance to build on the great trust, relationships and creativity that now exists between the member councils.

Unfortunately however a lot of Councils in our region have taken a dim view of county councils for the delivery of services. At recent meetings some described the discussions as “bordering on hysteria” against this model.

It is our view this is primarily due to 2 factors:

- Maintaining a status quo of independence, voluntary RoC's, Alliances and partnerships – resistance to change
- **Lack of understanding of how the “new look” County Council model could operate** - comparing how county councils currently operate as opposed to how they could/would operate in the future – the sad tales of failed electricity, abattoir and weeds councils is tainting creative and cooperative discussions about the future.

At the recent WBC Alliance Board meeting (5th June 2013) the Board revisited our 2nd submission and continue to support the concepts proposed for county councils.

The Alliance has a proven track record of collaboration that achieves real outcomes and savings for its members. The relationship between the Mayors, Councillors, General Managers and staff is mature, strong and trusting. The **Alliance is in a prime position to embark on a new model of operation in shared service delivery** which could be the pilot for the Central West Region and as a model for other regions.

We also have the platform for delivery - being Central Tablelands County Council (trading as Central Tablelands Water) - a strong member and supporter of this concept. A variation to their constitution, achievable within the current Act, and the county council could be established.

RESPONSE TO REPORT – TWENTY ESSENTIAL STESPS

The Alliance Board has reviewed and considered in detail the Twenty Steps report from the panel and we make the following comments relating to points raised in these papers:

1. **We do not support the proposal that the Regional City General Manager would also be the General Manager of the County Council nor do we support the proposal that the Mayor of the Regional City Council would also be the chair of the County Council.**

We believe this would create difficulties in the separation of power, the duality of being a “owner” of the service as well as a “customer” of the service, transparency, and perceived conflict of interest. If the county council is successful it will be generating income, providing a range of services, be actively involved at state and federal level on behalf of the region, and will be an employer. This is a full time position in itself – **not an “additional”** responsibility of the City Council General Manager who rightly needs to be running the city council.

We know from our own experience the governance, employment, financial, complexities of working as a voluntary alliance. The current voluntary RoC structure has the same challenges and risks. We have known for a long time that a separate legal entity is required for the delivery of shared services. It can't be seen as a part of a council. The leader of this type of organisation would also need **a different skill set** to the traditional general purpose general manager. The County Council needs to operate much more like a business,. With a regional focus. As such we strongly disagree that it could be shared role.

2. We do not support the idea that the County Council has to be located in the Regional Centre or indeed housed within the City Council.

For much the same reasons outlined in point 1 it is important to "separate" the regional city and the county council operations. We understand what the panel is suggesting when it says "*the panel does not wish to create unnecessary new bureaucracies*". However there is **great risk in not** separating the power and service provision elements of the county council from the city council. Member councils would rightly expect same level of service provision, and there is a high chance that over time, unless separated, the city council may take an uneven advantage from the services provided by the county council – perceived or real.

Trying to get a new model of shared service established will be a huge challenge in itself. Having the city council as the "leader/owner" of the county council will not be received well by the other member councils. Equally the city council may not want to take on this role for the region - they could argue they are entitled to greater service access because of their greater responsibilities to the region.

The concept model proposed by the Alliance is a somewhat decentralised model. A "head office" would be set up but there would be scope for the practitioners themselves being **located around the region** – on the ground, doing their work for their communities. For example, functions such as health and building, food shop inspections, ranger services, trade waste require practitioners to be "out with the customers". In this way local jobs can be preserved. Staff would have great flexibility in **where they live and work**. This would be an easier "sell" to councils and their staff than "you are all being moved to the regional centre"

3. We acknowledge the “Key Attributes of a Regional Centre” (page 35).

This will require a quantum shift in the attitude and relationship between larger city councils and their regional neighbours/councils. **Getting this relationship right** will be one of **the greatest challenges** moving forward. Councils traditionally (and as should be expected) have to conduct themselves in a manner that **brings the best value to their LGA**. In the proposed future they will now also have to think about what’s best for the wider region – very different thinking and strategy making.

“(they) need to be willing and able to see (their) roles in the context of (their)region – to commit resources to regional projectsto negotiate partnerships with neighbouring regions and councils.....to gain acceptance as a regional leader that can be trusted”.....

This is will require a significant change in attitude of the leaders (both elected and staff) of the councils trying to establish a shared entity through a county council. **We have worked on our relationship for 10 years** -it is a critical success factor to have a strong, trusting and open relationship with those you are partnering with.

4. We acknowledge the use of the term “new look” County Councils. However.....

.... if our region is typical of others the **use of the term “county councils” is misunderstood which is unfortunately damaging the conversation** we should be having about how we can work collaboratively in the region and in the sphere of shared service delivery. (regardless of the legal entity model)

In the Alliance model proposed in our 2nd submission we were **supportive of a county council** as our preferred mode of delivery. This was based on **our research** into the pro’s and con’s of different modes such as corporations, cooperatives, voluntary partnerships etc etc. Indeed our research work referenced to the academic research completed by *Oakerson, Dollery and Johnston, and Tomkinson (Conceptual basic for Shared Services 1999)* which identified **18 different modes for delivery of services**.

There needs to be opportunity to have a **balanced, unbiased and non-threatening conversation** about how county councils **COULD** work and not be so focussed on how they currently work. Their purpose, governance, funding, representation and decision making would need to be very different in the future models around shared service delivery.

We also acknowledge the panel's comments:

"the provisions of the Local Government Act relating to County Councils are very flexible and solutions can be tailored to different regional circumstances"

There has been some suggestion that the "rewrite" required of the Act to accommodate these "new look" county councils would be too difficult and time consuming. The Act is already under review, and the panel is aware that the provisions relating to county councils may need to be varied. We have also completed our **review on the legislation relevant to the concept model** we had proposed (see Appendix A) and we **do not anticipate that the changes required to enable the new look county councils would be overly complex.**

The establishment of any new "organisation" (corporation, cooperative or whatever model) will require a lot of work to develop agreements, terms of trading, deal with the requirements of corporation's laws, etc etc etc. This is not a reason not to proceed.

5. Functions of a County Council

We note the list of functions suggested on page 34. We also note the comment *"the functions of a county council to be tailored to the particular needs and circumstances of the region concerned."*

We seek to better understand the "defining factors for county councils" and specifically why **"at least 10 000 water connections"** is a factor - does this mean the new look county councils will be taking on water management and delivery? This is contributing to some of the fears/oppositions to the model.

One of the issues being voiced around our region is about the county council being **an asset owner**. The Alliance Shared Service Centre concept model has the county council as a **service provider only – not** an asset owner. It would provide a range of services to member councils on a fee for service basis. It would not raise revenue through rates but generate

income for fees for services (and initially through the funding of the member councils until it is financially independent in much the same way that RoC's and Alliances are currently funded)

It is a **critical success factor** that the county council established provides the services that the **members want and are willing to pay for**. There must be flexibility and it must be determined by the member councils.

6. Pace of Change- Establishing a Local Government Development Board.

The Alliance does not wish to comment on the suggested amalgamations outlined in the Twenty Essential Steps. However, we would comment on the potential **pace and quantum of change** that is facing local government.

The two major structural reforms being suggested are:

- Mergers/amalgamations
- Establishment of county councils as *"a joint entity to undertake selected functions"*

Both of these are transformational changes requiring a significant shift of culture, leadership, ownership, funding, planning, design etc. The logistics of just one of these options is significant let alone trying to tackle both at once. Imagine if you have councils either going through or ultimately facing amalgamation at the same time as trying to establish a shared entity that at its core will require councils to be cooperative, open, trusting and flexible.

In our 2nd submission the Alliance raised issues and suggestions around future change management. We reiterate our comments that whatever the final recommendations there is an acknowledgement that the pace and quantum of change **NEEDS TO BE CAREFULLY PLANNED AND MANAGED**.

We support the concept of the **LG Development Board** and reiterate our willingness to work cooperatively and participate in a pilot for the county council model.

We have observed first hand in our region the reaction to the Twenty Steps paper and that at this point we have not had a balanced conversation about the pro's and con's of county council models. It will be important with the next release of information that there are some guiding strategies for how and what we communicate, how and when we inform stakeholders and what support is provided to help Councils manage through transformational change.

It is so important that creative concepts don't get derailed because of incorrect information or fear mongering.

RECOMMENDATIONS:

We reiterate the recommendations made in our second response and:

1. That, the Alliance be **involved in further discussions** with the Division of Local Government and the Independent Panel to be involved in a pilot for the **development and implementation of a county council** for delivery of shared services using CTW as the platform.
2. That, **funding or support be provided** to the Alliance to progress the trial.
3. That County Council **DOES NOT have to be located in the regional city** and there is flexibility depending on the member councils service needs and locations where the head office is located and where staff work and live.
4. That the **General Manager of the Regional City Council IS NOT the General Manager** of the Regional County Council

5. That the **Mayor** of the regional City council IS NOT automatically the Chair of the County Council. The Chairman should be elected by the member councils as is currently the practice within county councils. However, the term of the Chairman could be longer than the current 12 month term to provide continuity and consistency
6. That along with other options in the Twenty Steps paper the Chairman and the General Manager of the County Council would need to have relevant qualifications and or experience and be able to show leadership and direction to a newly formed enterprise which is not like traditional local government

*Good ideas are not adopted automatically –
they must be driven into practices with courageous patience
(Admiral Rickover)*

*For more information about the **WBC Strategic Alliance** or to discuss this response in more detail please contact Donna Galvin, Executive Manager, WBC Strategic Alliance on 0419611204 or email to donna.galvin@cabonne.nsw.gov.au*

APPENDIX A: REVIEW OF COUNTY COUNCIL LEGISLATION

| COUNTY COUNCIL LEGISLATION UNDER LOCAL GOVERNMENT ACT 1993 | RESPONSE TO CHANGE |
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| <p>383 Proposal to establish or dissolve a county council or amend its constitution</p> <p>(1) A council, a county council, a public authority or the Director-General may make a proposal to the Minister to establish or dissolve a county council or to amend the constitution of a county council.</p> <p>(2) The Minister may propose to establish or dissolve a county council or to amend the constitution of a county council.</p> | <p>1) No change is required to this clause</p> <p>2) No change is required to this clause</p> |
| <p>384 Public notice to be given of a proposal</p> <p>The Minister must give at least 28 days' public notice of a proposal made to the Minister that the Minister decides to proceed with or of a proposal initiated by the Minister.</p> | <p>No change is required to this clause</p> |
| <p>385 Making of representations</p> <p>Within the period of public notice, representations concerning the proposal may be made to the Minister by anyone affected by the proposal.</p> | <p>No change is required to this clause</p> |
| <p>386 Minister's recommendation concerning the proposal</p> <p>After considering all representations received concerning the proposal, the Minister may recommend to the Governor that the proposal be implemented, with or without modifications, or may decline to recommend that the proposal be implemented.</p> | <p>No change is required to this clause</p> |
| <p>387 Formation of county councils</p> <p>(1) The Governor may, by proclamation, establish county councils for the purposes of this Act.</p> <p>(2) A proclamation under this section must contain the</p> | <p>1) No change is required to this clause</p> <p>2)a) No change is required to this clause</p> |

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| <p>following particulars:</p> <p>(a) the name of the county council,</p> <p>(b) a description of the county council's area of operations,</p> <p>(b1) the name of each council (referred to in this Part as a constituent council) whose area lies wholly or partly within the county council's area of operations,</p> <p>(c) the number of persons to be elected by each constituent council to the county council's governing body,</p> <p>(d) a description of the county council's functions.</p> <p>(3) A proclamation under this section conferring functions on a county council as to the control of noxious weeds on land is to be made only with the concurrence of the Minister administering the <u>Noxious Weeds Act 1993</u>.</p> <p>388 Legal status of county councils</p> <p>(1) A proclamation establishing a county council operates to constitute the county council as a body politic of the State with perpetual succession and the legal capacity and powers of an individual, both in and outside the State.</p> <p>(2) A county council is not a body corporate (including a corporation).</p> <p>(3) A county council does not have the status, privileges and immunities of the Crown (including the State and the Government of the State).</p> <p>(4) A law of the State applies to and in respect of a county council in the same way as it applies to and in respect of a body corporate (including a corporation).</p> | <p><i>b) The area of operation under the Act should allow a county council to compete against the private sector and therefore the boundaries of the county council should not restrict trade.</i></p> <p>B1) No change is required to this clause</p> <p>c) No change is required to this clause</p> <p>d) No change is required to this clause</p> <p>3) No change is required to this clause</p> <p>1) No change is required to this clause</p> <p>2) No change is required to this clause</p> <p>3) No change is required to this clause</p> <p>4) No change is required to this clause</p> <p><i>(Note: a county council should be able to return any profit to its constituent councils in the form of direct grants or funding towards community based projects)</i></p> |
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| 389 What is a county council's name? | |
| <p>The name of a county council is to be "X County Council", where "X" is the name specified by the proclamation.</p> | <p>No change is required to this clause</p> |
| 390 Who comprise the governing body? | |
| <p>(1) A county council must have a governing body elected by its constituent councils.</p> | <p>1) No change is required to this clause</p> |
| <p>(2) Provisions concerning the membership of a county council's governing body are to be as prescribed by the proclamation establishing the county council.</p> | <p>2) No change is required to this clause</p> <p>3) No change is required to this clause</p> |
| <p>(3) A member of a county council is to be elected from among the councillors of the constituent councils in accordance with the regulations.</p> | <p>(The member of the county council should be the Mayor of the constituent council to ensure strategic planning occurs across the region)</p> |
| <p>(4) The governing body of a county council is responsible for managing the affairs of the county council.</p> | <p>4) No change is required to this clause</p> |
| 391 The chairperson | |
| <p>(1) The chairperson of a county council is the person elected to the office of chairperson by the members of the county council from among their number.</p> | <p>1) No change is required to this clause</p> |
| <p>(2) The chairperson holds office for one year, subject to this Act.</p> | <p>2) The chair should hold office for two years to allow consistency in management of the organisation</p> |
| <p>(3) The office of chairperson:</p> | <p>3) No change is required to these clauses</p> |
| <p>(a) commences on the day the person elected to the office is declared to be so elected, and</p> | |
| <p>(b) becomes vacant when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.</p> | |
| 391A What are the functions of the chairperson? | |
| <p>The role of the chairperson of a county council is:</p> | |
| <p>(a) to preside at meetings of the county council, and</p> | <p>No change is required to these clauses</p> |
| <p>(b) to exercise such other functions of the county</p> | |

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| <p>council as the county council determines.</p> <p>392 Vacancy in office of member</p> <p>(1) A member of a county council vacates that office on ceasing to be a councillor of a constituent council.</p> <p>(2) This section does not limit the other circumstances in which a member of a county council vacates that office.</p> <p>393 Area of operations of county council</p> <p>The area of operations of a county council may, in accordance with a proclamation made for the purposes of this Part, comprise the whole or any part of one or more local government areas.</p> <p>394 Functions of county council</p> <p>(1) The functions of a county council may, in accordance with a proclamation made for the purposes of this Part, comprise any one or more of the functions of a council under this or any other Act.</p> <p>(2) A 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.</p> <p>(3) Subsection (2) does not prevent a council from exercising a function delegated to it by a county council.</p> <p>395 General manager of county council</p> <p>(1) A county council must employ a general manager.</p> | <p>No change is required to these clauses</p> <p>See Note above about ability to compete with private enterprise outside the prescribed area of the county council.</p> <p>1) No change is required to these clauses</p> <p>2) No change is required to this clause</p> <p>3) No change is required to this clause (A constituent council should be able to undertake the services provided by the county council where the staff member is engaged in other functions not undertaken by the county council in their employment. Eg a lone health and building surveyor. This would allow the constituent council to meet regulatory requirements and call on the county council to provide supplementary services for such a role).</p> <p>1) No change is required to this clause</p> |
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| <p>(2) The general manager of a county council has the same functions in relation to the county council as the general manager of a council has in relation to the council.</p> | <p>2) No change is required to this clause</p> |
| <p>396 How often does a county council meet?</p> <p>A county council is required to meet at least 4 times each year.</p> | <p>No change is required to this clause</p> |
| <p>397 Amendment and dissolution of county councils</p> <p>(1) The Governor may, by proclamation, amend or revoke a proclamation in force under section 387 for the purpose of amending the constitution of, or of dissolving, a county council.</p> <p>(2) A proclamation for the purpose of amending the constitution of a county council:</p> <p>(a) may change the name of the county council, or</p> <p>(b) may vary the county council's area of operations, or</p> <p>(c) may vary the number of persons who comprise the county council's governing body, or</p> <p>(c1) may vary the number of persons to be elected by each constituent council to the county council's governing body, or</p> <p>(d) may vary the county council's functions.</p> | <p>No change is required to these clauses</p> |
| <p>398 Facilitating provisions of proclamations</p> <p>A proclamation of the Governor for the purposes of this Part may include provisions of the same kind as are referred to in section 213.</p> | <p>No change is required to this clause</p> |
| <p>399 Making of financial contributions by constituent councils</p> <p>The regulations may make provision for or with respect to the making of financial contributions to a county council by the constituent councils, including the following:</p> | |

WBC Strategic Alliance Response to Independent Review Panel –June 2013

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| <p>or do any other things that are necessary or appropriate to any of its works to ensure that, in the opinion of the council, the works are used in an efficient manner for the purposes for which the works were installed.</p> <p>(3) The provisions of this section have effect despite anything contained in section 42 of the <u>Real Property Act 1900</u>.</p> | |
| Local Government Act – Regulations 2005 | |
| <p>Division 8 County councils</p> <p>218 Application of planning and reporting provisions to county councils</p> <p>Part 2 (Strategic planning) of Chapter 13 of the Act applies to county councils with the following exceptions and modifications:</p> <p>(a) section 402 (Community strategic plan) does not apply to county councils,</p> <p>(b) each county council is required to have a business activity strategic plan as provided by clause 219,</p> <p>(c) a reference in a provision of that Part to a community strategic plan is (in the application of the provision to and in respect of a county council) to be read as a reference to a business activity strategic plan.</p> <p>219 Business activity strategic plan of county council</p> <p>(1) A business activity strategic plan is a plan developed and endorsed by a county council that:</p> <p>(a) identifies the main business activity priorities of the council covering a period of at least 10 years from when the plan is endorsed, and</p> <p>(b) establishes strategic objectives together with strategies for achieving those objectives, and</p> <p>(c) has been developed having due regard to the community strategic plans of the county council's constituent councils and in consultation with those</p> | <p>No change is required to these clauses</p> <p>No change is required to these clauses</p> |

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| <p>councils.</p> <p>(2) Following an ordinary election of councillors for the constituent councils of a county council, the county council must review the business activity strategic plan before 30 June following the election. The council may endorse the existing plan, endorse amendments to the existing plan or develop and endorse a new business activity strategic plan, as appropriate to ensure that the council has a business activity strategic plan covering at least the next 10 years.</p> <p>(3) Within 28 days after a business activity strategic plan is endorsed, the council must post a copy of the plan on the council's website and provide a copy to the Director-General. A copy of a business activity strategic plan may be provided to the Director-General by notifying the Minister of the appropriate URL link to access the plan on the council's website.</p> | |
| <p>Division 12Mayors, county councils and referendums</p> <p>395 Election of chairpersons of county councils</p> <p>The chairperson of a county council is to be elected in accordance with Schedule 8.</p> <p>396 Election of members of county councils</p> <p>Schedule 9 applies in relation to the election of the members of a county council.</p> <p>397 Constitutional referendums and council polls</p> <p>This Part applies with such modifications as may be necessary, including the modifications in Schedule 10, to the taking of constitutional referendums and council polls for the purposes of Part 3 of Chapter 4 of the Act in the same way as they apply to an election.</p> | <p>No change is required to these clauses</p> <p>No change is required to these clauses</p> <p>No change is required to these clauses</p> |
| <p>Schedule 8Election of chairpersons of county councils(Clause 395)</p> <p>Part 1Preliminary</p> | <p>No change is required to these</p> |

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| <p>1 When election to be held</p> <p>(1) An election for chairperson of a county council is to be held:</p> <p>(a) at the first meeting of the county council after an ordinary election of members of the county council, and</p> <p>(b) at the first meeting of the county council after each anniversary of that ordinary election until the next ordinary election of members of the county council is held.</p> <p>(2) In subclause (1) (a), <i>ordinary election of members of the county council</i> does not include an election held in accordance with clause 1 (2) of Schedule 9 to this Regulation:</p> <p>(a) after the first election of councillors for a newly amalgamated area that is:</p> <p>(i) held in accordance with a proclamation made for the purposes of Division 2A of Part 1 of Chapter 9 of the Act, and</p> <p>(ii) taken by that proclamation to be an ordinary election of councillors, or</p> <p>(b) after an ordinary election of councillors for an area that has been postponed in accordance with the provisions of Part 6A of Chapter 10 of the Act.</p> | <p>clauses</p> |
| <p>Schedule 9 Election of members of county councils (Clause 396)</p> <p>Part 1 General</p> <p>1 When elections to be held</p> <p>(1) The first ordinary election of members of a county council is to be held within 2 months of its establishment.</p> <p>(2) Subsequent ordinary elections are to be held within 2 months after each ordinary election of councillors under Part 4 of Chapter 10 of the Act.</p> | <p>No change is required to these clauses</p> |

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| <p>(3) A by-election to fill an office vacated by a member is to be held within 2 months after the occurrence of the vacancy.</p> <p>(4) No such by-election is to be held if the vacancy occurs after an ordinary election of councillors under Chapter 10 of the Act and before an ordinary election of members of a county council</p> | |
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