



Parliament of the Commonwealth of Australia

**The Albury-Wodonga Development
Amendment Bill 1999**

**Report of the
Senate Rural and Regional Affairs
and Transport Legislation Committee**

April 2000

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CHAPTER ONE

THE ALBURY-WODONGA DEVELOPMENT AMENDMENT BILL 1999

Background

1.1 On 8 March 2000, the Senate referred the Albury-Wodonga Development Amendment Bill 1999 to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 4 April 2000. The Committee was asked to examine the timing of the legislative provisions for closing the Albury-Wodonga Development Corporation (AWDC), and to review the delivery of the original objectives of the Commission.

1.2 The Committee held a public hearing in Canberra on Thursday 30 March 2000 at which it heard from representatives of the Department of Transport and Regional Services, the Albury City Council, the Regional City of Wodonga Shire Council, the Hume Shire Council, the Albury-Wodonga Development Corporation and the "Save Our City" group. A list of witnesses and written submissions is at Appendix 1.

Purpose of the Bill

1.3 The Albury-Wodonga Development Amendment Bill 1999 currently before the Parliament:

- a) Amends the *Albury Wodonga Development Act 1973* to simplify the structure and streamline the functions of AWDC, in preparation for its abolition. The Albury-Wodonga Area Development Agreement will be replaced by the Albury-Wodonga Area Development Winding-up Agreement.
- b) Repeals the *Albury-Wodonga Development (Financial Assistance) Act 1973*. Under this Act, the Commonwealth provided funding for land acquisition under the Albury-Wodonga Area Development Agreement.

1.4 The bill operates in conjunction with similar legislation in the NSW and Victorian Parliaments abolishing the Albury-Wodonga (NSW) Corporation and the Albury-Wodonga (Victoria) Corporation. These corporations previously operated alongside AWDC. Their assets, rights and liabilities will be transferred to AWDC, subject to the approval of the Commonwealth Minister, the Hon Ian Macdonald. AWDC will then become solely responsible for the disposal of remaining assets.

1.5 Advice from the NSW and Victorian Governments is that they are awaiting the passage of the Albury-Wodonga Development Amendment Bill 1999 through the

Commonwealth Parliament before they introduce into their state parliaments repeal legislation relating to their respective state corporations.¹

1.6 The Bill includes a one-off payment of \$3.8 million by AWDC to Victoria after the Commonwealth and States' legislation is passed. This payment returns to the Victorian Government the initial equity it invested in AWDC. No such payment is due to NSW because of the different nature of its initial investment in AWDC.²

The Changing Objectives of AWDC since 1973

1.7 On 23 October 1973, the then Prime Minister, the Hon Gough Whitlam, and the then NSW and Victorian Premiers jointly signed the Albury-Wodonga Area Development Agreement to promote Albury-Wodonga as a national growth centre. The intention behind the agreement was to build up the population of Albury-Wodonga to 300,000 by the year 2000. In 1978, this target was revised to 150,000.³

1.8 To implement the Albury-Wodonga Area Development Agreement, the Commonwealth Government passed the *Albury-Wodonga Development Act 1973*, which came into effect on 23 December. The Act established AWDC to promote the development of Albury-Wodonga. Victoria and NSW passed similar legislation establishing the Albury-Wodonga (Victoria) Corporation and the Albury-Wodonga (NSW) Corporation to operate in conjunction with AWDC.⁴

1.9 The Albury-Wodonga Ministerial Council, comprising the Commonwealth, NSW and Victorian Ministers with regional development responsibilities, was established on 30 May 1974 to oversee and provide direction to the three corporations, and the development of the scheme in general.⁵

1.10 As originally implemented, the role of AWDC in Albury-Wodonga included city planning and construction, establishment of areas for business and trading, settlement of immigrants, and managing Commonwealth accommodation and services. Accordingly, the Albury City Council and Hume Shire Council ceded all planning responsibility and jurisdiction to AWDC. Significantly, however, the Regional City of Wodonga Shire Council maintained joint planning control with AWDC for several years after AWDC's inception.

1.11 During 1989/90, the Albury-Wodonga Ministerial Council conducted a major review of the operation of AWDC which resulted in a number of significant structural and operational changes. In particular, AWDC was directed to transfer planning

1 Submission 1, p 3

2 Evidence, RRAT, 30 March 2000, p 6

3 Submission 3, p 2

4 Submission 1, p 2

5 Submission 1, p 2

powers back to local councils, which it did in February 1992.⁶ Following a transition period, AWDC's role became essentially one of property management.⁷

1.12 In addition, under the *Albury-Wodonga Development Amendment Act 1991* and associated administrative changes, AWDC was henceforth required to make financial returns to the Commonwealth through development and marketing of its land holdings. The population target for Albury-Wodonga in 2000 was again revised down, this time to 106,000 based on trend population growth. The current population of Albury-Wodonga and surrounding regions is 96,000.⁸

1.13 In 1995, the Ministerial Council decided to wind up AWDC entirely, and directed that AWDC should dispose of all its land and assets in an orderly manner so as not to distort the market. The responsible Commonwealth minister at the time was the Hon Brian Howe MP. This decision was reaffirmed at a subsequent meeting of the Ministerial Council in 1997.⁹

1.14 Since 1997, AWDC has progressively been selling off many of its assets, including commercial and residential real estate. In order to protect real estate values in the region, this sell off has been subject to minimum prices set by the respective state Valuers-General.

Issues Relating to the Historical Operation of AWDC

1.15 It was put to the Committee at the public hearing that Wodonga has benefited more than Albury from the Commonwealth's investment in the region through AWDC. This position is based upon two factors:

- a) prior to 1993, AWDC imposed more restrictive planning controls on Albury than it did on Wodonga in order to promote the development of Wodonga above that of Albury; and
- b) AWDC has not paid rates to NSW councils (the Albury City Council and Hume Shire Council) since 1973, but at the same time has made ex-gratia payments in lieu of rates to the Regional City of Wodonga Shire Council.

1.16 These two issues are addressed below.

Planning Controls

1.17 As indicated, prior to November 1992, responsibility for planning control was ceded by the local councils to AWDC. In its written submission, the Albury City Council argued that this ceding of responsibility had disadvantaged Albury because

6 Submission 3, Attachment D

7 Submission 3, p 2

8 Evidence, RRAT, 30 March 2000, p 8

9 Submission 1, p 2

AWDC had promoted the development of Wodonga and Thurgoona at the expense of Albury. Thurgoona is a satellite township outside Albury.¹⁰

1.18 In promoting the development of Wodonga and Thurgoona, AWDC was following the direction of the Albury-Wodonga Ministerial Council which indicated in a communique following its 21 September 1977 meeting that:

Development initially would concentrate around Thurgoona and Wodonga with the commencement of significant development at Baranduda not expected for several years unless a major employer sought to locate there earlier.¹¹

1.19 The Albury City Council argued in its written submission that AWDC virtually froze the sub-division of land within the Albury City Council boundaries as a result of this directive. A study undertaken by the council in the late 1980s indicated that within the 103 square kilometre boundary of the Albury City Council, there were only 4 or 5 readily available housing blocks for development. Only subsequently did the Albury-Wodonga Ministerial Council direct that 800 additional blocks of land be released in west Albury.¹²

1.20 Furthermore, the Albury City Council also indicated that it was required to develop water and sewerage infrastructure to service Thurgoona far in excess of what would have been required had the growth of Thurgoona not been promoted by AWDC. The Council submitted that this infrastructure is still under-utilised due to the slower than originally anticipated growth of Thurgoona.¹³

1.21 By contrast, the Mayor of the Regional City of Wodonga Shire Council, Mr Crapp, presented evidence that AWDC has had a significant impact on the growth of Wodonga. The population of Wodonga has grown by 3,000 in the past 3 years, making Wodonga the fastest growing city in Victoria. As Mr Crapp put it:

Our story is quite the opposite of the City of Albury, because we have had a long and happy relationship with the Albury-Wodonga Development Corporation over the period of 25 years.¹⁴

1.22 The Committee notes that since the return of planning control to the Albury City Council in February 1992, the Council has been successful in promoting the

10 Submission 3, pp 4-5

11 Communique from the Albury-Wodonga Ministerial Council following its meeting on 21 September 1977.

12 Submission 3, p 8

13 Submission 3, p 5

14 Evidence, RRAT, 30 March 2000, p 14

growth of Albury through ventures such as the residential developments at Norris Park and Pemberton Park in West Albury.¹⁵

Non-Payment of Rates

1.23 On 14 August 1975, the Albury-Wodonga Ministerial Council adopted the following resolution:

In accordance with policy already agreed by the Ministerial Council at a meeting in Melbourne on 13 September 1973, the Ministers agreed to authorise the Development Corporation and State Corporations to make ex-gratia payment to Councils in recognition of, and where it is established, that council's reserve has been reduced by the transfer of ownership to the Corporation.¹⁶

1.24 At the time, the Victorian Minister for State Development, Decentralisation and Tourism agreed that AWDC should make ex-gratia payment in lieu of rates in Victoria. However, by contrast with Victoria, the responsible NSW minister indicated in January 1977 that AWDC should not make ex-gratia payments in lieu of rates in NSW. Rather, councils were instructed to make a special request to the NSW Minister for Local Government for additional funding should they suffer a short-term loss of revenue.¹⁷

1.25 In its written submission, the Hume Shire Council indicated that it has applied repeatedly to successive NSW State Governments for compensation in lieu of foregone rates, and annually to AWDC for payment of rates. On each occasion it has been unsuccessful. The Council estimates that since 1993, it has forgone rates of \$110,991, although this estimate is not adjusted for inflation or interest payments.¹⁸

1.26 Similarly, the Albury City Council noted in its written submission that it has also applied to the NSW government on many occasions for recompense for lost rates, also without success. The council estimates that it has foregone revenue of \$9.85 million since 1973.¹⁹ In hearings, it was suggested by Mr Langford, Mayor of Albury City Council, that services and rates on AWDC land in the Albury Shire are subsidised by other Albury rate payers by between \$200,000 to \$300,000 a year.²⁰

1.27 The Committee also received estimates from Mr Hayes of the Virtual Consulting Group of the revenue forgone by the Albury City Council since 1976. Mr Hayes calculated the total foregone revenue in current dollars at \$14,323,658, which

15 Submission 3, p 8. See also evidence, RRAT, 30 March 2000, p 28

16 Submission 3, Attachment A

17 Submission 2, p 6

18 Submission 4, p 2

19 Submission 3, p 4

20 Evidence, RRAT, 30 March 2000, p 9

translates to \$25,307,325 adjusting for inflation.²¹ Additional details on Mr Hayes' calculations are provided in Appendix 2.

1.28 Given the foregone rates on AWDC land in NSW, Mr Hayes indicated that council rates in Albury are higher than in Wodonga, and the second highest of non-metropolitan local government in NSW. Accordingly, he argued that while assisting in the development of the region, AWDC had imposed additional costs on Albury, and deprived it of revenues that it would otherwise have enjoyed.²² The Committee notes that this equally applies to the Hume Shire Council.

1.29 Given this perceived inequity, it was argued by various parties in hearings that the Albury-Wodonga Development Amendment Bill 1999 should require the repayment of foregone rates to the Albury City Council and Hume Shire Council, at least since February 1992. As indicated, at that time AWDC ceased to have a planning role in Albury-Wodonga, and became effectively a property owner and manager in the region.²³

1.30 The Committee is aware that with the abolition of the state corporations and the transfer of their assets to the Commonwealth, responsibility for the payment of rates passes to the Commonwealth.²⁴ The Committee also notes that the CEO of AWDC, Mr Dennis, indicated that he would prefer if rates were payed to councils in NSW, so that money was returned to the area rather than being repatriated from Albury-Wodonga to the Commonwealth.²⁵

Issues Relating to the Future Operation of AWDC

1.31 As indicated, there has been some resentment at the differential impact of AWDC upon Albury and Wodonga. Accordingly, the progressive wind-up of AWDC by the Albury-Wodonga Development Amendment Bill 1999 was supported during hearings as a step towards reconciliation between the Albury, Hume and Wodonga councils and communities. As stated by the Mayor of the Albury City Council, Mr Langford:

I think we are halfway there to reconciliation, if I can use that word, with the corporation, and I think given the way the bill is worded, it will help.²⁶

1.32 Three issues relating to the wind-up of AWDC were raised with the Committee: the sale of AWDC's land bank, and its impact on local land prices; the return of revenue to the Commonwealth, and alternatives for its reinvestment in

21 Submission 2, p 7

22 Submission 2, p 6

23 Evidence, RRAT, 30 March 2000, p 26

24 Evidence, RRAT, 30 March 2000, p 7 & 38

25 Evidence, RRAT, 30 March 2000, p 19

26 Evidence, RRAT, 30 March 2000, p 10

Albury-Wodonga; and the future composition of AWDC's board. These three issues are addressed below.

The Disposal of AWDC's Assets

1.33 The CEO of AWDC, Mr Dennis, estimated in hearings that the corporation has sold around two-thirds of its original land assets since the decision was taken in 1995 for AWDC to be wound-up. Presently there remains around 5,000 hectares to be sold in the Wodonga shire and 3,000 in the Albury and Hume shires. At the rate of sale of 1,200 to 1,500 hectares per year, this is expected to take seven to ten years.²⁷

1.34 In deciding whether to release land, Mr Dennis indicated that AWDC takes account of several factors, including market conditions in Melbourne and Sydney, and what the market has been doing in Albury-Wodonga over the past year. Recently, both the Olympic Games and the GST have had a significant effect on the Albury-Wodonga market. As noted previously, following a decision to release land, prices are never set below the benchmark recommended by the state Valuers-General.²⁸

1.35 In its written submission, the Albury City Council noted concern in the community that AWDC may divest itself of its remaining assets in Albury-Wodonga in a disorderly or "fire sale" manner, thereby adversely affecting land values.²⁹ As stated by the Mayor of Albury City Council, Mr Langford, in hearings:

I am voicing the concern that is out in the community. Having been on the corporation board, I respect the people there and I respect their integrity. I am voicing a fear out in the community ...³⁰

1.36 During hearings, the Committee took evidence from Mr Stean, a member of the Real Estate Institute of NSW and a real estate agent in Albury for around 28 years. Mr Stean stated that in the past 10 to 12 years, the development of West Albury has been very rapid, mirroring the development of West Wodonga that began up to 15 years earlier. Accordingly, he advised the Committee that:

I do not have a problem with the way the Corporation has been going about its disposal of the land over the last, say, 10 years because truly it gives everybody the opportunity.³¹

1.37 Similarly, the Mayor of the Regional City of Wodonga Shire Council, Mr Crapp, did not express concern at the disposal of AWDC's land bank. Mr Crapp indicated to the Committee that demand for land in Wodonga was very strong, noting

27 Evidence, RRAT, 30 March 2000, p 19

28 Evidence, RRAT, 30 March 2000, pp 19-20

29 Submission 3, p 7

30 Evidence, RRAT, 30 March 2000, p 11

31 Evidence, RRAT, 30 March 2000, p 28

that prospective buyers will often camp overnight in order to bid for released land, and that 90 to 95 per cent of land is sold on the day of its release.³²

The Return of Commonwealth Revenue

1.38 Between 1975 and 1985, the Commonwealth contributed \$120.5 million in funding to AWDC out of consolidated revenue. As the Albury-Wodonga Development Amendment Bill 1999 currently stands, the proceeds of the sale of land in Albury-Wodonga, predicted to be in the order of \$12-15 million in 2000/2001 alone, will be returned to consolidated revenue.³³

1.39 At 30 June 1999, the total current assets of AWDC were estimated at \$122.8 million. This estimate is from the 1999 Annual Report of AWDC, which indicates that the corporation held assets of \$138.4 million as at 30 June 1999, of which it was liable to pay \$14.9 million. A majority of this liability (\$10.2 million) was a dividend discharged to the Commonwealth in 1999/00, bringing to \$72.2 million the total capital returned to the Commonwealth since 1988/89.³⁴

1.40 Mr Crapp acknowledged in hearings that the original investment of the Commonwealth should be reimbursed. However, were this not to happen, he noted that the City of Wodonga had many other projects that could be undertaken:

The position of the city of Wodonga with regard to the revenue that is raised from the sale of the bank of land is that that money originally came from consolidated revenue. ... However, if there were a change of heart by the Commonwealth Government with regard to that funding, then I would simply say that the City of Wodonga would have a substantial number of projects that would provide substantial benefits to the people of Australia in the future ...³⁵

1.41 The “Save Our City” group also advocated that the Commonwealth reinvest some capital in Albury-Wodonga. In his written submission to the inquiry, Mr Hayes indicated that since repayments began in 1989, AWDC has paid \$36.1 million in interest on the Commonwealth’s \$120.5 million investment in Albury-Wodonga. In addition, Mr Hayes indicated that AWDC has \$38.4 million in reserve for future interest repayments.³⁶

1.42 The “Save Our City” group argued that the Albury-Wodonga Development Amendment Bill 1999 should be altered to reinvest this \$38.4 million back into Albury-Wodonga. In support, it was argued that the value of land held by AWDC continues to increase, thereby guaranteeing the Commonwealth a return on its capital.

32 Evidence, RRAT, 30 March 2000, p 16

33 Evidence, RRAT, 30 March 2000, p 21

34 AWDC Annual Report 1999, p 32

35 Evidence, RRAT, 30 March 2000, p 15

36 Submission 2, pp 8-10

By reinvesting the \$38.4 million, the “Save Our City” group argued that AWDC could fund a second road link across the Murray, probably between the growth areas of West Albury and West Wodonga, and thereby obviate the need to route the proposed Hume Highway by-pass through Albury-Wodonga.³⁷

1.43 Currently, it is proposed that a second road link across the Murray be provided at no additional cost to AWDC by routing the Hume Highway by-pass through the city. This is despite the claim by “Save Our City” that 75 per cent of residents favour an external by-pass. The “Save Our City” group also indicated that the proposed internal by-pass is 5 kilometres longer than the alternative external by-pass.³⁸

1.44 The Committee notes that there is a range of alternative revenue streams to fund additional infrastructure projects in Albury-Wodonga. The reimbursement of foregone rates to the Albury and Hume Shire Councils would provide a significant capital injection into the region. The Committee also notes that AWDC has provided \$1.75 million for current development of the road link to Baranduda. This funding could be seen as setting a precedent whereby AWDC may reinvest some of its revenue from land sale in infrastructure upgrades which deal with the corporation’s asset base.

Composition of AWDC’s Board

1.45 Clause 24 of the Albury-Wodonga Development Amendment Bill 1999 changes the composition of AWDC’s board by removing the Albury and Wodonga representatives and the two deputy chairpersons. As a result, the board will consist of a Chairperson, two other members and a Chief Executive Officer. In addition, Clause 25 enforces new eligibility criteria for the Chairperson and appointed members of AWDC, based upon knowledge and understanding of the issues related to the development of the Albury-Wodonga region.

1.46 The change in the composition of AWDC’s board was raised during hearings. However it was generally agreed that the provisions under Clause 25 are sufficient to ensure that members of the board have a good knowledge and understanding of the region. The Mayor of the Albury City Council, Mr Langford, indicated that he did not believe that appointed members should necessarily be from the councils, given that people come and go from local councils.³⁹

37 Evidence, RRAT, 30 March 2000, p 27

38 Evidence, RRAT, 30 March 2000, p 25

39 Evidence, RRAT, 30 March 2000, p 12

Committee Recommendations

Recommendation 1

1.47 The Committee recommends that the Albury-Wodonga Development Amendment Bill 1999 be passed.

Recommendation 2

1.48 The Committee, recognising the inequity that has existed since the establishment of the AWDC (NSW), AWDC (Victoria) and Commonwealth AWDC by the ex-gratia payment of rates to local government authorities in Victoria, but no similar treatment for the Albury City Council and Hume Shire Council in New South Wales, recommends:

- a) that the responsible NSW Minister consider ex-gratia payments equivalent to rates on AWDC (NSW) Land since 1992;
- b) that, once the Commonwealth's amending legislation commences and the land assets pass to the Commonwealth, the Commonwealth address this inequitable treatment of local government authorities by instituting ex-gratia payments equivalent to rates for Corporation land in both NSW and Victoria.

Recommendation 3

1.49 The Committee notes that the AWDC held assets of \$138.4 million as at 30 June 1999, the sale of which will continue over the next 10 years. Accordingly, the Committee recommends that the Commonwealth consider the reinvestment of interest repayments by AWDC to the Commonwealth into infrastructure projects in Albury-Wodonga.

Senator Winston Crane
Chairman

APPENDIX ONE

SUBMISSIONS AND WITNESSES

List of Submissions

- 1 Department of Transport and Regional Services
- 2 “Save Our City”
- 3 City of Albury
- 4 Hume Shire Council

List of Witnesses

The Department of Transport and Regional Services

Ms Trudi Meakins, AS, Regional Development and Communications Branch

Mr Simon Murnane, Former Director Regional Policy,
Regional Development and Communications Branch

Mr Simon Richmond, Assistant Director Legal Services,
Territories and Regional Support Division

The Albury City Council

Mr Les Langford, Mayor

Mr Brian McLennan, Manager City Services

The Regional City of Wodonga Shire Council

Mr Graham Crapp, Mayor

The Albury-Wodonga Development Corporation

Mr Ron Dennis, CEO

“Save Our City”

Mr Tom Jensen, Vice-President

Mr Greg Hayes, Principal, The Virtual Consulting Group

Mr Geoff Stean, Director, Stean Nichols Real Estate Albury

The Hume Shire Council

Mr Garry Arnold, General Manager

APPENDIX TWO

MR HAYES' ESTIMATE OF OUTSTANDING RATES OWED TO ALBURY CITY COUNCIL

1.1 Mr Hayes cited two estimates of the rates that have been withheld from Albury City Council by AWDC. In 1976, the Albury City Council estimated that the rate revenue lost to it by virtue of land being acquired by AWDC was \$54,286. On February 10, 2000, the Director of City Administration provided information that indicates that the value of AWDC properties that were valued but not rated was \$21.23 million and that the rates which would have been payable on this land totalled \$412,905 for 1995/96 and \$427,587 in 1996/97.

1.2 Using these estimates, Mr Hayes prepared a schedule to calculate the rates foregone each year from 1976 to 2000 (see Table 1 below). As indicated by the table, Mr Hayes calculated that the Albury City Council had foregone \$5,542,198 between 1976 and 2000. This translates to a figure of \$14,323,658 based on a compound interest over the period of 10 per cent. In turn, adjusting this figure for inflation, Mt Hayes estimated the real value of rates foregone by the Albury City Council from 1976 to 2000 in current dollars at \$25,307,325.

1.3 Furthermore, Mr Hayes argued that the investment of foregone rates in the local region would have had a compounding economic effect. An analysis conducted by the Centre for Agriculture and Regional and Economic Development in Armidale indicated that the multiplier from the injection of the lost rates into the regional economy would have been at least 1.9 times the rates foregone.

Table 1: Estimate of Rates Foregone by the Albury City Council

Year	Dollars	Nominal Value in 2000 Dollars assuming 10% annual growth	Deflator (CPI)	Real Value in 2000 Dollars adjusting for inflation
1976	54,286	534,703	4.003953	2,104,924
1977	60,393	540,779	3.517361	1,902,114
1978	67,187	546,924	3.205696	1,753,272
1979	74,746	553,139	2.961988	1,638,391
1980	83,155	559,425	2.687003	1,503,176
1981	92,510	565,782	2.458738	1,391,109
1982	102,917	572,211	2.226374	1,273,956
1983	114,495	578,714	1.998028	1,156,286
1984	127,376	585,290	1.872458	1,095,931
1985	141,706	591,941	1.796099	1,063,185
1986	157,648	598,667	1.655229	990,932
1987	175,383	605,470	1.514200	916,804
1988	195,114	612,351	1.410864	863,943
1989	217,064	619,309	1.315584	814,754
1990	241,484	626,347	1.217548	762,608
1991	268,651	633,465	1.156393	732,534
1992	298,874	640,663	1.134378	726,754
1993	332,497	647,943	1.123060	727,679
1994	369,903	655,306	1.103486	723,121
1995	411,517	662,753	1.069694	708,943
1996	402,876	589,850	1.026342	605,388
1997	394,415	524,967	1.013000	531,791
1998	386,000	467,060	1.013000	473,132
1999	386,000	424,600	1.000000	424,600
2000	386,000	386,000	1.000000	386,000
Total	5,542,198	14,323,658		25,307,325

