

Australia's Foreign Relations
(State and Territory Arrangements) Bill 2020
and Australia's Foreign Relations
(State and Territory Arrangements)
(Consequential Amendments) Bill 2020

Submission to Senate
Foreign Affairs, Defence and
Trade Legislation Committee Inquiry

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Executive Summary

The [Connected Cities Lab](#) at the University of Melbourne is a research unit focused on the international dimensions of city leadership and has conducted significant research on the international engagement of local governments, both in Australia and globally. Given this expertise we welcome the opportunity to provide input to the Committee regarding this proposed legislation.

We have some major concerns regarding the legislation as it is current presented which are summarised below and expanded upon within this submission.

1. The intent of the legislation is at odds with global trends toward 'city diplomacy' and will negatively impact the momentum local governments in Australia have in engaging internationally in ways that bring tangible social and economic benefits to the country.
2. The legislation is at odds with trends amongst our key allies to harness the value of subnational diplomacy, for example the bi-partisan 'City and State Diplomacy Act' which has been introduced into the United States Congress.
3. The legislation further complicates the relationship between local and Commonwealth government that has already been de-institutionalised by the elimination of COAG, creating further incentive for bypassing state and Commonwealth policy, rather than driving toward greater collaboration and coordination.
4. The scope of arrangements included in the legislation is unnecessarily broad and will create significant burden for the Department of Foreign Affairs and Trade to review thousands of subnational arrangements that are unlikely to be inconsistent with Australia's foreign policy.
5. The definition of Australia's foreign policy presented in the Bill (subsection 5(2)) is extraordinarily broad, granting the Minister total digression over the cancellation of arrangements. No clear definition of state or city diplomacy is provided in the Bill.

The Connected Cities Lab is available to provide further evidence and assistance regarding this submission at the Committee's discretion.

Recommendations

Based on the detail provided in this submission we offer the following recommendations for consideration by the Committee. Recommendations 1 and 2 relate to the overall intention and necessity of the legislation, recommendations 3–5 suggest amendments to the Bill as presented.

1. Consider whether this broad legislation is necessary given the lack of evidence that State/Territory entity international arrangements have hindered Australian foreign policy goals, and existing evidence that city diplomacy provides tangible benefits to Australia.
2. Consider whether the significant resources that would be required to manage the new DFAT function presented in the Bill could be better deployed to a function which coordinates and enhances subnational foreign arrangements, such as proposed in the US 'City and State Diplomacy Act' (H. R. 3571).

3. Rather than mandatory reporting of all foreign arrangements, which will create extraordinary burden on DFAT and State/Territory entities, consider a referral function where the Minister can seek additional information and conduct a review of arrangements deemed likely to be inconsistent with Australia's foreign policy.
4. Consider the development of a regular institutionalised process for subnational diplomatic coordination between the Commonwealth and lower levels of government – especially as it pertains to state and city diplomacy.
5. Consider amending subsection 5(2) to narrow the definition of Australia's foreign policy to written foreign policy positions and integrate clear definitions of state and city diplomacy.

The increasing importance of 'city diplomacy'

Local authorities around the world are increasing their international engagement through transnational city-to-city collaboration, engagement with international processes and even direct involvement with multilateral fora like those of the United Nations. These efforts have been termed 'city diplomacy' and have resulted in tangible benefits to participating cities and their regions in diverse policy areas such as [economic development, environmental policy, health, culture, gender and migration](#).

One of the major avenues for this international engagement is transnational city networking initiatives, where groups of cities band together to share knowledge, expertise and resources. Research from the Connected Cities Lab at the University of Melbourne estimates there are at least [300 of these initiatives currently operating](#) at international, national and regional scales, involving well over **10,000 local authorities globally**. [More than half of these networks are transnational in nature](#). Forthcoming research conducted by the Connected Cities Lab in partnership with the Chicago Council on Global Affairs surveyed 51 cities around the world and found that **86 per cent of cities surveyed have an office dedicated to international activities** (fig 1).

Local governments in Australia have significant involvement in these initiatives, as well as other bi-lateral international city initiatives, such as Sister City arrangements (see fig 2). For example, the City of Melbourne and City of Sydney are both proactive members of the influential [C40 Cities Climate Leadership Group](#), an international network of 96 large cities that have collectively generated over 15,000 individual local pilot programs to mitigate the impacts of climate change across a vast variety of key sectors like waste, transport or energy.

Brisbane City Council has taken a leading regional role, not least through a dedicated [regional mayors' summit](#) aligned with its Asia Pacific Summit and has been recognised by the DFAT Queensland State Office as promoting fruitful exchanges within our region. Adelaide has similarly been increasingly engaged in international fora and summitry. These activities are also not limited to our major population centres with many arrangements existing between regional local governments and cities or regions internationally. Secondary metropolitan and regional LGAs like Geelong, Newcastle and the Gold Coast, to name but a few, have also played important roles in international initiatives of clear value to the Commonwealth like the World Health Organisation's Alliance for Healthy Cities, the implementation of the Sustainable Development Goals and UNESCO's networked exchanges on cultural initiatives in cities.

The **number and scale of these types of arrangements should not be underestimated**. Australian cities currently have **500 Sister City relationships alone**. Relationships such as this have been shown to have

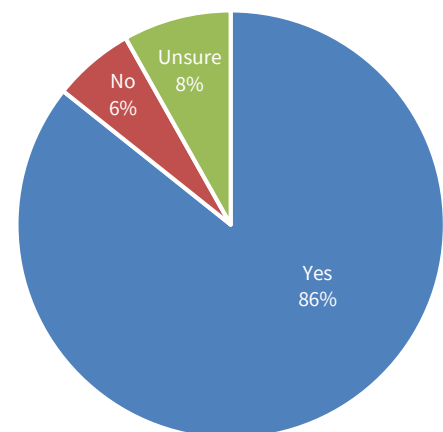


Fig 1: Responses of 51 city governments globally when asked whether they have a dedicated international office

[measurable direct economic benefits](#). They have also been the object of direct policymaking and strategic leveraging by key national allies, as with the United Kingdom's Foreign and Commonwealth Office scoping of how to [leverage city diplomacy in UK-China relations](#). City diplomacy, twinning and membership in networks are all now well understood advantage points for national executives to leverage foreign influence and cooperation beyond the national government level and **are fundamental to a modern, multilayered diplomatic strategy**. These partnerships also offer strategic opportunities to engage with regimes and contexts where local authorities present more progressive and democratic bases than their national counterparts.

The proposed Bill is almost certain to disincentivise local governments from entering into these types of arrangements. As per subsection 34(1), local governments would be required to notify the Minister of intention to enter into all arrangements of this type, even if they are not legally binding. While there is a time limit placed on this review period for core arrangements (subsection 21(1)), by our reading there is no maximum review period provided in the Bill for non-core arrangements. This additional layer of bureaucracy and review will limit a key advantage that local governments have in building international relationships, speed and flexibility. **These changes will place Australian cities at a competitive disadvantage compared to other nations**. The overwhelming majority of these types of arrangements are unlikely to be deemed by the Minister as inconsistent with Australia's foreign policy and it is our view that this legislation creates an unnecessary administrative barrier to advancing Australia's interests internationally.

Recommendation 1: Consider whether this broad legislation is necessary given the lack of evidence that State/Territory entity international arrangements have hindered Australian foreign policy goals, and existing evidence that city diplomacy provides tangible benefits to Australia.

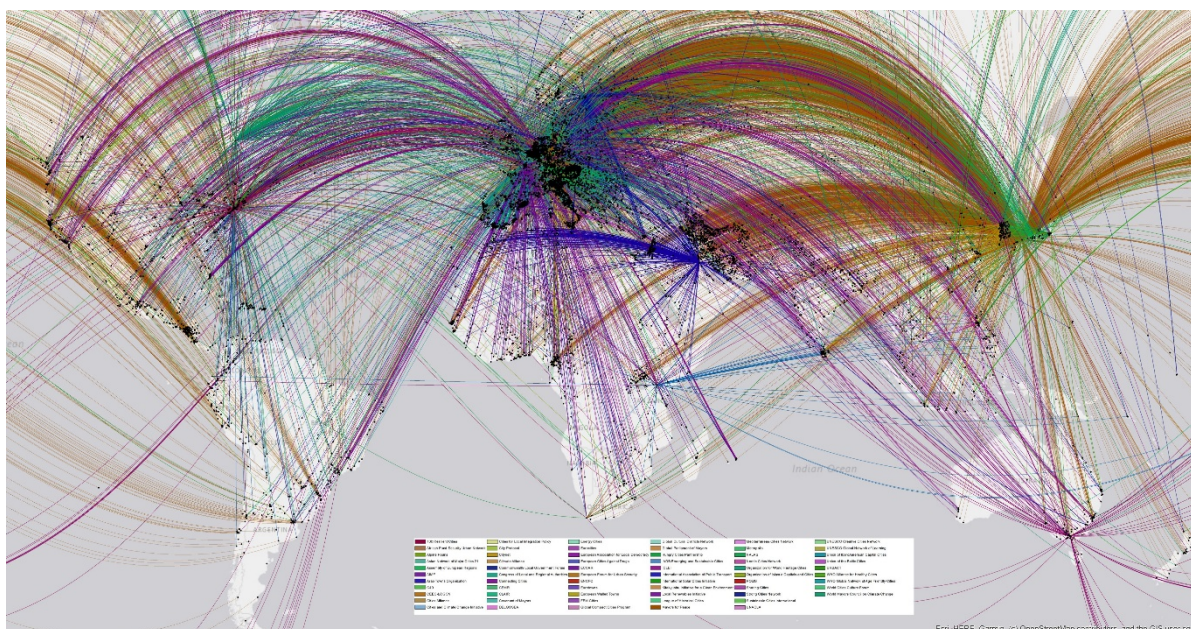


Fig 2: Map of city government connections through international city networking initiatives

Global trends to harness and leverage city diplomacy

City and other subnational forms of diplomacy are now a reality of international engagement. These forms of diplomacy have key advantages in that they can be responsive to local needs, nimble and narrowly targeted to achieve specific outcomes. The intent of the proposed Bill is to centralise Australia's foreign policy, which **in many ways out of step with global trends in diplomacy amongst our key allies** and across our region. For example, a bi-partisan bill has been introduced in to the US Senate, the '[City and State Diplomacy Act](#)' which has the intention of **recognising subnational leaders as legitimate proponents of US foreign policy** and coordinating and supporting their activities through a new Office of Subnational Diplomacy within the US State Department. This Act states as its goal to 'to promote subnational engagements, align such engagements with national foreign policy objectives, and leverage Federal resources to enhance the impact of such engagements'.

As highlighted above, the United Kingdom has been involved in scoping opportunities to leverage city diplomacy in its relations with China. The European Union, via its [URBACT program](#) has provided long-standing support for international city-led engagement, which has been identified as critical to the economic prosperity of the Union. Closer to home, the [ASEAN Smart Cities Network](#) is promoting regional exchanges to encourage sustainable urban economic growth through the use of technology. What these approaches have in common **is a recognition of the value of international engagement by local governments** and national or regional support to facilitate them.

Compared to the Bill as presented, we contend these examples represent an approach more attuned to the global trend toward a diversification of international diplomatic actors within the state, and a **more modern approach to harnessing and benefitting from the activity**, rather than stifling it. While investment in a new office within DFAT dedicated to this activity, as is proposed within the US State Department by the City and State Diplomacy Act, may be unlikely from a budgetary standpoint, as we state below, we believe the resources required to adequately deliver the function in the proposed Bill will be far greater than estimated.

Recommendation 2: Consider whether the significant resources that would be required to manage the new DFAT function presented in the Bill could be better deployed to a function which coordinates and enhances subnational foreign arrangements, such as proposed in the US 'City and State Diplomacy Act' (H. R. 3571).

The potential burden on DFAT and State/Territory entities

The legislation as presented would require all State/Territory entities in Australia to provide details of their current foreign arrangements within three months of commencement day for core arrangements (Schedule 1, subsection 2(3)) and within six months of commencement day for non-core arrangements (Schedule 1, subsection 3(2)). They must also notify the Minister of their intention to enter into any new arrangements, core (subsection 23(1)) or non-core (subsection 34(1)). We believe **the number of these arrangements has been significantly underestimated will add an overwhelming burden to DFAT**, particularly considering the requirement that the Minister review and make a judgement on all new core arrangements within 30 days (subsection 21(1)). By our reading there is no clear review period timeline for new non-core arrangements provided in the Bill.

Due to the broad definition of arrangements adopted in the legislation, including legally binding and non-binding agreements, **local governments alone would present thousands of these types of arrangements**, let alone States/Territories and universities. If the Minister earnestly commits to a review of all of these types of arrangements **it would require significant resources within DFAT to manage the task**. In reality, the Minister will more than likely target particular arrangements which are deemed higher risk of being inconsistent with Australia's foreign policy. If this is the case, rather than mandatory reporting of all international arrangements, a referral function should be considered where the Minister can seek

additional information and conduct a review of those deemed likely to be inconsistent with Australian foreign policy.

With the cessation of COAG, there is now no regular institutionalised cooperation mechanism between local governments and the Commonwealth and hence limited opportunity for formal coordination, exchange of intelligence and leveraging of subnational international arrangements.

Recommendation 3: Rather than mandatory reporting of all foreign arrangements, which will create extraordinary burden on DFAT and State/Territory entities, consider a referral function where the Minister can seek additional information and conduct a review of arrangements deemed likely to be inconsistent with Australia's foreign policy.

Recommendation 4: Consider the development of a regular institutionalised process for subnational diplomatic coordination between the Commonwealth and lower levels of government – especially as it pertains to state and city diplomacy.

Definition of Australia's foreign policy

The definition of *Australia's foreign policy* presented in subsection 5(2) is extraordinarily broad, granting total Ministerial digression to cancel State/Territory entity international arrangements. As presented the Minister can make these judgements without referencing any documented policy. As this Bill would introduce a new requirement that international arrangements negotiated by State/Territory entities must align with Australia's foreign policy, and as detailed above the Minister will be very unlikely to have capacity to adequately review all arrangements of this type, State/Territory entities would require further guidance on what constitutes Australia's foreign policy in order to ensure their arrangements are in alignment.

Additionally, it would be valuable in this legislation to have clear definitions of state and city diplomacy. Drawing on our expertise, we define city diplomacy as *'the conduct of formal external relations undertaken by legitimate representatives of cities with other local, national or international actors'*.

Recommendation 5: Consider amending subsection 5(2) to narrow the definition of *Australia's foreign policy* to written foreign policy positions and integrate clear definitions of state and city diplomacy.