



Office of the President

Our Reference: 94774 / CR:DB

Submission Number: 141
Date Received: 21/01/2013



21 January 2013

Mr Thomas Gregory
Committee Secretary
Joint Select Committee on the Constitutional
Recognition of Local Government
PO Box 6021
Parliament House
CANBERRA ACT 2600
Email: jsclg@aph.gov.au

Dear Mr Gregory

LGA Submission

Thank you for inviting the Local Government Association of SA to make a submission to the Joint Select Committee. This topic is one of vital importance to our members and to the communities they serve.

I have attached some information on the role and nature of this Association and of the position of Local Government within SA. This Association is a constituent member of the Australian Local Government Association (ALGA) and it supports the ALGA's position. I make the following key points to assist your committee in its role:

A 'bottom up' proposal

This is the first occasion on which Local Government has clearly articulated its desire for an amendment to the Australian Constitution. On the two previous occasions on which a referendum was held, the Government of the day decided on the question to be put without a precise proposal from Local Government. Local Government was placed in a position in which it was obliged to support the referenda as it had not formulated a clear national position.

Federal funding is crucial

Local Government in SA relies on funding from the Australian Government for many of the services it provides to communities. The majority of government grants received by SA Councils originate from the Australian Government rather than from the SA Government. Ongoing grants under the Roads to Recovery program are vital and the SA Government has made it clear that it is not in a position to replace Federal funding. In many instances the SA Government is also reluctant to apply State resources to the administration of Federal funding. In at least one program, that of Community Wastewater Management Schemes (CWMS) the LGA has a formal agreement in which it undertakes administration of State funding. The LGA would however as a matter of course under the State/Local Government Relations Agreement between myself and the SA Premier, consult with the SA Government regarding any direct funding programs as it did with the Regional and Local Community Infrastructure Program (RLCIP) and does with Roads to Recovery.

.../2



Direct (and most efficient) funding is at risk

Much of this funding from the Australian Government is provided directly to Councils (such as through the Roads to Recovery program) however recent legal advice suggests such direct funding would be found unconstitutional if directly challenged.

This legal advice derives from the High Court's judgment in the *Pape Case*. The LGA is strongly of the view that this uncertainty should be removed and direct funding maintained via a change to the Australian Constitution. The SA Government formally supports such a change in principle.

Constitutional reform is possible in Australia

The Australian people have shown themselves to be open to change in many ways and while referenda wins have not been frequent we believe with the right information a successful referendum on this issue is possible. This is particularly the case in which both major political parties are supportive of a referendum question.

Local Government in SA is investing in a significant community awareness campaign which will commence within weeks and continue through the first half of 2013. It also stands ready to resource the proposed ALGA campaign supporting a 'Yes' vote in a referendum. With Commonwealth support for a Constitutional reform education campaign a successful referendum on this issue is likely.

The timing of the referendum is crucial

Local Government in SA is not simply supporting a referendum - we wish to see a successful referendum. The key to this will be the timing of a referendum. We are disappointed that we have not seen more positive action at the national level since the Expert Panel reported in support of the ALGA position almost 12 months ago. We believe a successful referendum is possible at the next Federal Election with a concerted effort and support from major and other political parties.

It is important that this opportunity is not lost. The role of the Parliamentary Committee therefore is crucial in ensuring the support of all parties and independents translates to an effective education campaign and to a referendum at the most appropriate time.

I have attached background information supporting the points advanced in this letter. I would also reiterate that this Association supports the ALGA where the most work has been invested in strategic thinking and advice on this issue. We think the committee should give particular weight to the ALGA submission given its national role and the detailed work it has undertaken both with Councils and with strategic professional advice and research.

Kind regards

Mayor Kym McHugh
President



Attachment A: Background on the LGA and on Local Government in SA.

Local Government Association of SA (LGA)

The LGA is a membership organisation for all Councils in South Australia and is the voice of Local Government in this State. The LGA is created by Councils and endorsed by the South Australian Parliament through the South Australian Local Government Act 1999 and is recognised in 29 other South Australian Acts.

All 68 Councils under the Local Government Act are members of the Association, as is Anangu Pitjantjatjara Yankunytjatjara.

The LGA provides representation, quality service and leadership relevant to the needs of member Councils. The LGA also operates specific units/entities providing:

- all public liability and professional indemnity cover for all SA Councils;
- all workers compensation cover for all SA Council employees and associated Local Government bodies;
- asset cover for SA Councils; and
- extensive education and training; industrial relations; procurement; online services and a research and development scheme.

The LGA is involved in the operation of (and establishment of):

- the Local Government Finance Authority;
- Local Super; and
- Public Library Services.

The LGA has a formal State/Local Government Relations Agreement with the Premier of the State, and is a constituent member of the Australian Local Government Association.

Local Government in South Australia

Local Government in South Australia (SA) comprises 68 Councils of which 19 are metropolitan Councils and 49 are rural or regional Councils. A large land area of the State is not incorporated under the Local Government Act but for the purposes of the Commonwealth Local Government (Financial Assistance) Act comprises five Aboriginal communities and the Outback Communities Authority.

The Constitution Act 1934 (SA), the Local Government Act 1999 (SA), and the Local Government (Elections) Act 1999 (SA) and the City of Adelaide Act 1997 (SA), create the primary legal framework within which Local Government operates and the four-yearly election process which underpins the representative nature of Councils in this State.

The Local Government system in SA is integral to the democratic system of government in Australia which provides vital economic, social and environmental support for communities. SA Councils manage about \$16 billion of infrastructure and operating expenditures of about \$1.6 billion a year (2010 figures). Councils receive significant Commonwealth and State funding and work in partnership at the local level for communities.

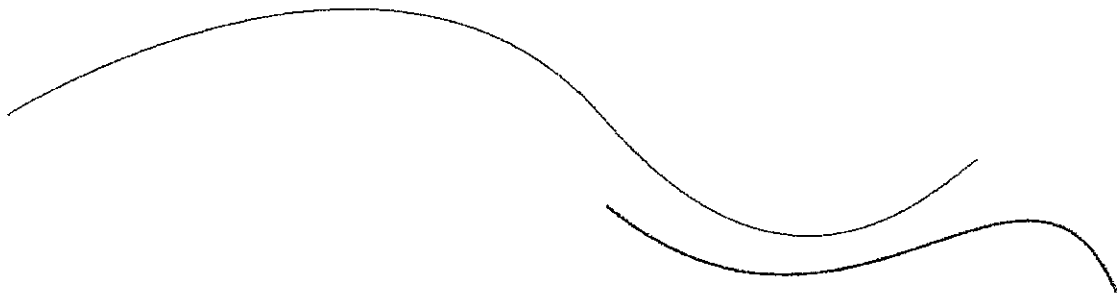
Local Government in SA is typified by:

- high standards of operational competence and accountability;
- sharing resources, working consultatively and cooperatively with other Councils and other spheres of government;
- low net debt and conservative management of finances; and
- expanding roles and increases in standards of service to respond to community demands, other governments and service gaps.

STATE-LOCAL GOVERNMENT RELATIONS

An agreement between the State Government and
Local Government in South Australia

May 2012



Government
of South Australia



Local
Government
Association
of South
Australia

State-Local Government Relations Agreement

PRINCIPLES

1. This agreement confirms that the relationship between State and Local Government in South Australia is based on mutual respect and a commitment to co-operative and productive work on issues of mutual importance.
2. This Agreement will guide strategic planning, policy development, decision making processes and consultation arrangements between State and Local Government in South Australia, with a view to achieving better strategic alignment. In signing the Agreement, it is acknowledged that coordinated action is necessary to address many of the economic and social challenges which confront the South Australian community.
3. This Agreement seeks to achieve a better strategic alignment between the two spheres of Government, particularly across strategic planning, policy development, decision making processes and consulting arrangements.
4. State and Local Government will work collaboratively to achieve better outcomes for all South Australian communities, our shared constituency, through the improved efficiency, effectiveness and coordination of services and infrastructure.
5. This agreement is not intended to create a legally binding relationship between the parties. Nor does it override or detract from commitments entered into as part of existing (or future) agreements or memoranda of understanding to which both State and Local Government are parties.
6. This agreement can be reviewed and updated with each new government, or as agreed from time to time.

COMMITMENTS

7. State and Local Government jointly commit to:
 - a. appropriate community engagement to inform and assist in determining strategic directions and policies;
 - b. regular and effective communication, consultation and negotiation on the formulation and implementation of key policies, legislative proposals and significant programs and projects affecting the other party;
 - c. ensuring transparency in all dealings, including financial relations, between State and Local Government, to enhance effective and accountable decision-making in all but exceptional circumstances;
 - d. identifying necessary funding sources and any proposed funding changes consistent with the provisions of the national *Inter-Government Agreement*, when planning for any new or changed functions or services proposed by Commonwealth, State or Local Government;
 - e. provide guidance for the Local Government Association (LGA), Councils and State Government agencies in their contacts with each other and the Commonwealth, noting the processes for intergovernmental contact as outlined in the national *Inter-Governmental Agreement* and this State-Local Government Relations Agreement;

- f. recognise the value in seeking the support of each other when making representations to the Commonwealth Government on matters of significance for State and Local Government, whether raised by the Commonwealth Government or initiated by State and/or Local Government in South Australia;
 - g. recognise that both spheres of Government work within fiscal constraints and that the service delivery expectations of each party reflect their constraints but that by working in partnership the impacts of these constraints can be lessened and the outcomes for South Australians may be greatly enhanced.
8. The State Government commits to:
- a. consulting with the Local Government Association, as the peak representative body of South Australian Councils, on issues affecting the Local Government sector as a whole in a timely manner;
 - b. consulting with individual or multiple Councils, (or with the LGA on behalf of smaller numbers of Councils where those Councils and the LGA indicate that preference) on issues affecting specific individual communities or groups of communities;
 - c. providing information on State/Local Government financial relations, including as part of the State Government Budget process, to the Local Government Association.
9. The Local Government Association commits to:
- a. ensuring it informs the State Government on issues affecting the Local Government sector as a whole in a timely manner;
 - b. adopting effective consultation mechanisms with the sector that ensure that positions are generally reflective of the views of the sector;
 - c. facilitating strategic planning processes and regional linkages, best practise initiatives in Councils and promoting Council collaboration to better relate to State Government.

MECHANISMS

10. State and Local Government jointly commit to:
- a. the use of legislative protocols, as outlined in the attached legislative flowchart, to guide the development of legislative proposals with a significant impact on Local Government;
 - b. adhere to such bilateral agreements as have been, or may in the future be, agreed between State agencies and Local Government (a Register of which agreements is attached to this Agreement);
 - c. agree to an annual Schedule of Priorities that will reflect the focus of joint work to be undertaken during the year and which will be signed by the parties in the lead up to each financial year. The Schedule is an attachment to the Agreement;
 - d. hold at least annually a Minister's State/Local Government Forum to tackle significant issues that arise at the interface between State and Local Government. These matters would be agreed in advance and may include matters identified in an Annual Schedule of Priorities or other agreed topics.

In agreement between the State Government and Local
Government in South Australia

IN WITNESS WHEREOF the parties have executed this Agreement on the 17th of May 2012.

SIGNED by the Hon. Jay Weatherill MP)
Premier of South Australia) .
for and on behalf of the
Government of South Australia

SIGNED by Kym McHugh)
President)
for and on behalf of the)
Local Government Association)
of South Australia)

... ..
In the presence of:
the Hon. Russell Wortley MLC
Minister for State/Local Government Relations
for and on behalf of the
Government of South Australia

STATE-LOCAL GOVERNMENT RELATIONS

An agreement between the State Government and
Local Government in South Australia

Schedule of Priorities 2012-13

Introduction

The *State-Local Government Relations Agreement* recognises that the South Australian Government and Local Government, through the Local Government Association, aim to improve consultation arrangements and communication practices, and build a closer, more productive working relationship.

The *Agreement* is not a binding legal document but rather a statement of intent guiding attitudes and practice between the State and Local Government.

The *Agreement* is presented in two parts. It comprises:

- (1) the *Agreement* itself that sets out the objectives for the working relationship between the two spheres of government and deals with the principles and processes for the relationship; and
- (2) a *Schedule* of agreed annual priorities that is appended to the *Agreement*.

The South Australian Government has identified seven priority areas of focus for the State. They respond to South Australia's key challenges and community issues and are focussed on the long term future of South Australia. The priorities are:

1. Creating a vibrant city
2. Renewing our neighbourhoods to make them safe and healthy
3. An affordable place to live
4. Every chance for every child
5. Growing advanced manufacturing
6. Realising the benefits of the mining boom for all South Australians
7. Clean green food as our competitive edge

They will be tackled through three approaches to our efforts that promote:

- a culture of innovation and enterprise
- sustainability
- respect for individuals with a reciprocal responsibility to the community.

State and Local Governments working together bring significant benefits to our State.

This *Schedule* gives particular focus to the seven priority areas because of their encompassing nature. The *Schedule* also focuses on the continued improvement of governance measures in Local Government, and the issue of Constitutional recognition.

To give effect to the *Agreement*, and without precluding other endeavours, this *Schedule* sets out the shared priority activities to be advanced in a spirit of cooperation and in the best interest of the South Australian communities.

Schedule of Priorities 2012-13

South Australia's Seven Strategic Priorities

1. State and Local Government will work together to support the South Australian Government's seven priority areas. The priority areas are:
 1. Creating a vibrant city
 2. Renewing our neighbourhoods to make them safe and healthy
 3. An affordable place to live
 4. Every chance for every child
 5. Growing advanced manufacturing
 6. Realising the benefits of the mining boom for all South Australians
 7. Clean green food as our competitive edge

Particular areas of focus will be:

- A review of bilateral agreements or memoranda of understanding to ensure consistency with the seven priority areas.
- Development of a community engagement program to promote a joint State and Local Government approach to the implementation of the seven priority areas, particularly in regional councils. State and Local Government will also develop a joint approach to identifying strategic priorities for regions.
- Work under the auspices of the Minister's State/Local Government Forum to identify opportunities and strategies for State and Local Government involvement in the seven priority areas, acknowledging that there is a wide range of matters of mutual interest between State and Local Government, including planning and development reforms, infrastructure, regional development and investment, waste and water security.

Governance

2. State and Local Government will work together to implement improved governance measures and support the implementation of the Government's public integrity and anti-corruption framework with regard to Local Government.

Constitutional recognition

3. The Australian Government is committed to holding a national referendum on the issue of the recognition of Local Government in the Australian Constitution during the term of the current government or the next Federal election.

The State Government has indicated its "in-principle" support for a form of recognition of Local Government in the Australian Constitution, but will determine its formal position when the proposed amendment is put to the people.

Local Government and State Government will work together to facilitate a better understanding among our community about the role of councils and their contribution to our social fabric and economic well being.

Schedule of Priorities 2012-13

IN WITNESS WHEREOF the parties have executed this Agreement on the 17th May 2012.

SIGNED by the Hon. Jay Weatherill MP)
Premier of South Australia) ..
for and on behalf of the
Government of South Australia

SIGNED by Kym McHugh)
President)
for and on behalf of the)
Local Government Association)
of South Australia)

.....
In the presence of:
the Hon. Russell Wortley MLC
Minister for State/Local Government Relations
for and on behalf of the
Government of South Australia