

# Memorandum of Understanding

## Local Government Research and Development Scheme

### 1. Parties to this Memorandum

#### **Minister for Finance (the Minister)**

As the Minister responsible for the *Local Government Finance Authority Act 1983*.

#### **President, Local Government Association of South Australia (the President)**

As the manager of the Local Government Research and Development Scheme.

### 2. Introduction

- 2.1 The Local Government Research and Development Scheme (the Scheme) is established to fulfil the provisions of the *Local Government Finance Authority Act 1983* (the LGFA Act) and the *Local Government Act 1999*.
- 2.2 The LGFA Act, pursuant to subsection 31A, requires that the Local Government Finance Authority (LGFA) pay amounts that are equivalent in effect to the income tax and other taxes or imposts that the LGFA would be liable to pay under the law of the Commonwealth (if it was a public company) into the Local Government Taxation Equivalents Fund (the Fund). The LGFA Act also requires that the amounts held within this Fund, along with interest accrued, will be applied for Local Government development purposes.
- 2.3 The Local Government Act, pursuant to subsection 294(7b), requires that royalty payments paid by councils on extractive minerals must be paid into the Local Government Taxation Equivalents Fund for the purposes of the Local Government Research and Development Scheme.
- 2.4 This Memorandum of Understanding (MOU) outlines the agreed principles, purposes and processes that will guide the use of the Fund for the Scheme.
- 2.5 The parties to this MOU agree that the funds available to the Scheme are public funds subject to a statutory regime, and need to be managed in accordance with the legislation and with the standards of reporting and accountability appropriate for public funds.
- 2.6 The MOU may be amended at any time, with the written agreement of the Minister and the President.

### 3. Principles and Purposes

- 3.1 As stated in the LGFA Act and the Local Government Act, amounts held for the Scheme will be applied for Local Government development purposes recommended by the Local Government Association of South Australia (the LGA) and agreed to by the Minister in accordance with principles agreed between the Minister and the LGA.
- 3.2 These principles are that:
  - 3.2.1 In complying with the requirements of the LGFA Act and the Local Government Act, the Scheme be applied for 'Local Government Development

Purposes', and that the money be used strategically for the benefit of Local Government as a whole.

- 3.2.2 The disbursement of Scheme funds should not result in any unfair competition advantage to the Local Government Finance Authority.
- 3.3 The LGA may meet, from amounts made available to the LGA from the Fund, reasonable costs incurred in administering the Fund in accordance with these principles.
- 3.4 The purposes for which the funds will be used through the Scheme are included in Schedule 1.

#### **4. Management of the Scheme**

- 4.1 Primary responsibility for the management of the Scheme lies with the LGA Board.
- 4.2 Unless otherwise agreed by the LGA and the Minister, processes and procedures by which the Scheme will be managed are:
  - 4.2.1 The LGA may recommend to the Minister any new or varied purposes for which funds may be applied and seek the Minister's agreement on those additions or variations.
  - 4.2.2 Should the Minister not agree to a purpose or purposes recommended by the LGA, then a meeting of the Minister and the LGA President will be convened as soon as is possible with the objective of understanding the reasons behind the Minister's decision and reaching agreement.
  - 4.2.3 Projects for carrying out the agreed purposes will be approved by the LGA Board.
  - 4.2.4 A special purpose financial report covering the Scheme's activities for the previous financial year and a budget for the ensuing year will be presented to the LGA Annual General Meeting. The format of the special purpose financial report will be as agreed between the LGA and Department of Treasury and Finance.
  - 4.2.5 A report on projects for carrying out the agreed purposes during a financial year will be presented to the LGA Annual General Meeting.
  - 4.2.6 During February and August each year, the LGA will arrange to obtain from the LGFA an update of the estimate of the LGFA's profit before tax equivalent expenses for the relevant financial year and the following financial year.
  - 4.2.7 During February and August each year, the LGA will arrange to obtain from the Department of Treasury and Finance an update of the estimate of the royalties collected on extractive minerals from councils for the relevant financial year and the following financial year.
  - 4.2.8 Copies of the special purpose financial report, and reports on projects to the LGA Annual General Meeting will be provided by letter to the Minister annually no later than 30 November.
  - 4.2.9 The LGA will maintain a web page on its website which lists details of all projects approved for Scheme funding, advises whether the projects are completed or current, and provides access to project output for completed projects.
- 4.3 The Scheme Advisory Committee is responsible for the oversight of the day to day management of the Scheme, and providing advice and recommendations to the LGA

Board on distribution of funds from the Scheme following receipt and consideration of applications for funding. The Advisory Committee is also responsible for the provision of information to the LGA Board to enable the Board to fulfil its reporting requirements. Membership of the Scheme Advisory Committee includes:

- Three members of the LGA Board (comprising at least one Vice President);
- One metropolitan CEO nominated by the Local Government Metropolitan CEOs Group;
- One country/regional CEO nominated by Local Government Professionals Australia (SA) );
- One representative recommended by the relevant Trade Unions;
- One representative recommended by SA Universities;
- One representative as nominated by the Minister; and
- The Chief Executive Officer of the LGA (or nominee).

4.4 The LGA Board will provide information to the Scheme Advisory Committee on changes to recommendations or additional funding decisions that were not considered by the Committee. This information will also be included in the report on projects made to the LGA General Meeting, as detailed in Schedule 3.

4.5 The terms of reference for the Advisory Committee, applying at the time of signing of this MOU, are included in Schedule 2.

## **5. Transfer of amounts to the LGA**

5.1 The Fund is held within the Administered Items of the Department of Treasury and Finance (DTF). As soon as practicable, following the receipt by DTF of tax equivalent amounts from the LGFA (payable quarterly) and following the receipt by DTF of royalties collected on extractive minerals from councils (payable six-monthly), DTF will provide a financial report to the LGA detailing the cash balance in the Fund at the end of the previous quarter, subsequent receipts to and payments from the Fund, and the resultant balance in the Fund available for draw-down by the LGA.

5.2 In April and October of each year, the LGA will provide DTF with an update of the estimate of the LGFA's profit before tax equivalent expenses for the relevant financial year and the following financial year, based on the information from the LGFA under 4.2.6. DTF will use the updated estimates to ensure that, among other things, DTF receipts will be sufficient to meet expected draw-downs from the Fund.

5.3 The LGA may make requests to draw-down amounts from the Fund, no more frequently than quarterly. These requests will be made to the manager of the administrative unit within the State Public Service that advises the Minister on the operation of the *Local Government Finance Authority Act 1983* by the Chief Executive, LGA (or Acting CE). Any such request will meet the reporting requirements included in Schedule 3.

5.4 DTF will aim to make payments to the LGA within 30 calendar days on receipt of a request for funds that meets all reporting requirements.

**6. Records and reporting**

6.1 In order for the Minister, Councils and the LGA to have a basis for reasonable assurance that the financial transactions of the Scheme are in accordance with the legislation, both parties agree that:

- 6.1.1 Proper records must be kept of the Scheme's financial activities.
- 6.1.2 A special purpose financial report covering the Scheme's activities for the previous financial year and a budget for the ensuing year must be prepared and provided to the LGA Board and the Minister each year, and if separately requested. The special purpose financial report will be reconciled to the Local Government Association of South Australia audited Financial Statements.
- 6.1.3 A full record of projects funded under the Scheme in the previous financial year and proposed to be funded in the ensuing year will be kept and provided to both the LGA Annual General Meeting and the Minister each year, and if separately requested.

6.2 Accordingly, both parties agree to the reporting requirements contained within Schedule 3.

**7. Date of application**

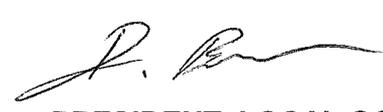
7.1 This MOU applies to the arrangements between the Minister and the LGA, upon signing by the Minister for Finance and the President, Local Government Association of South Australia.

**8. Application**

8.1 This document does not create legal relations or constitute a legally binding contractual agreement between the parties but notwithstanding this the parties acknowledge their intention to use their best endeavours to comply with its terms.

  
**MINISTER FOR FINANCE**

21/7/2016

  
**PRESIDENT, LOCAL GOVERNMENT ASSOCIATION OF SOUTH AUSTRALIA**

/ / 2016

# SCHEDULES

## Schedule 1 – Agreed purposes of the Scheme<sup>1</sup>

1. The agreed purposes of the Scheme are as follows:
  - 1.1 Grants or services to help Councils access electronic information and other strategic development of Local Government Information services.
  - 1.2 Grants or services to help Councils with performance assessment, measurement and benchmarking, and with performance improvement.
  - 1.3 Development or provision of services, training, handbooks, guides or codes related to the administration of legislation under which Councils operate.
  - 1.4 Grants or services to help Councils promote understanding of the role, purposes and functions of Local Government, including development of materials for schools.
  - 1.5 Grants for Local Government research and development projects:
    - 1.5.1 in priority areas for research and development specifically identified on an annual basis following consultation by the LGA with Councils;
    - 1.5.2 concerning innovation in Local Government administration or services.
  - 1.6 Agreed programs for consultation throughout the Local Government sphere on projected legislative changes affecting Local Government.
  - 1.7 Grants, research, information or services to help Councils with the introduction and implementation of reforms to service delivery, within Local Government and between State and Local Government.
  - 1.8 Funding of proposals by regional Local Government organisations to strengthen their ability to provide services to their members and communities and to engage effectively in intergovernmental discussions and negotiations. ("Regional Local Government organisations" includes both rural and metropolitan regional groupings as possible beneficiaries for funding of initiatives with potential sector wide benefit.)
  - 1.9 Payments for which Local Government, through the LGA, is liable under legislative provisions requiring the LGA to pay or contribute to the costs of specified statutory activities undertaken for Local Government purposes.
  - 1.10 Grants or services to assist Councils with planning for the development/maintenance of infrastructure and undertaking asset management planning.
2. These purposes may be changed at any time, with the written agreement of the LGA Board and the Minister, in accordance with the LGFA Act and as set out in this MOU.

## Schedule 2 – Terms of Reference for the Advisory Committee<sup>2</sup>

1. The Advisory Committee will undertake the following roles and functions:
  - Produce, monitor and evaluate a strategic LGR&DS Annual Business Plan;
  - Consult with the membership in November-December on the development of an Annual Business Plan for the following financial year;

<sup>1</sup> Current purposes (December 2015), as stated on LGA website: <http://www.lga.sa.gov.au>

<sup>2</sup> The Terms of Reference are approved by the LGA Board, as stated on LGA website (January 2016)

- Present the draft LGR&DS Annual Business Plan to the LGA Board in January;
  - Endorse individual projects for the use of funds within the Annual Business Plan agreed by the LGA Board and monitor and evaluate outcomes;
  - Conduct two calls for projects each year – a February LGA funding call and a July Sector funding call;
  - Review the Purposes of the Scheme annually in March, thereafter submitting any proposed change to the LGA Board; and
  - Observe the purposes of the Scheme agreed between the Minister and the President of the LGA in determining project proposals.
2. The roles and functions may be changed at any time, with the written agreement of the President, Local Government Association of South Australia, and in accordance with the constitution of the LGA. Notification of any such changes must be given to the Minister as soon as reasonably practical.

### **Schedule 3 – Reporting**

1. As stated in clause 4, the LGA Board will provide an annual report to the LGA Annual General Meeting that includes:
  - 1.1 A list of all projects funded in the previous financial year, showing the approval process, recipient, funding quantity, description of project, relevant purpose/s, expected completion date, and, if completed, a short summary of outcomes.
  - 1.2 A list of all projects from previous financial years that have been completed within the previous financial year, showing the approval process, recipient, funding quantity, description of project, relevant purpose/s, and a short summary of outcomes.
  - 1.3 A list of all uncompleted projects from previous financial years, showing the approval process, recipient, funding quantity, description of project, relevant purpose/s and a short progress report.
  - 1.4 A special purpose financial report, covering the Scheme's activities for the previous financial year and a budget for the ensuing year. The special purpose financial report will be reconciled to the Local Government Association of South Australia audited Financial Statements.
2. As noted in sub-clause 4.2.7, copies of the Scheme's special purpose financial report, and reports on projects to the LGA Annual General Meeting will be provided to the Minister annually under separate cover no later than 30 November.
3. All amounts will be shown to the nearest thousand dollars.
4. To enable the transfer to the LGA from the Fund of amounts as described in clause 5, the LGA Chief Executive will write to the Minister twice a year, and provide a brief summary of relevant activities, and a summary of all projects approved for funding in the period since the previous request for a draw-down from the Fund. One of these reports may be the report provided to the LGA AGM and the Minister.
5. Upon written request, the LGA must provide to the Minister all records relating to the Research and Development Scheme including management accounts, annual reports and financial statements.