

# Local Government Reform

**Briefing Paper**

**February 2019**

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### Background

This briefing paper provides an overview of the positions that have been adopted by the local government sector through the Local Government Association (LGA), and the actions the State Government can take to help councils drive downward pressure on council rates.

### Local Government Reform Proposals

In November 2017 the LGA released a Discussion Paper on reform ideas for local government and sought the views of member councils on reform options that would deliver long lasting benefits to communities.

After receiving feedback and high levels of support from member councils for change within the sector, the LGA Board endorsed a local government reform package, which was released in February 2018 ahead of the State Election. A copy of the LGA's local government reform agenda can be found at [www.lga.sa.gov.au/localgovernmentreform](http://www.lga.sa.gov.au/localgovernmentreform)

The key elements of the local government reform agenda are summarised below.

#### ***Code of Conduct***

- Local government has acknowledged that the code of conduct for council members is not working as it should. The LGA has worked with councils to develop a proposal for an enhanced scheme with stronger powers to protect council members and employees against isolated examples of persistent and serious misconduct – including bullying and harassment.
- Reforms should include:
  - stronger penalties and sanctions for misconduct;
  - powers for an appropriate oversight body to dismiss individual council members following an investigation;
  - deterring vexatious or frivolous complaints; and
  - providing powers to presiding members to manage disruptive conduct at meetings (with associated accountability measures for how those powers are used).
- In conjunction with the Code of Conduct, the rules associated with conflicts of interest must also be reviewed and amended to ensure they are clear and practical.

#### ***Benchmarking***

- Local government is willing to partner with the State Government to develop a sophisticated online platform for councils to share and compare meaningful data about their performance, and enhance the transparency and accessibility of council data for the community.

- Having access to up to date, consistent and reliable data from across the sector will enable local government to monitor trends, identify future challenges and make evidence-based decisions about reform and practice improvement.

### ***Consistent service reviews***

- A sophisticated benchmarking program will assist councils to understand how their costs compare to other councils. A program of consistent and regular service reviews will go one step further and help councils to understand how their service levels compare to other councils and to identify further opportunities for efficiencies and savings.
- Most councils already undertake a regular program of service reviews. A consistent methodology will help to save councils time and money, and embed a best practice approach across the sector.

### ***Introducing a revenue policy***

- Councils consult their community each year on the services and projects they need and want. Councils also have strategic management plans, long term financial plans and asset management plans, which forecast how the needs of the community will be met into the future. This sophisticated long term planning is the backbone of financial sustainability in local government.
- A revenue policy would integrate with this existing suite of plans, and assist communities to understand how the services they need and want will be paid for. The policy would identify which services are fully or partially subsidised by rates, those for which there is a user fee or external grant, and those which are offered on a commercial (revenue generating) basis.

### ***Diversifying local government revenue***

- Introducing a revenue policy will not address the limitations that councils face in raising alternative revenue to rates.
- Fees and charges that councils can raise to deliver services under statute (such as planning, building and food inspection etc.) must be reviewed to more accurately reflect the cost of delivering those services.
- All mandatory rate rebates and exemptions must be reviewed to ensure rating equity between land uses.
- Legislative barriers to commercial operations within local government (particularly regional subsidiaries/shared services) need to be reviewed and addressed.

### ***Best practice audits and audit committees***

- Councils are required by law to have an audit committee and to present their financials to an external auditor each year. These requirements can be strengthened by requiring audit committees to have a majority of independent members and expanding their role to include greater oversight of strategic management plans, rating/revenue policies, service reviews and benchmarking.

- There may also be a role for the auditor general to play in handing down binding interpretations of accounting standards that must be adhered to by private auditors when engaged by councils.

### **Industrial Relations**

- The LGA has convened a working group of councils to discuss the potential to streamline industrial relations processes across the sector and explore the opportunities to move toward a sector-wide industrial relations framework.

### **Council elections**

- Councils would like to further explore options for electronic enrolment, nominations and voting in council elections to make it easier for everyone who is eligible to participate in council elections.
- Other reforms being sought by councils include:
  - creating a 'level playing field' for disclosure of information by candidates. In other words, where an existing council member is required to disclose information publicly, all candidates should be required to disclose the same information when they nominate;
  - providing all candidates access to an electronic copy of the voters roll; and
  - including a 'tick box' on the nomination form about whether a candidate resides in the council they are nominating for.
- In relation to council members standing for election to State or Federal Government, councils have called for reform that would require the member to take a leave of absence, and have their allowance suspended, for the time their nomination is lodged and accepted until the conclusion of the election.
- The LGA will be consulting councils shortly on further local government election reform ideas based on recent experiences with the 2018 council elections.

## **Local Government (Rate Oversight) Amendment Bill 2018**

Following a special general meeting of LGA members, and receiving a formal position from 60 councils, the LGA Board met on 10 August to consider and form a final position on the *Local Government (Rate Oversight) Amendment Bill 2018*.

A clear majority of councils (around 84%) did not support the Bill, therefore the LGA Board resolved to oppose the State Government's proposed rate capping legislation. The LGA Board also considered these other factors in arriving at their decision:

- there is no factual evidence that this legislation will improve the efficiency and effectiveness of local government or deliver long-term benefits to South Australian communities;
- there is strong evidence that similar rate capping frameworks interstate have impacted negatively on local services and infrastructure and the financial sustainability of councils;
- the *Local Government Act* currently contains numerous oversight and accountability provisions to ensure that all councils continue to meet their public service obligations to communities;

- there is no evidence that the potential impacts of this legislation have been measured against the relative merits of alternative local government reform proposals; and
- the council election held every 4 years provide the opportunity for all eligible South Australians to participate in local democracy.

In opposing a legislated rate capping scheme, the LGA acknowledged that every year, councils have the power to cap their own rates. Setting a responsible budget that balances the needs of the community with their capacity pay is one of the most important responsibilities of a council, and every council is accountable to their community for the rating decisions they make.

LGA Board also reaffirmed its commitment to working with the State Government and Members of Parliament to deliver reform in local government and drive downward pressure on council rates.

## **Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018**

The SA Labor Party, with support from SA BEST and Green SA, introduced a Bill in the Legislative Council in October 2018 as an alternative to the Government's rate capping legislation. This Bill proposes a broad range of additional reporting, disclosure and oversight requirements for councils.

Following consultation with councils, the LGA Board endorsed a submission on the Bill in January 2019, which identifies a number of policy and practical issues with many of the proposed reforms. The key points from the LGA's submission are summarised below:

- Some of the reform proposals in the Bill are consistent with the themes of the LGA's local government reform agenda, and also consistent with contemporary governance and reporting practices that have been voluntarily adopted by some councils.
- However, some of the proposed reforms create inequitable levels of scrutiny on local government compared to State and Federal Government.
- The costs to councils, and ratepayers, in complying with the proposed additional reporting requirements need to be carefully considered and weighed up against any benefits to the community.
- In particular, there has been too little regard for smaller councils who are already stretched to meet the requirements of the existing legislation, and the costs of implementing these new requirements will have a direct impact on the rates in those communities.
- While discussion about local government reform is welcomed, a more comprehensive review process is required to develop evidence-based reform proposals that create a more efficient, sustainable and integrated system of local government.

Achieving sensible local government reform will require the support of the South Australian Parliament and the LGA's aspiration is a local government reform package that is developed in collaboration with councils and receives bipartisan support.

The LGA will continue working with all political parties to progress reforms that will benefit communities and to maintain opposition to poor public policy, such as rate capping and forced amalgamations.

## **Driving downward pressure on council rates**

Councils nationally collect only 4% of the total taxes paid by Australians, and South Australian councils receive the lowest per capita revenue of any state or territory - \$1,329 compared to the national average of \$1,662.

Councils also face escalating costs such as electricity, fuel, State Government levies and responsibilities that are shifted to local government through decisions of the Parliament.

Despite these cost pressures, councils have been working hard in recent years to find savings and efficiencies that have achieved lower average residential rate rises.

There are many opportunities for the State Government, and the Parliament, to work with local government to drive downward pressure on council rates.

### ***Solid Waste Levy***

- The Solid Waste Levy will cost councils approximately \$34 million this financial year.
- The Levy jumped up by 15% in 2018/19 and has increased by more than 1400% since it was introduced in 2003/04.
- There is currently around \$120 million accumulated in the Green Industries Fund.
- Research commissioned by the LGA shows that councils face additional costs of \$8.8 million per year as a result of the China National Sword Policy.
- The State Government can relieve significant pressure on council rates by reducing the Solid Waste Levy, and supporting councils with waste and recycling services with funds from the Green Industries Fund.

### ***Mandatory rate rebates and exemptions***

- Under the Local Government Act, certain prescribed properties are entitled to a full or partial rate exemption or rebate.
- Councils provide rate rebates worth more than \$33 million every year. The cost of providing these rebates is often borne by other ratepayers – including families and pensioners.
- The costs of providing mandatory rebates are increasing – largely due to the transfer of the State Government's public housing stock to Community Housing Providers (CHPs).
- While the State pays full council rates, CHPs are eligible for a 75% rate rebate. The cost to impacted councils of the State's policy to transfer public housing stock has so far been more than \$4 million per year.
- While many rebates and exemptions are appropriate and support public good, the scheme should be reviewed to ensure that it is equitable and that profit generating land uses are paying a fair share.

### ***Statutory fees and charges***

- South Australian councils raise \$354 per capita annually in fees and charges – compared to \$913 in NSW and \$658 in Victoria.

- Research undertaken by the LGA has revealed that in many cases the fees councils are permitted to charge for regulatory functions such as planning assessments, building inspections and food inspections only meet between 20-30% of the costs of providing the service.
- This means that all ratepayers are subsidising between 70-80% of the costs of providing these regulatory services.
- The LGA has long been advocating for a review of statutory fees and charges based on the same cost recovery model that the State Government applies to the fees that it is entitled to charge for services performed.

### ***NRM Levy collection***

- Councils are required to collect the State Government's NRM Levy from landowners through council rate notices.
- Information provided by councils shows that the administration fee that councils receive from the State do not fully cover the costs that councils incur in collecting the levy.
- Councils are required to pass on the full amount requested by the NRM Board, regardless of whether it has been collected or not. This means that councils become responsible for any outstanding NRM debts.
- In 2017, councils reported more than \$600,000 in outstanding State Government NRM levies owed to them from land owners.
- The State Government can remove this cost burden by collecting their NRM levy in conjunction with the Emergency Services Levy, increasing the administration fee provided to councils or only requiring councils to pass on the levies paid.

### ***Grant funding***

- While local government is grateful for the funding partnerships that exist with the State Government such as libraries, CWMS and stormwater; councils in South Australia typically receive the lowest per capita State Government grants in Australia.
- The LGA would like to see State Government grants to councils in South Australia increased to at least the national average.
- The LGA has used successive State Budget submissions to highlight the economic and social benefits of State and local government working in partnership to deliver programs and infrastructure in areas such as:
  - community infrastructure (sports facilities, playgrounds, bike paths, swimming pools etc)
  - energy
  - stormwater
  - coastal management
  - smart cities
  - public health
  - climate change

### ***Federal advocacy***

- The State Government can assist local government by becoming vocal and active supporters of the LGA's federal election priority to secure ongoing Supplementary Road Funding for South Australia.
- South Australia has 11% of the nation's local roads, 7% of the population, but receives only 5.5% of federal local roads funding.
- ALGA and the LGA are advocating for supplementary road funding of \$20 million a year to be made permanent to address South Australia's road funding anomaly.