

HOUSE OF REPRESENTATIVES' STANDING COMMITTEE ON ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION

Inquiry into Local Government and Cost Shifting

SUBMISSION

18 July 2002

House of representatives Standing Committee on Economics, Finance and Public Administration	
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CONCLUSION:

Contemporary local government in practice is no longer consistent with its historical and legislated roles and, the desire of local and regional communities for greater control of the creation of opportunities, policy, planning, infrastructure, service delivery and outcomes continues to force change ahead of adequate legislation.

The States, in consultation with the Commonwealth Government and community, need to comprehensively review the nature, role and responsibilities of local government.

Any expansion of direct Commonwealth funding to local government would not advantage local and regional communities, whilst the possibility of systemic misgovernment and/or corruption exists.

Funding solutions are best sourced in accommodations between the Commonwealth and States.

The purpose of the Inquiry is suspect.

JUDITH M. MELVILLE
2/20 The Halyard
YAMBA NSW 2464
Ph: (02) 6646.8082

As an ordinary elector in New South Wales I bring to the notice of the House of Representatives' Standing Committee on Economics, Finance and Public Administration a personal perspective on the nature of local government and, concerns relating to certain funding proposals and the purpose of the Inquiry.

Nature of Local Government and Contraindications for Change to Funding.

Local government has historically evolved in Australia on the premise of altruistic community service, by propertied persons from the business sector not directly engaged in parliamentary party politics.

This historical perception of local government as having a strong element of voluntariness and business interest is perhaps one of the reasons this lowest tier of elected government continues unaddressed by the Australian Constitution. Remaining a tier without an unambiguous universal definition or structure and, one that cannot create legislation pertaining to its function, responsibilities and revenue requirements.

It appears to have been the original intention and, continues to be the intention, of the States that local government should function as a form of participatory administration of their respective policy and planning instruments.

The historical evolution of local government into the contemporary entity the Standing Committee now inquires into, has resulted in an elected government that is perhaps the most immediate and responsive that the Australian citizen will encounter.

At the same time it also contains the possibility of being, during the life of a given council, the most arbitrary and erratic form of elected government the Australian citizen will encounter.

This dissonance is in part a function of size in relation to governing body, population numbers and physical area. Small governing bodies in combination with small population numbers over large physical areas in regional and country local government areas or large population numbers over small physical areas in urban local government areas, create an intimacy and immediacy to the effect of decisions on policy, planning and service delivery.

Dissonance is also in part a function of the fact that legislation covering local government elected representatives and sanctions for misgovernment/misbehaviour make these elected representatives possibly the least able to be reliably sanctioned, other than at the polling booth in a future distant from the immediate misgovernment/misbehaviour. Local government's willingness at individual council level to sanction its own disfunctional members is virtually non-existent.

These disparate factors have not only resulted in the resident, ratepayer, community and vested interest expecting and, sometimes enforcing by strength of will, a degree of direct communication with elected government in the course of its deliberations not found at state and federal level. These factors have also resulted in the professional management structure, of local government at individual council level, failing to develop into an entity capable of reliably rendering independent, disinterested advice to the elected body.

This is not to impugn the level of professionalism local government management could in theory bring to the performance of its role and responsibilities. Rather it is a reflection of parochial intimacy blurring the lines between management and elected representatives. Such blurring being exacerbated by the council executive and sometimes individual councillors being subject to intense lobbying from interested parties to which they are sometimes commercially, socially or familially aligned and, management being similarly placed. A frequently egocentric interpretation of the legislated role of the council executive, on the part of individual mayors and deputy-mayors, further constrains management from exercising independent evaluation of and recommendations on a given issue. The fact that general managers have their contracts and performance annually reviewed by a revolving committee of councillors also has a potential to inhibit the development of management capable of rendering independent advice. I note that policy changes in recent years have shifted responsibility for final planning approval of certain categories of local development onto this apparently flawed management structure.

Consequently, as a percentage of total numbers of all elected representatives across the three tiers of government, local government councillors would have to be the subject of more conflict of interest/pecuniary interest

/misgovernment allegations and investigations than their state and federal counterparts [See Attachment A].

Local government is potentially the most overtly corruptible form of democratic government in modern Australia.

From personal observation I would characterize local government as highly reactive and not given to creating constructive long-term policy. It has evolved into an entity which responds primarily to highly visible and adversarial approaches from business, individuals and local communities. It is not a body of government which has reliably demonstrated a broad understanding of social, ethical and human rights issues. The quality of research into and consultation undertaken on social issues and community needs by local government could be best described as naive.

The weakest and most vulnerable in society, having only a limited ability to mobilize at local level and limited access to legal remedies, are not always best served by local government. This is particularly true for local government areas with high indigenous, youth or low-income populations.

Having been an active participant in community I have found that an expressed perception often exists in a local government area, that to oppose the agendas of 'powerful' councillors could result in social and/or financial risk. The perception of risk does not appear to extend to the same extent to any opposition to the agendas of States and Commonwealth members of parliament. This enduring perception does not facilitate either communication between average residents/ratepayers and their local government elected representatives or public debate. As from time to time the perception appears to have some basis in fact.

Local government clearly demonstrates an inability to resolve contentious issues at local or regional level without reference to the courts. In the NSW Land and Environment Court alone, for finished matters across Classes 1-5 in 2000-2001, local councils were the applicants in 182 matters and the respondents in 1,187 matters out of a total of 1,554 finished matters [Land and Environment Court, July 2002]. The total of legal advice costs (planning & development) for all NSW councils in 1999-2000 was \$23.0 million [NSWDLG 2001, "99/00 Comparative Information on NSW Local Government Councils"].

The inherent tension between local councils, community, disadvantaged groups and vested interests that has developed alongside a system of local government that has grown ad hoc, is only mitigated by the fact that local government is not autonomous. Legislation covering the formation, role, responsibilities and conduct of local government is primarily a function of the States, with States (supported by modern public service structures) additionally having a high degree of control over funding delivery. Such control by the States inhibits local government from developing into a series of 'runaway' councils, acting without regard to regional or state population and infrastructure forward planning.

The Minister for Regional Services, Territories and Local Government has publicly canvassed certain proposed changes to local government funding. In particular direct Commonwealth funding of local government, with special reference to health, education and policing.

Any attempt by the Commonwealth Government to by-pass the States and directly fund local government will have a potential to weaken the ability of the States to effectively oversee the role and conduct of local government in relation to those areas directly funded.

In light of the conflicted nature of local government, it is not a suitable vehicle for direct allocation for local/regional distribution of monies from any expanded system of Commonwealth funding. In particular it is not a suitable vehicle for direct allocation for local/regional distribution of significant funding for health or education and, would never be a suitable vehicle for direct local/regional allocation for distribution of funding for policing. Health, education and policing being core services falling broadly within federal and state structural organization of social welfare and social control and, direction of/equity in/access to all aspects of these services best decided by the States and Commonwealth in cooperation. It is noted that policing of parking infringements and companion animals has become a function of local government in some states and territories.

Alternatively, local councils and local communities do not always have the balanced world view or expertise necessary to address sensitive issues relating to health, education and policing funding/programme priorities and,

are frequently resistant to proposals for regional cooperation if such cooperation is dependent on local government amalgamation.

Additionally the response of local communities, via dominant groups, to a perceived threat or change in social conditions is not always appropriate or proportional. Monocultural dominance in many regional and country local government areas may impact on community response. Any funding arrangement which allows local government a degree of control over policing, creates a potential for marginalised individuals and groups to be systemically discriminated against at the behest of local councils lacking full democratic legitimacy.

The imposition by the Commonwealth of conditions on any direct funding of local government would not guarantee that processes were not distorted by local councils. There are 633 local government areas Australia-wide [Australian Bureau of Statistics, July 2002]. Policing the integrity of direct funding allocations would involve the Commonwealth in additional costs that are not justified, given the existence of departments of local government at state level which currently perform this function.

Utilization of alternative funding sources for local government broadly indicated in the Terms of Reference are not a desirable option if such funding relies on councils, individually or cooperatively, creating debt through additional private sector borrowing. The rate base of typical councils would not provide for reliable repayment of debt acquired in this manner and, such debt would be potentially oppressive of local ratepayers. Regional and country local government areas would be particularly disadvantaged by alternative sources of funding reliant on private sector borrowing.

Utilization of alternative sources of funding based on partnerships between local government and private sector corporations are also not a desirable option, if such partnerships create corporate equity in community infrastructure or services and/or allow corporations to impose commercial fees on the end user as a local government area resident. The potential for corrupt activity on the part of local government councillors and council staff cannot be ignored and, this potential exposes the community to an unacceptable level of risk.

Further, utilization of alternative sources of funding that are dependent on local government expanding its activities, as a developer of land in its own right, are problematic. Coastal councils have demonstrated a lack of political will to adequately address the environmental impacts of continued population growth. Coastal local government areas retaining agricultural land or endangered native species communities are particularly vulnerable to short-term solutions.

If better use of Commonwealth resources and allocated funds is the desired end result, then solutions are best found in accommodations between the Commonwealth and States.

Notwithstanding the fact that contemporary local government in practice requires constraint by the States, local government existing by the grace of the States may be a situation that should not endure into the future on the basis of present legislative frameworks.

The increase in responsibilities in the process of devolving onto local government is as much a reflection of the desire of local communities for greater control of the creation of opportunities, basic community services, service delivery and outcomes, as it is of the desire of the States to shift the burden of basic community services and service delivery. A growing social expectation in communities that levels of all services in a local government area should increase over time, irrespective of demographic change or economic climate, also impacts on the expression of this desire. All tiers of government need to assess the validity of this expectation.

If the creation of regional opportunities and outcomes is a desirable aim; then a comprehensive review of the nature and role of and a restructuring of contemporary local government and, a positioning of local government within the Australian Constitution with a legal expectation of receiving direct access to/benefit from Commonwealth taxation revenue for the purpose of creation and maintenance of road, drinking water and wastewater systems, town public utility infrastructure and environmental rehabilitation, may be a matter to be addressed.

I note that the Standing Committee does not have a mandate to fully explore constitutional aspects.

Given that modern Australia continues to tolerate a form of elected local government at individual council level, which in its policy formation, planning and service delivery is not always consistent with democratic principles; I urge the Standing Committee to exercise caution when considering any change to current funding arrangements for local government, if it is not prepared to recommend such changes conditional on a comprehensive review of the nature, role and responsibilities of contemporary local government and timeframe for Australia-wide community debate on the need for and/or form of local government restructuring and a subsequent Commonwealth referendum on the question of inclusion in the Constitution.

Purpose of the Inquiry.

I have full confidence that the Standing Committee on Economics, Finance and Public Administration will conduct itself in an exemplary manner.

However, I find it difficult to believe that the timing of the Inquiry is accidental to the fact that no current state or territory government is a Liberal Party-National Party coalition.

It is my sincere opinion that the terms of reference for the Inquiry conceal a desire on the part of Government to create mischief at the expense of current state and territory governments.

In particular a desire to create contention in New South Wales in the approach to an election. I note that any shire or city council or individual councillor, currently the subject of a NSW Dept. of Local Government investigation, is free to use the existence of this Inquiry as the basis for a general attack on the State [See Attachment B].

As an elector, who is not a member of or affiliated with any political party, I find this 'hidden agenda' offensive and counterproductive.

I ask the Standing Committee to consider the uses its hearings, deliberations and findings may be put to by a Commonwealth Government, whose political philosophy is for the first time in direct conflict with the political philosophies held by every state and territory government.

(cont. overleaf)

I apologize to any member of the Standing Committee who may be offended by the bluntness of my position. As a voter for over thirty years I retain few illusions concerning the political process.

CONCLUSION.

Contemporary local government in practice is no longer consistent with its historical and legislated roles and, the desire of local and regional communities for greater control of the creation of opportunities, policy, planning, infrastructure, service delivery and outcomes continues to force change ahead of adequate legislation.

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ATTACHMENTS:

- A. Excerpt: "Table 12 gives details of the councils generating the most complaints and our actions", Department of Local Government Annual Report 2000-2001, NSW Dept. of Local Government.
- B. Transcript: "7.30 News" Live Interview, ABC North Coast, Media Monitors, 14 May 2002.

Judith M. Melville

JUDITH M. MELVILLE

ATTACHMENT A

Table 12, NSW Department of Local Government Annual Report 2000-2001

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DEPARTMENT OF LOCAL GOVERNMENT ANNUAL REPORT 2000/2001.

SECTION FOUR

// OBJECTIVE 2. MONITORING AND DEVELOPMENT

Table 12 gives details of the councils generating the most complaints and our action.

Table 12. Top 25 Councils by Complaints

	Complaints Received		Declined after preliminary assessment		Declined after enquiries of Council		Proceeded to more formal enquiries	
	N°	N°	%	N°	%	N°	%	
Total All	788	538	68%	161	20%	89	11%	
Total Top 25	512	365	71%	97	19%	50	10%	
Top 25 Councils								
Warringah	117	70	60%	34	29%	13	11%	
Byron	71	65	92%	1	1%	5	7%	
Shoalhaven	24	15	63%	9	38%	0	0%	
Sutherland	21	17	81%	3	14%	1	5%	
Greater Taree	18	15	83%	3	17%	0	0%	
Pristine Waters	18	15	83%	1	6%	2	11%	
Hornsby	17	11	65%	6	35%	0	0%	
Tweed	16	14	88%	1	6%	1	6%	
Maitland	15	10	67%	4	27%	1	7%	
Macleay	15	9	60%	0	0%	6	40%	
Gosford	14	7	50%	5	36%	2	14%	
Ku-ring-gai	14	10	71%	3	21%	1	7%	
Ballina	13	6	46%	3	23%	4	31%	
Lismore	13	11	85%	2	15%	0	0%	
Ryde	13	9	69%	3	23%	1	8%	
Canada Bay	13	10	77%	2	15%	1	8%	
Moree Plains	13	8	62%	1	8%	4	31%	
Kempsey	12	7	58%	4	33%	1	8%	
Mudgee	12	8	67%	2	17%	2	17%	
Lake Macquarie	11	7	64%	2	18%	2	18%	
Nambucca	11	9	82%	2	18%	0	0%	
Eurobodalla	11	9	82%	2	18%	0	0%	
South Sydney	10	8	80%	1	10%	1	10%	
Singleton	10	6	60%	2	20%	2	20%	
Wollongong	10	9	90%	1	10%	0	0%	

The actual number of complaints is not necessarily an effective indicator of performance as some councils may be the subject of a well-organised campaign, often about a single issue. The type of complaint can distort the image of the council if it does not involve a fault in the process but relates more to concerns about the outcome of the decision. Provided the decision could legally be made and proper processes were followed, we do not investigate the merit of particular decisions.

Table 12 shows that in 2000/2001 the council with the most complaints was Warringah followed by Byron.

ATTACHMENT B

Transcript of ABC North Coast news report and live interview, 11.05.02

"B"



through, you know they filter through the system from Federal to State to Local Government.

It just seems a waste of time and a waste of money and the community is not given the full benefit of all the taxes that have been collected.

* * **END** * *