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Reshaping Australia's Federation: The Choices For Regional Australia

When we examine the promising outlook for the renegotiation of some of the traditionally problematic aspects of Australia's federal system, we find that much of the intended success may hinge on whether federal and state governments are also prepared to finally make strategic investments in the development of governance capacity at the local and regional levels—investments on which the ability of all governments to deliver sustainable, on-ground outcomes clearly depends. AJ Brown.

AJ Brown

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ABSTRACT

Since Federation, Australia has rarely experienced such a dynamic state of change in the structures and methods of government as is occurring in the first decade of the 21st century. Over the last ten years, the federal government has made strategic extensions into areas of local and regional decision-making that would previously have been unthinkable. State governments have departed from a long history of defensiveness, to promise unprecedented collaboration with other levels of government on policy and services. Local government is set on a course of radical improvement in its policy and service capacities, and its case for more stability, autonomy and resources as part of the national federal system has become undeniable. Will these opportunities for change prove to be short-term 'fads', or can this unprecedented dynamism translate into lasting structural improvement in our federal system of government? This paper argues that the answer depends at least partly on whether current initiatives are extended to include the type of regional political devolution and capacity-building that Australian history demonstrates is sorely needed. The paper suggests three actions as short-term steps for extending the present level of commitment to an improved federal system towards the type of medium-to-long term reform of our system of governance that is almost universally recognised as desirable in city and country regions alike.

INTRODUCTION

In January 1899, as the people of Western Australia hotly debated whether the colony should join the Australian federation, the *Albany Advertiser* made a powerful case for doing so. The newspaper argued that a federal government would be able to take control of public works, end the 'curse' of colonial centralisation policies, and 'bring about the general development of the resources of Australia, which is impossible so long as each colony is bled for the creation of one large city' (Bastin, 1955: 85).

Today, constitutional purists tend to presume that federal intervention in local and regional affairs was neither an intended goal of Federation, nor a desirable consequence. However the views of the *Albany Advertiser* tell a different story. Federation was not just a symbolic exercise in political nationalism, intended

Reshaping Australia's Federation: The Choices For Regional Australia—*Continued from previous page*

to leave the powers and roles of state governments untouched. Australians have always looked to the federal government to help overcome what was already widely seen as quite a defective post-colonial political structure. After all, many Australians had campaigned since the 1840s for independent regional government in the form of more colonial separations, and in 1900, support for Federation tended to run most strongly in those regions which believed the new Constitution would also deliver new states (Brown, 2001). Even if they did not support territorial change, Australians widely believed that the new federal government would become directly involved in whatever was needed to take the nation forward. Any who believed otherwise were self-deluding or simply naive; after all, as a long time Speaker of the United States' House of Representatives said, 'all politics is local' (O'Neill, 1994).

Throughout its first century, Australia's federal system has been buffeted by many conflicts resulting from its history of powerful but highly centralised state governments. Federal governments have extended their reach into almost every area of public policy and administration, whether collaboratively or coercively, using many mixtures of executive fiat, funding control and direct regulation. However the last two decades have brought a major reduction in the level of real, as opposed to, rhetorical conflict between federal and state governments. Momentum is growing around a new constitutional settlement in which the roles of all levels of government are substantially renegotiated. This article briefly charts the contours of this significant shift, seen from federal, state and local levels. It then goes on to question whether these welcome new answers are on track to address some of the more fundamental underlying conflicts in Australian federation, which revolve around shortages of effective governance capacity at the regional level. Finally the article makes three proposals for the types of action needed from a future federal government if we want Australia's 'real' new federalism to work.

AUSTRALIA'S *REAL* NEW FEDERALISM

Federal Government

There has been plenty of debate over the apparently inexorable trend towards centralisation of governmental power in Canberra. Even before the recent majority decision of the High Court in *NSW v Commonwealth* (the WorkChoices case, 2006), Professor Greg Craven asked 'are we all centralists now?' (Craven, 2005 and 2006). But even before that, the trends in expansion of Commonwealth legislative, financial and regulatory power were well established, beyond all expectations of the majority of the colonial politicians of the 1890s. In 1954, at what is now the half-way point of Australia's total federal experience, the economist S J Butlin was already pointing out that 'in most, but not quite all, functions of government we have an effective unification within a nominal federalism' (see McMinn 1979: 169).

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Nevertheless, the majority decision in WorkChoices has focused attention sharply on the extent and clearly continuing nature of these trends. Within a year it was supplemented by dramatic Commonwealth expansion into direct regulation of national water resources, movement towards Commonwealth takeover of port and other transport infrastructure critical to national and international trade, and strong electoral competition over how best to restructure the nation's public health system under greater control from Canberra. The growth in federal influence and financial control was nothing short of phenomenal over the decade of the Howard Coalition government's 'pragmatic' or 'regulatory federalism' (see respectively Hollander and Patapan, 2007; Parkin and Anderson, 2007).

But if this centralising trend sounds negative, it is also important to recognise its positive aspects, and the positive reasons for it. Simplified regulation of business has long been championed by the business community, especially the larger companies represented by the Business Council of Australia. It also reflects a wider consensus. Take industrial relations, for example. Remove the hot debates over the fairness of minimum conditions and dispute resolution processes, and we find that the structural reform of industrial relations towards a single, simplified national system is something that actually commands almost universal, bipartisan support. In reality, we have all been waiting for it for decades. In fact, just about every major federal expansion in our national history has occurred not whimsically or in a capricious grab for power, but in response to real economic, social, environmental and political demands. In a globalising world, struggling to manage all the positive and negative effects of humanity's industrial and information revolutions, none of these demands are likely to recede any time soon. My own experience of public administration over the last eighteen years, in the federal, state and non-government sectors, leans me

toward the view that overall the trend towards stronger national leadership is more positive than negative.

There are some serious problems, however, with the ad hoc and one-way nature of the centralising trend. The first is that even if overall the trend is positive, it does carry negative side effects and major future risks. It suffers from being unplanned and accordingly, often piecemeal, partial, and overly party-politicised, with winners and losers on each side of each initiative. The federal government may advance into a given policy field in one electoral cycle, but its interest may wane when the issue goes off the political boil. Once pushed out, the nature of the trend means that state governments are rarely keen to go back in. These are the hidden downsides of what Justice Kirby described in WorkChoices as not just pragmatic but 'opportunistic' federalism (see also Twomey and Withers, 2007).

There are some serious problems, however, with the ad hoc and one-way nature of the centralising trend.

The second problem is that the results are still messy in constitutional terms. Even if the Commonwealth is substantially successful in taking over a field of public policy, it is rarely wholly successful because our Constitution is still littered with serious restraints on Commonwealth legislative power, including express provisos requiring the consent of state governments in a range of areas. Even WorkChoices demonstrates this. Contrary to the logic and political rhetoric of the new Commonwealth system, even after the High Court result there are still multiple industrial relations systems operating in Australia, and serious questions about whether the High Court majority got its interpretation of the Constitution totally right. Consequently even if we have an enlarged federal industrial relations system and reduced state systems, we still don't have just one single national one, and we can look forward to further legal contests over where the boundaries lie.

A third problem is that even if the federal government has the legislative and financial power to take national control of an increasing range of policy areas, there are limitations on the capacity of the Commonwealth alone to tailor policy to meet regional needs, and deliver programs on the ground. Every major Commonwealth program needs some kind of delivery system. The choices have been, and remain, that the Commonwealth develop its own mechanisms for implementing policy and delivering services at the local and regional levels; or that it falls back into partnership with the very same state governments whom it has declared incapable of doing the job; or that it enters into new direct partnerships with local government; or, increasingly, a mixture of all these things. Some of the Howard government's initiatives in the Northern Territory and the Murray-Darling Basin highlight this dilemma, reminding us that even if some major centralisation and coordination is needed in many areas of Australian public policy, Canberra cannot do it alone—unless we are all happy to have all our services delivered by the Army. Whatever its dysfunctions, we have a multi-levelled, federal system for good reason.

State Government

Notwithstanding these problems, there are also reasons to be positive about the scope for development in our federal system when we look at the stance of state governments. Historically, state governments have tended to cry foul every time a further encroachment of federal power occurs, and elements of that rhetoric remain. However far more commonly, since the early 1990s we have seen a more sophisticated and mature mixture of reactions, with state governments 'going quietly' on a range of issues, and even directly embracing and initiating change in the system.

Examples abound that demonstrate this change. Having fought the constitutional power of the Commonwealth to regulate on national environmental matters up until 1983, most of the key environmental and natural resource management programs of the states are today partnerships, in which state governments happily agree to Commonwealth targets and increasingly depend on the Commonwealth's preparedness to direct fund initiatives and the local and regional levels. The same has occurred in relation to significant transport funding, under the Roads-to-Recovery and Auslink programs, setting the scene for more of the same in relation to other areas of infrastructure.

More recently, it is startling how quickly the Queensland and NSW governments signed on to the plan for Commonwealth regulation of water rights in the Murray-Darling Basin. In health, there are also clearly few barriers to the idea of a federal takeover of the public hospital system—until recently this idea was a constitutional anathema, but today, the Commonwealth is already a major funder of the system, as well as the sole provider of the public medical insurance system, and the primary regulator of both private health insurance and the private aged care and nursing home system. The Labor Party's most recent announcements on health policy appeared to be framed to capture a 'get tough on the states' image (e.g. Coorey, 2007), but the reality seems to be that the states are only too ready and willing to greet the takeover, with the NSW and Queensland governments having been the first to seriously float the possibility.

This preparedness to cede leadership and control to the Commonwealth sits oddly with the single greatest reform to the structure of federal-state financial relations in

Reshaping Australia's Federation: The Choices For Regional Australia—Continued from previous page

many decades—the creation in 1999 of the Goods and Services Tax (GST). A large part of the rationale and political feasibility of the GST came from the promise that it would become an unconditional revenue base for the state governments, increasing their capacity to deliver on traditional priorities. However it has now also come to demonstrate and symbolise the increasingly integrated nature of the federal financial system. Collected by the Commonwealth and then passed down, the GST was fairly early described as a 'stealth missile' for the states (Wood, 1999), with key state government figures conceding that the GST Agreement is destined to be made subject to increasing federal requirements until it becomes like a 'big conditional grant' (Wilkins, 2006: 13). While it has strengthened state capacity in some respects, the GST has therefore further weakened the political autonomy of the states, entrenching their role as junior partners in the federal governance game, and increasing the scope for further restructuring.

Nevertheless, rather than entering into this renegotiated federal framework with a sense of capitulation, the states are, in a quite visionary way, actually leading it. On one hand, the last few years have seen state governments become much more slick in restating the theoretical merits of federalism and thus their own importance, particularly by creating the Council for Australian Federation and commissioning associated, quite valuable research (e.g. Twomey and Withers, 2007). But valuable as these reminders of the theoretical value of federalism may be, they do not alter any of the pressures for the states to fall into line with the Commonwealth on the majority of important national issues, nor their apparent willingness to do so. In fact, by proposing a new era of federal-state collaboration through a National Reform Agenda on human capital and human services, now being pursued through the Council of Australian Governments (COAG), the states have locked in 'new federalism' as the only real means of doing business. Every federal government since, and including, Whitlam has had at least one form of 'new federalism', based at least rhetorically on a new collaborative approach. But in recent years these have merged into a *real* 'new federalism' in which the states no longer have either the political, legal or financial choice nor the intellectual desire to stand apart from a tighter framework of national partnership. In order to be able to innovate and excel in the main areas left to them to administer—chiefly law and order, primary and secondary education, a range of human services, and a wide range of planning and infrastructure—the states know they have to lead the design of the new era.

However, here too there are problems. First, even though their approach to design and delivery of national policies now has the potential to be more coherent and less 'opportunistic' than that of the Commonwealth, the dynamic is such that the Commonwealth is not necessarily inclined to listen. Related to this is the fact that funding remains the key to effective collaboration, but from its position of strength, the Commonwealth is inclined to provide funding only on its terms. For example, the key operating principle behind the Victorian-led COAG National Reform Agenda is that improved efficiencies and outcomes in human service delivery be rewarded with federally-funded incentive payments from the COAG Reform Council, copying the way in which the 1990s National Competition Policy was designed and successfully implemented. While agreeing to the Agenda, the Howard government was less keen on providing the funds needed to make it work. Whether the wheels can stay on the National Reform Agenda without a real incentive structure, or if funded, how long they will stay on before collaborative federalism again begins to fracture under party political pressure, seem open questions.

A second fundamental problem is that for all their willingness to enter into a new role in an integrated national agenda, the states have a proven incompetence when it comes to delivering a wide range of outcomes in an effective and sustainable way, when viewed from the local and regional levels. 'Incompetence' here is not meant to carry an overtone of moral judgement or culpability. It is meant simply as a statement of fact in relation to how the community itself appears to judge state governments, vis-à-vis other levels (see Brown, et al., 2006; Gray and Brown 2007). Indeed, at least in NSW, many state government employees appear to agree that the constraints of scale on their own effectiveness make it desirable that in the long term there should be serious devolutionary reform. These judgments can be presumed to apply differentially to different states, but they certainly apply to those states—especially NSW and Queensland—where large population and large geography combine to make the scale of state bureaucracy and distance between state-level policy-making and local and regional conditions the most pronounced.

In these conditions, dealing with contemporary challenges by centralising overall federal control, but then delegating responsibility for on-ground outcomes back to the same state governments that failed to get it right in the first place, is not a logical recipe for success. The truth of this is reinforced by the frequency with which state and federal governments, when they do finally sit down and negotiate a collaborative framework for more effective programs, agree that what is needed is an effective regional framework for doing so. An obvious example is the national system of natural resource management (NRM) regional bodies which

represent the prime delivery agents for the Natural Heritage Trust and National Action Plan on Water Quality and Salinity. If not new regional entities, then local government is often the default delivery agent or body automatically relied on for local support. But how sustainable are either of these strategies?

Local Government

The first thing to note about local government, is that it often continues to be entirely left out of debate about the development of the federal system. Consistently with the way in which Federation was negotiated, we talk of our federal future as a matter of 'federal-state' relations, not 'federal-state-local' relations. This is a blind spot in constitutional thinking that we badly need to fix. Australian local government has a troubled history, one that borders on a history of political oppression, for some of the reasons mentioned at the outset. Particularly in NSW and Western Australia, and even in relatively decentralised Queensland, state governments have at times actively resisted the development of strong local government lest it lend weight to the types of colonial separation movements that were still factoring strongly in the Federation equation. The idea persists that local government is an entirely 'subservient' instrument of state government, rather than possessing any democratic legitimacy in its own right. Only twenty two years ago, the Advisory Council for Intergovernmental Relations—a forerunner to the present Council for Australian Federation—still described local government as a 'subordinate, not sovereign, sphere of government':

> [L]ocal government in each State has been established by the State government with the dual roles of satisfying some local needs from locally raised taxes and of assisting the State to implement some of its policies at the local level (where the State wishes this to occur). However, … the fact that it is also a democratically elected organisation, … implies that it is a partner to the State in government, much as the adult son working the family farm with his father is a partner in the family enterprise, rather than a hired hand bound to do the employer's bidding (ACIR, 1985: 7).

Apart from the ageism and sexism contained in this patronising metaphor, it is perhaps not as depressing for local government as might first appear. After all, parents inevitably die, or at least retire, and then it is the children who inherit the earth. Is this the future for Australian local government, vis-à-vis state governments?

The answer is, obviously, 'not any time soon'. Even though local government has experienced an explosive growth in capacity, skills, and functional and political importance, it remains if not the exploited son, then still the 'poor cousin' of Australian intergovernmental relations. This is a direct legacy of its troubled history. In the United States, local government's role is such that it is directly responsible for the expenditure of about 26 per cent of all public revenue—slightly more than state government. In Canada, where local government accounts for around 17 per cent of all own-purpose public expenditure, this is slightly less than half of the state government's share. In Australia, local government's share is around 6 per cent of the total, expending around one-seventh the amount that state governments do (see Brown, 2002 and Brown, 2007).

Given this combination of low base, growing responsibility and external cost-shifting, it is little wonder that a significant proportion of existing local governments are probably not financially sustainable (PwC, 2006).

Since the 1970s, local government has been an at least token player in federal debates, receiving direct federal funds and having one seat at Premiers' conferences, the Council of Australian Governments and fourteen other ministerial councils. Its growing real importance for the sustainability of Australian communities is reflected in empirical research, which suggests that even in NSW—where local government has the weakest history of all—it enjoys greater faith and confidence than state governments do (Gray and Brown, 2007). Significantly, this is also true of metropolitan NSW, and not just rural regions. However not only has local government come off an absurdly low base by comparison with other countries, but it has suffered a simultaneous growth in responsibility and deflection of tasks, without resources, from other levels of government (House of Representatives, 2003). Given this combination of low base, growing responsibility and external cost-shifting, it is little wonder that a significant proportion of existing local governments are probably not financially sustainable (PwC, 2006). This question is currently the subject of a Productivity Commission inquiry. At state level, the final irony is that this lack of sustainability is easily used by state governments to further reduce the democratic capacity of local government by following amalgamation policies based on 'crass simplicities' (Vince, 1997: 151), such as seen in Queensland in 2007.

Given its history and often its scale, even after the types of amalgamation program now seen in most states, local government remains poorly placed to handle many of the governance burdens that nevertheless increasingly fall to it—in natural resource management, a wide range of community services, regional economic

Reshaping Australia's Federation: The Choices For Regional Australia—*Continued from previous page*

development, and serious regional planning. However, the reality is that local government provides the primary base from which we must build, if the trends to more integrated national policies are to be accompanied—and where necessary, offset—by an enduring, responsive, democratically accountable framework for meaningful policy adaptation and service delivery at the local and regional levels. The question is: how can this be done?

Dealing with existing funding shortfalls is an obvious first step, and is part of the current agenda of the Australian Local Government Association (ALGA). Whatever else happens, there is a need to bring local government fully into the system of federal-financial relations by properly acknowledging its roles and funding it accordingly, probably through a direct share of the GST. The problem is that even with appropriate funding of existing operations, local government faces some structural limitations when it comes to playing the type of governance roles needed in a range of policy areas at the regional level—from transport planning to infrastructure to economic development to natural resource management. The limitations vary from state to state, and region to region. However they commonly include basic constraints of scale; questions of constitution, including the democratic legitimacy and leadership capacity of elected members; and associated questions of professional expertise and policy capacity. This is not to over-criticise—local government provides a vital cornerstone in most areas of local and regional policy-making and public administration, often one without which nothing at all can happen. Many of the most robust examples of regional-level collaboration and capacity building are found in local government circles. However as a general rule, individual local governments are too often still incapable of shouldering the main burden of coordinating, facilitating and delivering whole-of-government outcomes across multiple policy sectors at the local level, which are the types of roles needed of a full federal partner. This is even assuming that federal and state officials are ready to let them take on such roles.

These problems are all writ large in the recent debate over council amalgamations in Queensland. Australians may be over-represented per capita in state and/or federal legislatures, by comparison with many countries, but they are under-represented when it comes to elected local officials (Brown and Drummond, 2001). Accordingly amalgamation programs which reduce the number of elected local officials are going in the wrong direction, even in the unlikely event that they hold any economic or financial logic (cf Dollery and Crase, 2004). However, the federal Coalition government's response, of intervening to fund local plebiscites on the issue, concurrently with the November 2007 federal election, was unfortunately a move which was constitutionally meaningless. While it affirmed that the fate of local government was a national political issue, it offered no real solution to the larger issues.

Those aspirations certainly exist, but as it stands, adding some passing references to local government in its current form seems unlikely to ring those bells.

What, then, is an effective strategy for building up the capacity and position of local government? In the pre-election period, federal Labor's response was to commit to the ALGA's objective of a new debate about formal recognition of local government in the federal Constitution (ALP, 2007). However, what this will achieve and how it might be successfully accomplished remain vexed questions, given that options for recognition have already twice been put to the Australian people, in 1974 and 1988, and rejected on both occasions. The reasons can be safely presumed to include the fact that many Australians do not believe that local government as it currently exists should be constitutionally entrenched—but rather, extensively reformed. Given that many in local government themselves see constitutional recognition as a vehicle to an enhanced and reformed local government sector, that logic is difficult to attack. The issue is whether federal constitutional recognition of local government can be pursued in a way that gives voice to the larger aspirations of Australians for a more effective, efficient and responsive federal system overall. Those aspirations certainly exist, but as it stands, adding some passing references to local government in its current form seems unlikely to ring those bells.

THE CHOICES FOR REGIONAL AUSTRALIA

The challenges confronting the evolution of Australia's federal system, arising from this state of affairs, are twofold. The first is a need for a process and new institutions to help ensure that different levels of government work more effectively together. Especially if the opportunity for a *real* new federalism is to be captured, there needs to be a more comprehensive renegotiation of which government should be responsible for what, and how. A valuable blueprint was set out in 2006 by the Business Council of Australia, as a result of its *Reshaping Australian Federation* project (BCA, 2006). Importantly, the proposals include the

institutionalisation of collaboration not just as a short-term political solution, but backed up by an ongoing Federalism Commission to maintain momentum in the design and delivery of collaboration itself. There is also an increasing presumption that the many different funding streams of special purpose payments (SPPs) that currently run from the Commonwealth to the states could be rationalised, reducing overlap and duplication costs, and increasing efficiency in a way that could save billions of dollars per year. These are all worthy and necessary reforms, and key elements have been taken up in the federal Labor Party's approach to these issues (McMullan, 2007; Keating et al., 2007).

The second set of challenges, however, continue to go largely unrecognised in mainstream debate. While constructive, current reform discussions still focus primarily on relations between the federal and state governments, as if once they have renegotiated their respective roles, we can expect all to be well. Unfortunately, history and the *Albany Advertiser* suggest otherwise. There is ongoing consensus that renegotiated responsibilities and resources should be informed by the principle of 'subsidiarity'—which says responsibility for policy and services should be devolved to the lowest level of government capable of looking after them consistently with the national interest. However, in a great many areas of policy, most state governments do not and, by definition, cannot themselves constitute that lowest appropriate level.

In fact many reasons for recent federal expansion relate directly to the historically proven limitations of state governments when it comes to a variety of results on the ground. The Commonwealth's expansion into on-ground fisheries regulation and technical education colleges are just two examples. As also demonstrated vividly in Queensland, when federal and state governments are in conflict, one often finds that it is political pressure from local and regional communities that acts as the trigger (or excuse) for their competing initiatives. To some extent this will always rightly be so, but this political fact—the reminder that all politics is indeed local—simply reinforces the problem. Currently, we have a political system which not only (a) produces relatively high local and regional dissatisfaction, because of the limited capacity of local and regional communities to tailor national and state policy and forge their own solutions to major challenges, but also (b) ensures this dissatisfaction is directed back up the system at both the federal government which provides the funding, and the state government with its legal and other forms of control, thereby feeding the conflict between them. Thus in any particular program area with significant local or regional effects, the political triggers automatically exist for the undoing of whatever new agreement is forged between the Commonwealth and the states. A large part of the root cause is the lack of a robust framework of local and regional governance, capable of taking direct responsibility for the way that policies are tailored and implemented, and a larger share of services delivered, to communities on the ground. By this, I mean a framework in which a larger part of 'the buck' for policy and delivery is forced to stop at the local and/or regional level, instead of automatically flowing back up to higher levels of representation where it feeds the intergovernmental conflict.

In fact many reasons for recent federal expansion relate directly to the historically proven limitations of state governments when it comes to a variety of results on the ground.

What then are the choices for regional Australia? The first thing to note is that the choices for 'regional' Australia are also the choices for all Australians, because every Australian lives in a region. As citizens we all live in local communities, whether rural or urban, and the issue presently at stake is the role and sustainability of all communities within our political system. Importantly, our research suggests that urban communities—in Sydney for example—feel similar levels of satisfaction and dissatisfaction with the existing tiers of government as those in rural communities (Brown et al 2006; Gray & Brown 2007). Urban respondents also appear to hold strong expectations that the current federal system can and should evolve in ways that strengthen local and regional governance—not quite as strong as rural ones, suggesting that the options for structural change are not quite as close to the surface of public debate in the cities, but strong nevertheless. While there are now various models for what an ideal federal system might look like, they are all predicated on strengthening local and regional governance, and including those levels in our thinking about the share of responsibilities that needs to be devolved rather than centralised. The question is, how do we get there?

Three Broad Choices

There are three broad choices for dealing with the second, less recognised of these challenges. The first is that regional Australia will continue to be largely left out of the constitutional equation, with no real improvement in governance capacity at the local and regional levels. Under this scenario, developments in the federal system should deliver some major national advances but these will generally be in the direction of greater national uniformity and Commonwealth control over policy, particularly driven by economic reforms to simplify life for companies operating nationally and internationally. There may be new efficiencies in the design and delivery of public services,

Reshaping Australia's Federation: The Choices For Regional Australia—*Continued from previous page*

but not necessarily great increases in responsiveness and regional innovation. Collaboration between governments can be expected to lapse back into periods of unnecessary conflict. In the long term, we can expect the evolution of an extremely strong federal government, relying on highly bureaucratised (and/or corporatised) systems for controlling policy implementation and service delivery at all levels of society.

The second choice is to finally build local government into the strong tier of government that historically, in most states, it has never been allowed to become. By growing local government's role as a partner in the federal system, for example by writing its role into all intergovernmental programs in which local and regional communities have a direct stake, and funding it accordingly with a suitable share of a growth tax, there is no doubt we can enhance governance capacity at the lower levels, and offset the otherwise increasingly centralised nature of our political system. However, for the reasons seen above, if this expansion is not pursued wisely and on an ambitious scale, then little is likely to change. In particular, federal constitutional recognition of existing local government systems without major enhancement and renewal appears to be a high risk strategy, with a lot of potential for wasted time and effort.

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The third choice is that all governments begin investing seriously in the development of a new, stronger system of local and regional governance as a more sophisticated national strategy. This includes building up local government from its current low base, but recognising that if it is to maximise one of its few current strengths—that is, the fact that it often still is local—then simply forcing local governments to merge into 'regional governments' is not a coherent solution. Instead, a coherent local and regional governance enhancement program would also focus on the tapestry of regional governmental institutions that already exists, as an emerging de facto 'fourth tier' in our federal system.

Such an approach would examine how we expect this fourth tier, in which local government itself is integral, to evolve in the medium and long term. Government relies increasingly on these regional bodies, even though they are typically 'drip fed' with funding, suffer from low community recognition and hence legitimacy, rely heavily on 'volunteerism' and hence risk burn-out and domination by vested interests, and suffer a range of other problems not dissimilar to some of the historical problems of local government. Such challenges apply to differing extents to different parts of the regional governance tapestry. For example, the national system of natural resource management regional bodies has seen an increasing share of resources and professionalism, but suffers variability in terms of the way bodies are constituted, and consequently their transparency, accountability, political legitimacy, and ability to influence other key actors. Meanwhile, our system of local and regional economic development assistance remains weak in the extreme, with the main strategy coming in the shape of the $90 million per annum Commonwealth *Regional Partnerships* program. The tenuous and politically controversial nature of even this limited program was highlighted during the November 2007 election campaign. In particular, the administering department and the main regional bodies meant to support the program, the nation's Area Consultative Committees, were reported to be regularly overridden (ANAO 2007). Meanwhile other regional bodies are notorious for their fragmentation, overlap and 'third world' birth and death rates (RBDA, 2003; Beer and Maude, 2002).

New possibilities are open to us for strengthening and maximising the advantages of these regional institutions, in conjunction with greater support for regional collaboration between local governments, and structural, financial and democratic reform of local government itself. Many regional bodies are the product of collaborative federal-state programs rather than uniquely the product of one or the other. This is in itself a breakthrough. Many initiatives in 'whole-of-government' coordination and integrated 'place management' are also directly supported by state officials, through regional managers' forums and new regional coordination strategies. The federal government has itself documented the value of joined-up government (APSC, 2004), but has provided as yet few insights into how this should occur between rather than just within tiers of government, especially on an ongoing basis—joined-up government so far tends to run sideways more than up and down. We are also yet to examine how joined-up government can be made more directly responsive to the needs of communities, by adapting traditional bureaucratic lines of accountability that otherwise still simply run back to state head office and state ministers.

Priorities for Local and Regional governance enhancement

Three specific actions could be undertaken, as a national policy initiative, as steps toward enhancement of local and regional governance in ways that can sustainably and realistically help rebalance our federal system. These actions are not mutually exclusive, and can be pursued separately, but the reality is that all are needed.

First, federal and state governments could legislate, cooperatively, to combine and strengthen their regional coordination and capacity-building efforts, and bolster their existing investment by making regional programs both more transparent and more directly responsive to regional communities. The same mechanism could provide a more coherent framework for channelling federal and state funds to the growing panoply of regional bodies, as well as, and including, local government which in any such program would play a special and pivotal role. It would be the job of this joint coordination program to not only seek better synergies and efficiencies in the provision of regional programs, but to directly support and increase the sustainability of regional bodies, and provide a vehicle for increasing their profile and accountability in respect of the communities they serve.

This relatively simple idea has been around since the 1940s, but lapsed because neither federal nor state governments were prepared to give regional-level coordination mechanisms any real resources, flexibility or autonomy (see Brown, 2005: 20, 26). Consequently we know that a statutory framework is probably needed for both horizontal and vertical collaboration to be made robust and enduring, since it has to have the authority to bring in local government, existing and emergent regional bodies, and the regional administrative operations of major federal and state agencies. Logically, alongside the various existing mechanisms for the membership of regional bodies, part of the framework could include more capacity for the direct democratic election of a small number of regional leaders, to give greater profile and lend greater legitimacy to the regional coordination effort. A notional framework is set out in the Appendix to this paper. However the key to the framework would be the flexibility for regions to maximise the institutions that already exist, and receive the increased and more reliable streams of funding on which capacity-building depends, rather than imposition of a top-down constitutional blueprint for all regions. The bodies already operating in this field do so for a wide variety of purposes, function at wide variety of scales, and face a wide variety of challenges, with caution needed in how to best to approach 'systemic capacity building' in a manner that is equitable and accountable (Morrison and Lane, 2006: 351).

Second, structural devolution of resources is needed through expanded and/or reallocated funding to the local and regional levels. Local government's present call is for the establishment of a $1 billion 'Community Infrastructure Renewals Fund', as a first step towards meeting the estimated $14.5 billion backlog in the sector's unmet infrastructure responsibilities (PwC, 2006). In fact, the entire backlog could be cleared with less than the Commonwealth's current annual surplus, which was exactly $14.6 billion in 2005-2006. However, the size of this backlog provides a reminder of the strikingly low level of resources available to local government overall, with its 6.4 per cent share of own-purpose expenditure amounting to a total of around $21 billion per year. Untied Commonwealth funding to local government will run at about $1.76 billion in 2007-2008; but cost-shifting onto local government was itself identified in 2003 as carrying an unfunded burden of up to $1.1 billion. Local government's share of resources needs to be increased by some orders of magnitude greater than is currently contained even in local government's own demands. This is without also then factoring in any aggregate estimate of what it would take to ensure the sustainability of the growing range of regional bodies and community-based regional programs.

Whatever the solution, the willingness of governments to identify and liberate these resources is the real test of whether an improved federal system is regarded as a national priority.

The key to successful devolution is a more sophisticated strategy in which increased funding is made available both for substantive functions and services, and for capacity building and institutional reform; and also shared between local government and the regional level. There are a number of potential sources for these resources, including the relaxation of direct revenue-raising constraints on local government; investment of federal and state surpluses; identification of the current real costs of local and regional governance by making the roles of these levels explicit in all existing program agreements, including federal-state SPPs and GST-funded programs; and savings potentially to be gained through the elimination of overlap and inefficiency in the current system of intergovernmental transfers, including SPPs, as recommended by the Business Council and adopted by federal Labor. While serious work is needed to quantify these potential savings (Smith, 2007), current estimates range from $1 billion to over $20 billion per year. Whatever the solution,

Reshaping Australia's Federation: The Choices For Regional Australia—Continued from previous page

the willingness of governments to identify and liberate these resources is the real test of whether an improved federal system is regarded as a national priority.

Third, the role of local and regional communities in performance measurement and feedback needs to be built more strongly into the new, renegotiated relationships that look likely to unfold between federal and state governments. It is important that this also be locked in through 'broadbanded' funding agreements and frameworks like the COAG National Reform Agenda. In the long term, stronger local and regional governance capacity should mean that those responsible for the effective regional delivery of programs can be held accountable through normal democratic processes, so that more of the political 'buck' stops at the regional level. In the short and medium terms, as part of building that capacity, other more structured methods are needed for providing local and regional communities with a direct voice on the effectiveness of programs—as distinct from conventional econometric evaluations, which naturally tend to focus on efficiency more than responsiveness, and conventional political feedback, which depending on the circumstances can mean anything or nothing.

CONCLUSION

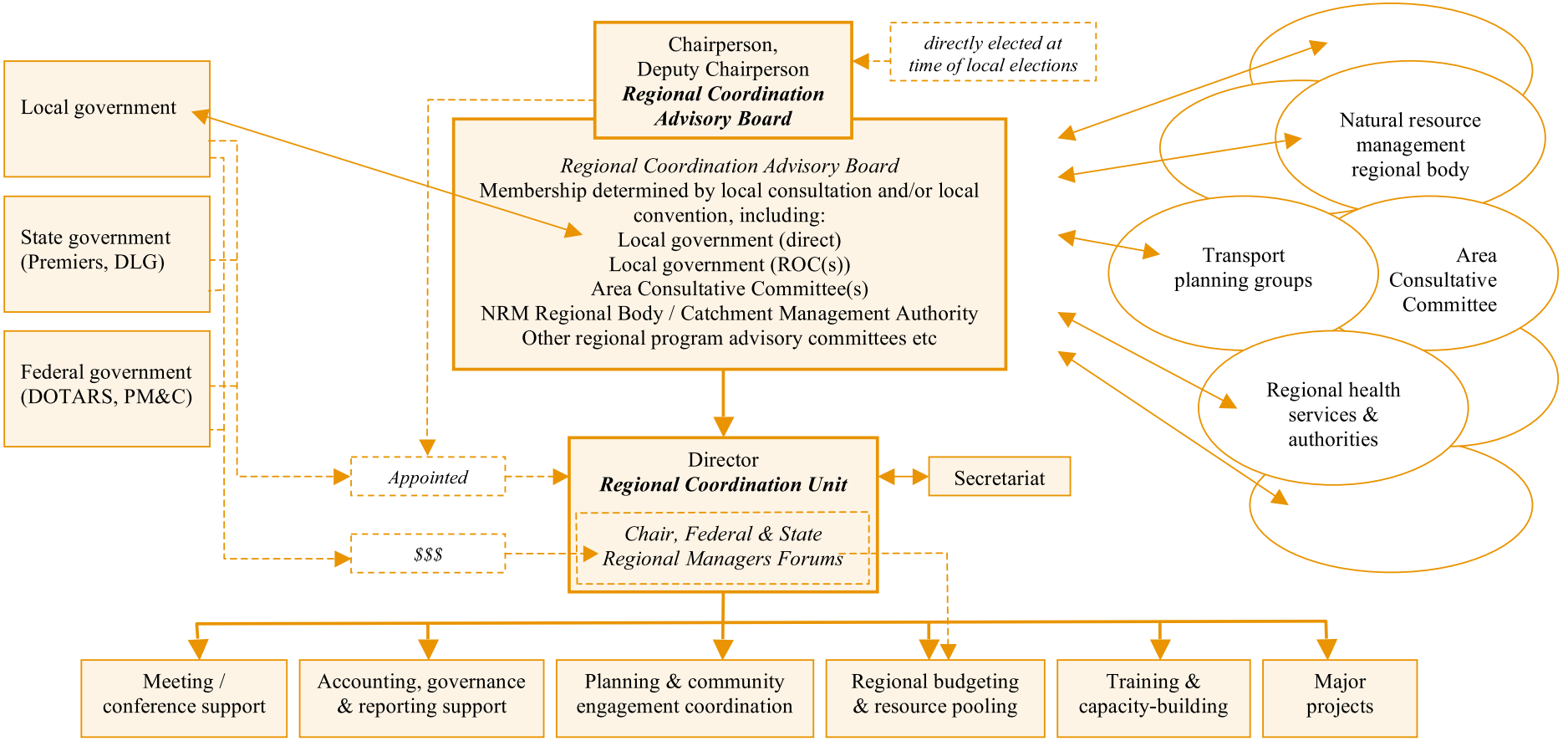
This paper has argued that the choices that will determine whether local and regional governance are ever taken seriously as a part of Australia's federation, are not just important to local and regional communities, but vital for the future health of the federation itself. When we examine the promising outlook for the renegotiation of some of the traditionally problematic aspects of Australia's federal system, we find that much of the intended success may hinge on whether federal and state governments are also prepared to finally make strategic investments in the development of governance capacity at the local and regional levels—investments on which the ability of all governments to deliver sustainable, on-ground outcomes clearly depends.

In particular, if federal and state governments are going to embrace new collaborative frameworks in more traditional domains of the states, such as human services, their success will depend at least partly on their ability to escape the cycle whereby they each come under political pressure to remedy the deficiencies of the other at local and regional levels. This pressure is one of the key hidden factors in the development of the conflicts and duplications that now characterise Australia's federal system. Given the centralised history of Australian state governments and historical weakness of local and regional governance, this problem is unlikely to retreat until the latter is comprehensively addressed. Capacity needs to be built to the point where it can justifiably be said that regional communities only have themselves to blame, because as part of the agreed new federal frameworks, they are actually equipped and empowered to carry a larger share of these governance burdens themselves.

Would a coherent new strategy for local and regional governance enhancement threaten the stability of the federal system, by challenging the continued relevance and role of state governments? Perhaps, but probably no more than other major trends in Australian federalism. Public attitudes towards the states suggest that in the medium to long-term, the pressures on them to yield ground both upwards to Canberra and downward to the regions are unlikely to recede. Further, we should remember that contrary to some federal scholarship, a majority of Australians probably entered into Federation hoping that the system would be evolutionary. In 1891, preparing for the Sydney Convention that effectively drafted our present Constitution, Henry Parkes was prepared to list the breaking up of the states into at least 'double the number of present colonies' as among the top four reasons why Australia should federate (Parkes, 1892: 609-10). In other words, 'as a matter of reason and logical forecast' he saw the opportunity for a territorial restructuring towards more regional government as on par with the other great federal priorities of intercolonial free trade and national defence. While apparently convinced that we are now stuck with what we've got, even Australia's second longest serving Prime Minister, John Howard, repeatedly pointed out that Australians would not create a political structure based on the current state governments if we had our time over again (Howard 1991, 2002, 2005, and 2007).

Equally clearly, if some or any of the states were to be abolished tomorrow, our present system simply does not contain any local and regional framework capable of ensuring that the governance of the nation would remain viable, let alone retain any resemblance to a federal system. The development of a coherent national plan for the strengthening of local and regional governance represents a way forward that we can no longer afford to ignore. With it, state and national governments alike may be able to reshape and maintain a more efficient and responsive federal system in which their own goals are met and their relevance guaranteed. If that fails, however, we will have at least started to make serious steps towards the development of the alternative, replacement federal system that most Australians, urban and rural, seem to want to see.

Local and Regional Governance Enhancement: A Notional Framework to Support 'Whole-of-Government' Regional Coordination and Capacity Building



Reshaping Australia's Federation: The Choices For Regional Australia—*Continued from previous page*

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