



Senate Select Committee on the Reform of the Australian Federation

City of Mandurah Submission

August 2010

Reform of the Australian Federation

- Introductionp.3
- Mandurah: a City with Growing Painsp.4

Inter-Governmental Financial Relations

- Financial Assistance Grantsp.5

Strengthening Australia's Regions

- Regional and Local Community Infrastructure Programp.9
- Local Government Enterprisesp.12

Constitutional Reform

- Constitutional Recognition of Local Government:p.17

Introduction

The City of Mandurah welcomes the opportunity to comment on the Senate Select Committee on the Reform of the Australian Federation. It is understood that the purpose of the Inquiry is to:

- Inquire into and report on key issues and priorities for the reform of relations between the three levels of government within the Australian federation
- Explore a possible agenda for national reform and to consider ways it can best be implemented in relation to, but not exclusively, the following matters:
 - The distribution of constitutional powers and responsibilities between the Commonwealth and the States (including territories)
 - Financial relations between Federal, State and Local Governments
 - Possible constitutional amendment, including the recognition of Local Government
 - Processes, including the Council of Australian Governments, and the referral of powers and procedures for enhancing cooperation between the various levels of Australian Government
 - Strategies for strengthening Australia's regions and the delivery of services through regional development committees and regional grant programs.

Mandurah: a City with Growing Pains

The City of Mandurah is currently Western Australia's 8th fastest growing Local Government Area, and the 11th fastest growing LGA in Australia. Mandurah is currently experiencing 5-year (2004-2009) average annual growth of 4.5%, compared with the WA average of 2.5%, and national average of 1.8%.¹

Over the 30-year period 1980-2009, Mandurah's growth averaged approximately 6.2% per annum. During this period, Mandurah's population has grown nearly sixfold, from a Shire of just over 12,000 in 1980, to a City of almost 70,000 in 2009. In June 2010, the City of Mandurah's population surpassed 70,000. Mandurah's population is forecast to continue growing at a steady rate, to reach almost 100,000 by 2021, and between 105,000 and 116,000 by 2031².

Mandurah is also currently Western Australia's most rapidly ageing community. At the 1991 Census, the median age of Mandurah residents was 35 years; at the 2006 Census it was 43 years. Mandurah currently has Western Australia's highest proportion of residents aged 65 years and over (20.8%), compared with the WA average of 11.9%³.

In previous decades, Mandurah consistently experienced very high levels of unemployment (1991 Census – 19.1%). However, by December 2008, Mandurah's unemployment rate had reduced to an historical low of 4.3%, but has subsequently risen again to reach 6.9% in March 2010. This compares unfavourably with the current WA average of 5.1% and national average of 5.6%⁴.

Mandurah also has a comparatively low percentage of residents with Year 12 completions and tertiary-qualifications, a comparatively low youth population, low employment levels in professional services industries, and an over-reliance on retail sector and construction industry employment. When combined, these factors point to a high level of local employment vulnerability, a situation that has been exacerbated by the recent economic downturn and a lack of serviced industrial land.

Further, Mandurah's sustained long-term rapid population growth has heavily impacted the City's ability to provide the necessary infrastructure for its community. Had Mandurah's population grown at only the State average, the City would have had many more years in which to reach - and provide infrastructure for - its current population. It also would have received many additional years' worth of rates revenue and grant income, as well as having significantly greater borrowing capacity than it has under its high-growth reality.

Despite these challenges, the City is making steady progress in establishing itself as a self-sufficient economic anchor to the southern metropolitan area – the *Southern City*.

¹ Australian Bureau of Statistics – *Regional Population Growth Australia 2008-09*; 30 March 2010

² Informed Decisions; *City of Mandurah Population Forecast*; March 2009; Western Australian Planning Commission; *South Metropolitan and Peel Sub-Regional Structure Plan*; June 2009

³ Australian Bureau of Statistics – *Population by Age and Sex, Regions of Australia, 2008; August 2009*

⁴ Australian Government Department of Education, Employment and Workplace Relations – *Small Area Labour Markets*; March Quarter 2010

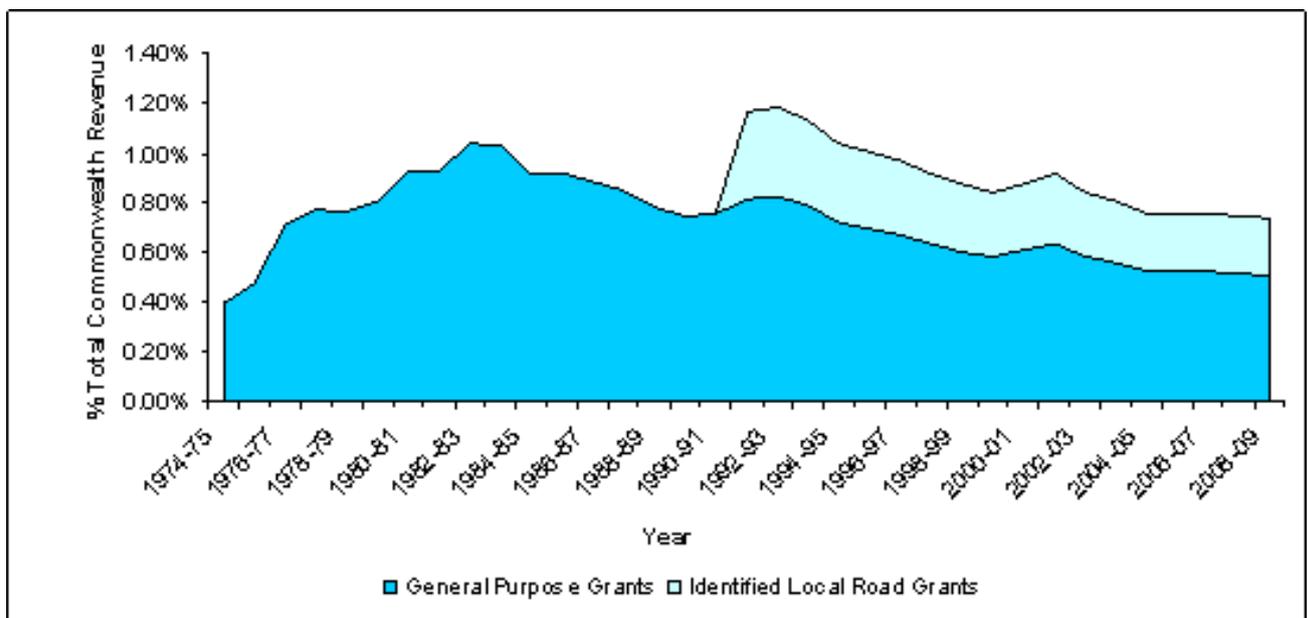
Financial Assistance Grants

This year, the City of Mandurah's population reached 70,000. Given that 30 years ago, Mandurah's population was less than 13,000, the City's growth has been nothing short of phenomenal.

However, Mandurah's sustained rapid population growth has seriously impacted the City's ability to provide the necessary infrastructure for its community. Put simply, the accumulation of Mandurah's rates revenue and its borrowing capacity have been far outstripped by the growth of its population, and with it, the demands on infrastructure and service provision.

Whilst Financial Assistance Grants (FAGs) revenue comprises only a relatively small proportion (approx. 3%) of the City of Mandurah's total income, it is nonetheless an important contributor to the City's revenue stream. However, the current method of distributing the 'General Purpose' grant component of FAGs requires a complete overhaul.

The Australian Local Government Association (ALGA) has consistently called for the national FAGs allocation to be increased to a minimum of 1 per cent of total Commonwealth taxation revenue. ALGA claimed that FAGs as a percentage of total revenue had declined to 0.68% by 2008/09, and called on the Australian Government to ensure that FAGs funding is maintained at no less than 1%, to assist Local Government infrastructure and service provision:



Source: Australian Local Government Association; *Financing Local Government: Financial Assistance Grants – the good and bad of financial assistance grants.*

ALGA has recently called upon the Australian Government to conduct a Parliamentary Inquiry into the funding of Local Government, which includes an examination of Financial Assistance Grants. The City of Mandurah support's ALGA's position. Nonetheless, whilst increasing the grant to 1% of total Commonwealth revenue would address the quantum of the grant, it would not address the existing inequities of the Federal-State-Local grant distribution method.

Under the current distribution model, the General Purpose grant component is apportioned by the Commonwealth Grants Commission to State and Territory Grants Commissions on a per capita basis i.e. based on the population of each State and Territory. However, when the intra-State distribution occurs, these grants are then apportioned to Local Governments based on the principles of full horizontal equalisation and the minimum grant.

As a result of the existing Commonwealth-State-Local distribution method, outer metropolitan and inner regional Councils in populous States such as NSW and Victoria automatically receive significantly larger grants – up to five times the grant received by similar sized WA Councils - regardless of their actual need.

The table below highlights the inequity of having two separate methodologies for inter-State and intra-State General Purpose grant allocations. The existing method favours States with larger populations, at the expense of States with large geographic areas but relatively small populations, such as Western Australia.

The three Councils listed below have similar populations and demographic structures, and are all classified as Urban Regional Medium (URM) by the Department of Infrastructure, Transport, Regional Development and Local Government. However, because the existing Federal-State grant allocation process favours States with large populations, Mandurah currently receives less than one-quarter of the General Purpose grant received by Coffs Harbour, and less than one-fifth of the grant received by Greater Shepparton.

| Local Government Area | Local Government Classification | Population (June 2007) | General Purpose per capita Grant (2005/06)⁵ | General Purpose Grant – Estimated Entitlement 2006/07 |
|------------------------------|--|-------------------------------|---|--|
| Greater Shepparton (VIC) | URM | 59,972 | \$89.25 | \$5,699,304 |
| Coffs Harbour (NSW) | URM | 68,902 | \$63.45 | \$4,392,168 |
| Mandurah (WA) | URM | 61,424 | \$16.74 | \$1,068,956 |

To overcome the existing inequity, the Commonwealth Grants Commission should introduce a ‘national distribution’ model, providing General Purpose grants directly from the Commonwealth to Local Governments (bypassing the States), based on their relative ‘need’ (horizontal equalisation), rather than their State’s population. If the Australian and State Governments are serious about achieving an equitable national distribution of funds to all Local Governments, then it is only fair that each Council should be assessed against all other Australian Councils when competing for FAGs funding, rather than against only those Councils in their state.

⁵ Department of Transport and Regional Services - 2005-06 Report on the Operation of the Local Government (Financial Assistance) Act 1995; 2007; p.159, 165, 177

Whilst each State's Local Government Grants Commission would no longer be responsible for determining the final quantum to be distributed among its Councils, they would retain a significant role in collating data on each Council within their State (based on National Principles), and comparing each Council's disability factors with those in other States and Territories to determine which Councils across Australia have the greatest horizontal equalisation need.

In July 2010, the National Sea Change Taskforce released its *10-Point Plan for Coastal Australia: Towards a Sustainable Future for our Coast*. The 10-Point Plan aims to help achieve a collaborative national response to the social, environmental and economic challenges facing the nation's coastal zone and its communities.

The Taskforce document noted that communities in Australia's non-metro coastal areas are disadvantaged under current funding arrangements, including the system of Financial Assistance Grants. It noted that the rate of population growth in non-metropolitan coastal Local Government Areas is consistently higher than the national average, which has left many coastal LGAs struggling to meet increasing demands on infrastructure and services. The discussion paper noted that:

'The shortfall in funding for infrastructure and services in these communities continues to grow, and is exacerbated by the substantial inflow of non-resident visitors such as tourists, part-time residents or absentee landowners, who are not counted in the estimated resident population data released annually by the Australian Bureau of Statistics. This information is used as the source of official population data for the calculation of Financial Assistance Grants and other funding programs for regional Australia⁶'.

The Taskforce paper recommended that the formula for Financial Assistance Grants be amended to broaden the range of Grants Commission disability factors to include the financial impact of rapid population growth, and the need to respond to increasing demand for regional infrastructure and services. It also recommended that the formula be amended to include the impact on non-metropolitan coastal LGAs of non-resident populations (tourists). The City of Mandurah concurs with the Taskforce's findings and recommendations.

The FAGs distribution formula requires urgent overhaul, commencing with a comprehensive National Review or Parliamentary Inquiry, and a commitment to maintain FAGs funding at no less than 1% of total Commonwealth taxation revenue.

⁶ National Sea Change Taskforce; *A 10-Point Plan for Coastal Australia: Towards a sustainable future for our coast*; July 2010; p.5.

Recommendations:

- **Undertake a comprehensive National Review or Parliamentary Inquiry into the funding of Local Government, including an examination of the existing Financial Assistance Grants General Purpose Grant distribution method**
- **Provide Financial Assistance Grants directly to Local Governments via a national distribution model, bypassing the States**
- **Revise the escalation methodology for Financial Assistance Grants from a mix of population growth and CPI to a new escalation formula tailored to Local Government cost movements e.g. a combination of the Australian Bureau of Statistics Wage Cost Index and Construction Cost Index coupled with population growth**
- **Broaden the range of disability factors to include the financial impact of rapid population growth, and the need to respond to increasing demand for regional infrastructure and services, and also to include the impact of non-resident populations (tourists)**
- **Ensure that the quantum of Commonwealth FAGs general purpose funding to Local Government is increased to, and remains at a minimum of 1% of total Commonwealth taxation revenue.**

Regional and Local Community Infrastructure Program

In December 2006, the *National Financial Sustainability Study of Local Government* report was released by PricewaterhouseCoopers (PWC) on behalf of the Australian Local Government Association (ALGA). The study sought to develop a detailed plan to help Councils to meet their fiscal obligations and infrastructure and service demands, and to provide a sound approach for targeted support to Local Government for consideration by other spheres of government. The study found that the potential aggregate infrastructure backlog for all 700 Australian Councils was approximately \$13.6 billion, with an annual sustainable funding gap of more than \$1 billion.

One of the key recommendations of the study was the establishment by the Australian Government of a new *Local Community Infrastructure Renewals Fund* (LCIRF). This new fund would support Councils in the more timely funding of renewals work for over \$12 billion in building assets covering a range of existing community infrastructure including community centres, aged care facilities, libraries, health clinics and sport and recreation facilities.

The study suggested that the LCIRF could be distributed based on relative need, using the *Roads to Recovery* (R2R) program approach. It also suggested that the size of LCIRF could be set so as to provide a similar level of renewals support as provided by the R2R program, which is around \$250 million per annum.

In April 2007, the National Sea Change Taskforce released draft discussion paper, *A Policy Framework for Coastal Australia*. The Taskforce paper supported the PWC proposal for introduction of an LCIRF program for Local Government infrastructure renewal and replacement; however, it also recommended the introduction of an additional *Community Infrastructure Fund* to allow the provision of new infrastructure in 'sea-change' LGAs. The proposed *Community Infrastructure Fund* would provide a similar funding amount to the LCIRF (approx. \$250 million per annum), and could also be provided under similar funding parameters.

In the lead-up to the 2007 Federal Election, the City of Mandurah submitted a position paper, supporting the National Sea Change Taskforce's request for an additional *Community Infrastructure Fund* to meet rapidly increasing demand for new community infrastructure in sea-change and rapid-growth Local Government Areas.

The introduction of the *Regional and Local Community Infrastructure Program* (RLCIP) was announced by the Australian Government at the Australian Council of Local Government inaugural meeting in November 2008, as part of the Nation Building Economic Stimulus Plan. The new program provided \$800 million in 2008/09 for local infrastructure projects such as community centres, town halls, parks and playgrounds, pools and sports facilities. The program is being delivered through local Councils, and is designed to stimulate growth and economic activity across Australia, as well as improving community wellbeing.

Under the RLCIP, \$250 million was provided for general Council infrastructure projects in 2008/09, and \$550 million was distributed under a competitive application process for larger-scale infrastructure projects. The City of Mandurah received \$567,000 under the 2008/09 general allocation, and was also successful in obtaining \$3.5 million under the Strategic Projects component for its Rushton Park Redevelopment project. This project has commenced, and will be completed in 2011.

In June 2009, the Australian Government announced additional RLCIP funding of \$220 million under the 2009/10 allocation, taking the total funding amount over two years to just over \$1 billion. As in the previous year's round, funding was allocated under two components, with a \$100 million general allocation, and \$120 million for strategic projects. The City of Mandurah received \$249,000 under the 2009/10 general allocation, but its Strategic Projects application was unsuccessful.

The *Regional and Local Community Infrastructure Program* has been an outstanding success, and has helped Councils across Australia undertake essential community infrastructure projects that would otherwise be beyond their budgets. The City of Mandurah was able to undertake a number of community infrastructure projects using its general allocation, including park and reserve upgrades and sporting oval lighting projects. The City's 2008/09 allocation has been acquitted, and the City is currently implementing its 2009/10 projects.

The Australian Government initially advised that the RLCIP was designed as a two-year stimulus package only, and would not continue beyond 2010. Whilst it could be argued that the worst of the recent financial downturn is over, the community infrastructure provision task for Councils remains substantial. The City of Mandurah has many community infrastructure projects yet to be completed as part of its current 10-Year Capital Works Plan, including the following sport, recreation and cultural facility projects:

| Project | Total Cost |
|--|-------------------|
| Mandurah Surf Life Saving Club Facility | \$2.25m |
| Mandurah Aquatic & Recreation Centre Redevelopment Stage 1 | \$15m |
| Peel Heritage Centre | \$10m |
| Visual Arts Centre | \$10m |
| Lakelands Recreation Centre | \$7m |
| Northern Library | \$5m |
| Mandurah Aquatic & Recreation Centre Redevelopment Stage 2 | \$10m |
| Total | \$59.25m |

In addition to the \$60 million required for new community sporting and recreational facilities, the City will also undertake approximately \$30 million worth of road and bridge projects within the next decade. Other projects include the Old Mandurah Traffic Bridge replacement project (\$28m-\$40m), the City Centre Revitalisation project (\$30m), car park and footpath projects (\$20m), drainage projects (\$10m), and a new Operations Centre (\$10m).

The City of Mandurah is strongly of the view that the RLCIP should be retained for at least the next four years, and then reviewed, in a similar manner to the Australian Government's highly successful *Roads to Recovery* program. It could further be argued that both programs should become a permanent fixture of Federal-Local Government financial arrangements.

On 18 June 2010, the Australian Government announced a third round of the RLCIP, totalling \$100 million. This funding would consist of a general allocation only, and would provide a similar amount to each LGA as in Round 2. The City of Mandurah would receive \$254,000 under the Round 3 RLCIP. However, as a result of the recent Federal Election, the future of this round, and indeed the RLCIP, is uncertain.

The National Growth Areas Alliance (NGAA) and the Australian Local Government Association (ALGA) have called for a \$1.2 billion four-year extension of the *Regional and Local Community Infrastructure Program*, to be followed by a review. The City of Mandurah supports this position, and reiterates the view that Local Government needs a permanent and reliable revenue stream that allows it to determine its own community infrastructure priorities.

Recommendation:

That the Australian Government commits ongoing funding to the *Regional and Local Community Infrastructure Program* for at least the next four years, to be followed by a review of the program.

Local Government Enterprises

The Western Australian Local Government Association (WALGA) recently released a draft discussion paper, *Local Government Enterprises as a means of improving Local Government*. The discussion paper proposed that a new model should be introduced that allows Western Australian Local Governments to enhance their income-generating capability through the use of Local Government Enterprises.

The discussion paper referred to previous studies, including the 2006 Local Government Advisory Board Report, *Ensuring the Future Sustainability of Communities*; the 2008 WALGA *Systemic Sustainability Study of Local Government*; and the 2008 Commonwealth Productivity Commission report, *Assessing Local Government Revenue Raising Capacity*. Each of these studies highlighted the need for Local Governments to find ways to improve their financial capacity and long-term financial viability.

The City of Mandurah contends that Local Governments in Western Australia should be permitted to undertake commercial enterprises that benefit their local community and/or reverse economic decline, particularly in regional and rural areas that do not receive the same level of service as metropolitan LGAs. This includes giving Councils greater freedom to engage in urban redevelopment.

There is no doubt that Western Australian Local Governments are constrained in their ability to efficiently develop their assets under the existing provisions of the *Local Government Act 1995*. For the City of Mandurah, the need to participate and influence the scale and design of urban redevelopment is a pressing priority. Any moves to provide an environment in which the City can play an active role, and at the same time provide an economic return for its community should be welcomed and encouraged.

The WALGA discussion paper noted that sections 3.58 to 3.60 and section 6.21 of the *Local Government Act 1995* 'provide almost insurmountable hurdles to the commercially efficient use of Local Government assets or the conduct of trading activities on normal commercial terms'. These include:

- Section 3.58 – Disposal of property
- Section 3.59 – Undertaking major land transactions
- Section 3.60 – Establishment of Incorporated Companies
- Section 6.21 – Borrowings by a Local Government.

The paper asserted that 'the very concept of the role of Local Government has developed in the 15 years since the Act came into force, with a broader range of expectations as to both the capacity of public bodies to contribute to sustainable and socially worthwhile outcomes, and the need for public-private partnering to achieve these objectives'.

The WALGA discussion paper observed that urban development in Western Australia is largely constrained by the *Local Government Act 1995*, and that planning instruments alone are often insufficient to deliver sustainable development outcomes. The paper asserted that there is a legitimate role for Local Government to participate in the property market where it is beyond the capacity (or willingness) of the private market, and below the scale required by State agencies.

The discussion paper outlined a potential role for Local Government in the property sector, to achieve both urban regeneration and commercial benefits. Potential areas include:

- Directly undertaking selected development projects
- Joint ventures with private owners
- Underwriting of specific aspects of development projects
- Aggregation of sites.

The paper noted potential or perceived conflicts of interest over Local Government's involvement in the property sector, but observed that the creation of an arm's-length vehicle such as a wholly-owned company or an investment trust would serve to avoid conflicts of interest.

The discussion paper also analysed interstate models, and noted that other jurisdictions have the following LGE models in place:

- *NSW* – Councils can only participate in corporate structures for Local Government functions (Public-Private Partnerships) with the consent of the Minister.
- *Victoria* – Councils may participate in the formation and operation of a corporation, trust, partnership or other body, and engage in commercial activities so as to benefit the Council. However, where the value of the 'at risk' investment exceeds the greater of \$500,000 or 5% of the Council's rates revenue, the approval of the Minister is required (together with the Treasurer if the amount exceeds \$5 million). The Minister may place conditions or guidelines for such ventures, and may order a poll of voters to be held before the venture proceeds. The Victorian Act contains restrictions on the sale or lease of land by a Council, in broadly similar terms to those of the Western Australian Act.
- *Queensland* – Local Government Owned Corporations (LGOC) are the vehicle used to establish corporate structures in Queensland. The use of corporate structures for a broad range of functions (including utility services) is sanctioned by specific provisions of the Act relating to 'enterprise powers'. A Local Government may engage in or help an enterprise if the enterprise concerns a matter that, in its opinion, is directed to benefiting, and can reasonably be expected to benefit, its area, or a part of its area, and may do all things necessary or convenient to be done to exercise such a power.

- *South Australia* – Councils are explicitly given the legal capacity to do anything necessary, expedient or incidental to achieving their objectives. However, Councils must separate their regulatory activities from their other activities. A Council may establish a corporate subsidiary to undertake any non-regulatory function of the Council, subject to Ministerial approval to the conferral of corporate status. Councils have a general and largely unfettered capacity to deal in land that is vested in Council, either in fee simple or as a lessee.
- *New Zealand* – Councils are invested with the ‘power of general competence’, giving them unfettered powers to enter into commercial transactions of any kind, provided that specified consultative processes be followed. Subject to the consultative process, Councils may establish corporate entities - Council Controlled Organisations (CCO) – for any purpose, either commercial, non-commercial or even regulatory in nature.

Compared with other jurisdictions, the discussion paper confirms Western Australia’s reputation as the ‘Wait-Awhile State’, being the only jurisdiction where a blanket prohibition on the use of corporate governance structures by Local Government is in force. When taken into account that Western Australia has some of the nation’s fastest growing Councils - particularly in regional areas, with corresponding infrastructure and service provision requirements, the challenges of population growth make the need for Councils to be financially self-reliant all the more evident.

The City of Mandurah concurs that Local Government should be able to play an active role in the creation of sustainable developments, beyond its traditional planning/regulatory function. Councils should be able to partner directly with developers – via an arm’s length LGE – to deliver urban renewal that promotes economic, social and environmental sustainability. Of particular importance is the provision of affordable housing.

Existing and proposed State and Federal Government housing programs, including the *Housing Stimulus Package*, the *Housing Affordability Fund*, the *Housing Rental Affordability Scheme* and the *Building Better Regional Cities* program are focussed on helping Local Governments and developers to provide more affordable housing for local communities. The City of Mandurah was recently named as one of 46 Councils eligible to participate in the Australian Government’s proposed *Building Better Regional Cities* program, which would provide up to \$15 million each for around 15 regional cities to build 15,000 new homes across Australia.

Successful Councils would be able to spend funds on local infrastructure projects that support new housing developments, such as connecting roads and bridges, drainage upgrades and community centres. Councils would be required to deliver more affordable homes over the next three years, featuring good urban design, environmental improvements and appropriate planning benchmarks. The program will target working families living in regional areas who are suffering from cost of living pressures, and newly arrived residents who want to move into regional areas.

Whilst it is understood that the Australian Government would partner with successful Local Governments to implement the *Building Better Regional Cities* program, it is yet unclear whether Local Governments in turn would be able to partner with the private sector to deliver the program. Further, because of the varying statutory arrangements between Australia's States, some Councils may be permitted to undertake LGEs to deliver the program, whilst successful Western Australian Councils might not.

The WALGA discussion paper is timely, as Councils across Western Australia increasingly find themselves caught in a four-way squeeze between rising community expectations, widespread cost-shifting by State Government, an inability to autonomously set Council fees and charges for services provided, and a blanket ban on the use of corporate structures by Councils. This situation is even more pronounced in regional coastal areas with rapid population growth and high infrastructure demands. These combined factors severely limit Western Australian Local Government's ability to create and maintain sustainable communities.

As Australia's fastest growing regional city, the City of Mandurah is acutely aware of the difficulties of funding infrastructure and service provision for a rapidly growing community with non-stop population growth since the mid-1960s. It is only through a combination of targeted rate setting, borrowings, capital works programs and long-term financial planning that the City has managed to keep its house in order.

The time has come for the Western Australian Government to remove the financial shackles from Local Governments, and to allow them to develop a self-sustaining financial capability that in turn will allow them to provide for the social, economic, environmental and cultural wellbeing of the communities they serve. Rather than being an effective instrument to ensure accountability and transparency of Local Government dealings, the existing provisions have only managed to stifle Local Government initiative, and to deny their communities the facilities they deserve.

The City of Mandurah wants to explore options for engaging in Local Government Enterprises. Councils should be permitted to develop land in partnership with the private sector, and should also be able to engage in urban regeneration and property development beyond their traditional 'regulator' role.

The 'Comprehensive' approach outlined by WALGA appears to hold merit, as it would give Councils plenty of scope to engage in LGEs without having to obtain specific Ministerial approval for every project undertaken. Provided that measures are in place to ensure accountability and transparency, then Councils should be permitted to provide for the future sustainability of their communities, without the 'big brother' approach of State Government.

As is the case currently, all LGE accounts should be submitted to the Department of Local Government. Any suggestion that the Auditor-General should be involved in the process is regarded as introducing an unnecessary additional layer of review. Auditing standards in Australia are of a high quality, to such an extent that Local Governments are independently audited by professional firms which do not operate under the auspice of the Auditor-General. There is no evidence offered to suggest that the Auditor-General would add value to this process.

The proposed role of the Minister for Local Government in authorising LGEs is also questionable. There is no evidence to suggest that the Department of Local Government has the capability to assess the viability and effectiveness of an LGE.

It is suggested that a combination of an Initial Public Offering process supported by expert opinion, together with public consultation would be a satisfactory method to ensure a blend of expert opinion and community input. Further, any proposal to establish an LGE should be considered by the Local Government's Audit Committee prior to any recommendation being made to the Council.

It appears somewhat contradictory that the WA Government allows itself to engage in State Government Enterprises, through such entities as LandCorp, the Water Corporation and its various Port Authorities, yet expressly prohibits the same conduct by Local Governments. It is time for the Western Australian Government to catch up to its interstate counterparts, and to free its Councils from the regulatory shackles of the Local Government Act that prohibit them from engaging in commercial operations for the benefit of their communities.

In addition to land and property development, WA Councils should be permitted to engage in a range of public-private partnerships including parking stations, waste collection and resource recovery, youth facilities, tourism projects, industry creation, renewable energy provision and shared services. Not only would this strengthen the viability of local communities, but it would also increase the overall productivity of the State.

The ability to establish LGEs that can deliver a range of shared services to not only a group of Councils, but potentially to other agencies and companies would also be highly advantageous. A number of shared services examples in other states, including records management, IT systems, plant and equipment hire, regulatory functions (e.g. building approvals) etc could not only deliver economy-of-scale benefits, but also potential profits from delivering those services to other agencies and companies.

An excellent example of this is the Hunter Valley in NSW, where an LGE provides records management services to not only 10 Local Government districts, but also to other government agencies including Health and Education.

The City of Mandurah supports WALGA's position that Western Australian Local Government should be empowered – with the consent of its community through a detailed consultation process – to establish Local Government Enterprises, governed by directors appointed for their relevant expertise, to manage and develop assets using normal commercial arrangements.

Provided that the LGE is established and operated at arm's-length from the day-to-day operations of Council; is preceded by the development of a comprehensive business plan; and involves community consultation and public accountability, then there is no reason why LGEs should not be permitted in Western Australia.

Recommendation:

That any reform of the Australian Federation considers the implementation of standardised nationwide legislation that facilitates Local Government Enterprises in all Australian States and Territories.

Constitutional Recognition of Local Government

Under the current 'Federalism' model, excessive duplication and inefficient distribution of resources and funding often occurs, resulting in a reduced level of service and/or funding delivery to the community. Current examples include Home and Community Care (HACC) and child care funding, health, education and training funding, and in the specific case of Local Government, Financial Assistance Grants funding. In addition to reducing service delivery efficiency and cost-effectiveness, the current Federalism model also encourages the 'blame game' to take place between State and Federal Governments about who is responsible for the service being delivered.

Successful examples of direct National-Local funding include the Australian Government's *Roads to Recovery* program, the *Regional and Local Community Infrastructure Program* (RLCIP), and the previous Australian Government *Envirofund*, which enabled local community groups to undertake over 8000 small scale on-ground environmental projects across Australia. Direct funding eliminates the State Government 'middle man', and improves the efficiency of service and infrastructure delivery to local communities.

Direct Federal-Local funding would be best achieved where large and well resourced Regional Councils exist. Unfortunately, this is a rarity in Western Australia, which is the only State yet to fully embrace Local Government structural reform. The WA Government has attempted to introduce structural reform on a voluntary basis; however, to date it has achieved only limited success, with only 24 of Western Australia's 141 Councils having so far agreed to reform through either an amalgamation, Regional Transition Group or Regional Collaborative Group⁷.

The City of Mandurah's view is that a Regional Council model should aim towards reducing/eliminating duplication of Council services, and improving their efficiency i.e. achieving economies of scale. The City also believes that Councillor numbers on each participating Council should not be reduced below a certain level; that the advantages of the existing 'localness' of each Local Government Area must be addressed; and that membership of a Regional Council should not preclude member Councils from engaging with non-member Councils on other issues of mutual interest e.g. waste management, education and training etc.

The City also maintains that an overly prescriptive approach to structural reform would not work, and that to amalgamate purely for the sake of achieving reform would be counterproductive. The City's preferred position has consistently been for 'rationalisation' of WA Local Government, rather than blanket amalgamation. Where boundary changes do occur, a 'blank canvas' approach to determining Council boundaries should be used. The City of Mandurah also reiterates the need for the State Government to mandate necessary changes where Councils fail to undertake voluntary structural reform.

⁷ Media Release; Minister for Local Government; Heritage; Citizenship and Multicultural Interest; *More Local Governments sign reform agreements*; 10 August 2010.

Since the turn of the 21st century, Local Government has assumed an ever-increasing role in the provision of new services, particularly in community and environmental health and wellbeing, as well as the provision of sport and leisure facilities. This is partly in response to growing community expectations, but is also a result of cost-shifting by other levels of government.

However, whilst Local Government has assumed a greater responsibility for funding community services and infrastructure, this has generally not been matched by greater funding from other levels of government. This discrepancy has been noted by the Australian Local Government Association (ALGA):

While it is clearly evident that the roles and responsibilities of local government have evolved over the past century, there have been no corresponding changes to the legal and financial institutions in the Federation. As a consequence, there has been a growing mismatch between responsibilities and funding and a growing reliance on funding mechanisms for local government which raise questions of constitutional validity⁸.

To resolve this impasse, ALGA has called for a Parliamentary Inquiry into the external funding of Local Government, and has also petitioned for Constitutional recognition of Local Government, commencing with a Referendum in 2012/13:

Local government believes that its growing role in the Federation must be supported through constitutional reform to recognise it as a level of government and provide the capacity for direct funding from the Commonwealth, and through more increased (and adequate) funding so that it can continue to meet the needs and expectations of local and regional communities⁹.

The City of Mandurah supports ALGA's position, and concurs that Constitutional recognition of Local Government should be pursued without undue delay. Constitutional recognition would remove uncertainty about the Commonwealth's power to directly fund Local Government, and would pave the way for a straightforward and sustainable Federal-Local funding model to be implemented.

Recommendations:

That a comprehensive Parliamentary Inquiry be undertaken into the external funding of Local Government

That a National Referendum be held in 2012/13, seeking the formal recognition of Local Government in the Australian Constitution.

Mark R. Newman
Chief Executive Officer

⁸ Australian Local Government Association; *Submission to the Senate Select Committee Inquiry into Reform of the Australian Federation*; August 2010; p.9.

⁹ Australian Local Government Association; *Submission to the Senate Select Committee Inquiry into Reform of the Australian Federation*; August 2010; p.23.