

COMMONWEALTH GRANTS COMMISSION

INDIGENOUS FUNDING INQUIRY

SUBMISSION

From: South Australian Local Government Association.

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Mr Malcolm Nicholas
Assistant Secretary
Commonwealth Grants Commission
5 Torrens Street
BRADDON ACT 2612

Dear Mr Nicholas

INDIGENOUS FUNDING INQUIRY

The Local Government Association of SA represents the 68 Councils created under the SA Local Government Act along with Anangu Pitjantjatjara. In addition the Outback Areas Community Development Trust is an associate member. A copy of the LGA's 1999 Annual Report is provided as Appendix A.

You have kindly forwarded material related to this inquiry to the Association and invited it to make a submission. I am pleased to do so.

The task you have been set in this inquiry is an impossible one - that is, to identify a methodology for assessing the needs of Indigenous Australians to inform funding and service decisions by the three spheres of government. Notwithstanding the challenge before you, we understand the desire and the benefit in striving to achieve such an outcome.

Based on our experience of the Commission, this work is only likely to shed more light on issues surrounding the provision of government services to Indigenous Australians and that is an outcome we support.

This submission is an initial one and it may be that during the course of the enquiry the Association can add further information to assist.

1. Background to the LGA's involvement in Indigenous issues

Since 1994 the LGA has pursued a "best practice promotion" and information networking approach to issues raised by member Councils regarding Indigenous services or issues. It was and is our belief that such an approach is best suited to this area because of the nature of Local Government's role, our inability to measure need or service levels and the nature of Commonwealth and State service provision.

The LGA formed an Aboriginal Affairs Reference Group in 1993, in response to growing demands for assistance from member Councils, the outcomes of the Townsville conference of 1991 and in particular the ALGA's formation of a reference group; and issues raised by the SA Government following the dismantling of the State Department of Local Government in 1991.

With financial assistance from ATSIC the report "Local Councils Belong to Aboriginal People Too" was completed and its strategy endorsed in 1994 (Appendix B). In 1995, LGA support for 5 remote Aboriginal communities to gain access to Commonwealth FAGs proved crucial in resolving that longstanding issue. An Aboriginal Policy Officer was first employed at the LGA with Commonwealth funding support in that year.

At the LGA's 1995 AGM the Council for Reconciliation's vision was adopted and Anangu Pitjantjatjara joined the Association. The following year the AGM adopted a comprehensive community relations policy.

From this time a number of initiatives from the LGA and ALGA saw best practice guides, manuals, and forums established and supported Councils in the establishment of local Aboriginal liaison/policy officers.

The most recent publications are the twin "Guide to Native Title" and "Working out Agreements" kits. Native Title training based on the kit is currently being programmed. There are currently 6 full-time APOs in SA Councils and several part-time support arrangements. Local activities extend from seeking to involve Aboriginal citizens more in civic affairs, to advisory/liason committees and practical work such as development of an Indigenous Heritage rezoning plan.

In 1999 Commonwealth funding for the LGA's APO was withdrawn. Funding was however received to assist in conducting a review of the strategy.

It is also relevant to note than from 1996-1998 Local Government in SA has been through the largest voluntary amalgamations (structural reform) in Australia's history, reducing Council numbers from 118 to 68. From 1998-2000 the entire Local Government Act in SA was re-written for the first time since 1934 and three new pieces of legislation came into effect on 1 January, 2000 (legislative reform). Councils are currently implementing the new provisions, some of which have deferred compliance arrangements.

The third part of the Government's "reform program" is to be functional reform and as with the other elements of the program, this Association will play a leadership role for member Councils. It is anticipated that within functional reform, a number of key areas for discussion could impact on services for Aboriginal communities.

Differing governance & land management status

An issue which needs some explanation in SA is the differing arrangements for local governance/services and land ownership. The Local Government Act provides the legal framework for 68 Local Council areas which cover about 15% of the land mass of SA and about 95% of the population. A table of Council areas and Aboriginal populations is attached as Appendix C. Broadly speaking there are four types of areas/arrangements in which Aboriginal citizens can live in SA:

- Within the general community -

This can occur in a metropolitan or country Council area such as Salisbury with no distinct Aboriginal community land arrangements. It can also occur outside Aboriginal community land arrangements such as in Yorke Peninsula District Council where about 200 people live on the Pt Pearce ALT community and about 130 live within other townships on Yorke Peninsula.

- ALT community within Local Government area –

There are five such communities: Koonibba (Ceduna); Davenport (Pt Augusta); Umoona (Coober Pedy); Pt Pearce (Yorke Peninsula) and Pt McLeay (Coorong).

- Outback Areas –

Outside of Council areas, the Outback Areas Community Development Trust receives Local Government Financial Assistance Grants and undertakes a very limited role in assisting communities. A number of Aboriginal communities live in townships such as Maree and Oodnadatta in this area. The OACDT's area, however specifically excludes 5 remote Aboriginal Communities as follows.

- Remote Aboriginal Communities-

The five lands/communities excluded from the OACDT area are: Anangu Pitjantjatjara, Maralinga Tjarutja, Yalata, Nepabunna and Gerard. The first two exist and hold title to land under specific land rights acts and the latter three are situated on land owned by the Aboriginal Lands Trust.

Understanding the differences and forming views about the balance between these four structural arrangements provides an additional challenge to exploring questions about governance and local services in SA. As indicated above, all 68 Councils are members of the LGA along with Anangu Pitjantjatjara and the OACDT is an associate member.

For the purpose of the Commonwealth's Local Government (Financial Assistance) Act the first two categories above are dealt with by allocations to the 68 Local Government Act Councils and for the latter two categories, allocations are made to the OACDT and to each of the 5 listed Aboriginal communities.

In the first two categories, Council property rates are applied as the prime source of Council revenue to undertake programs. In the latter two categories no Council property rates are levied.

Measuring need/service levels

Measuring Indigenous needs for Local Government services and appropriate service levels is not currently possible for a variety of reasons - and that is not to say that attempts have not been and should not be made to improve outcomes for Indigenous Australians.

What is a Local Government service?

Australia does not have a definition of a municipal or a Local Government service – nor does South Australia. At best, it can be defined as a service provided by Local Government (which will vary considerably from Council to Council). The Local Government Act 1999 as with its predecessor, provides extremely broad head powers for Councils to act. As Councils may not act in contravention of State or Commonwealth legislation it is easier, in fact, to define what is not a Local Government service (such as the raising of defence forces).

Under SA Legislation, there are a very small number of services which Councils are required to provide. They include:

- Town planning and building assessment;
- Some environmental health services (such as food inspection);
- Fire prevention (some building inspection and some bushfire prevention planning functions are a duty, others are discretionary); and
- Dog control,

and general administrative requirements, such as the maintenance of an office and the conduct of elections as required.

The majority of Council services, currently or historically expected of Councils are provided by choice in response to community needs. These include:

- Road construction and maintenance;
- Footpath construction and maintenance;
- Economic Development;
- Street lighting;
- Rubbish collection;
- Stormwater drainage;
- Traffic and parking regulations;
- Community Development;
- Sporting ovals, courts and facilities;
- Public swimming pools;
- Local halls;
- Community art facilities;
- Coastal care;
- Recycling;
- Local business directories;
- Tourism;
- Aged care; and
- Crime prevention.

It is understood, for example that at least in one (pre-amalgamation) Council in one financial year, no own source Council income was spent on road construction and maintenance. Until the early 1990s, not all Councils provided library services. Many do not provide swimming pools and obviously only those on the coast are involved in coastal care.

The result of the legal framework in which Local Government operates is that its role is largely defined by its history, community demands, and by the service behaviour of Commonwealth and State governments.

The nature of Local Government services

In financial terms - based on categorisation used by the Australian Bureau of Statistics, the primary areas of Local Government expenditure in SA are:

- Roads & Drainage
- Waste Collection/Disposal
- Recreation & Culture (includes libraries)

The bulk of these service areas can be described as generalist services. This includes the provision of infrastructure and general services which are provided to any member of the community - without the need for forms to be completed.

As a result, Aboriginal usage is unknown, to either Aboriginal communities or to Local Government. Of course Aboriginal people use local roads on Crown Land and benefit from drainage infrastructure etc, as do other members of the community.

Intergovernment relations

In SA, there is no general liaison mechanism between either the three spheres of Government, nor between State and Local Government. Neither is there any such mechanism between Governments in relation to Aboriginal issues.

To our knowledge there is only one tripartite agreement involving the three spheres of government at the state level – that which underpins the Coast & Clean Seas program.

While the LGA enjoys a generally positive relationship with State and Federal governments the relationships can be characterised as ad hoc, issue driven, or problem solving.

In short, there is no structured approach to co-ordination of services between governments, and while all governments seek to avoid duplication, overlap and service gaps, achieving co-ordinated outcomes is more often dictated by chance rather than any plan.

Provisions in the new Local Government Act 1999 which provide a clear head-power for Councils to participate in public policy setting and to have regard to regional, State and National plans, policies and services should assist. The initial challenge however is to identify what plans, policies and services exist and then to analyse them for potential impact on Local Government strategic planning.

Culturally appropriate services

In the past, Local Government in general has not been highly conscious of the need to tailor or market general services to specific segments of the community.

This is changing and initiatives such as the production of Council information in languages other than English is becoming more common.

Many "mainstream" services are generally available to anyone in the community. Use of local roads, parks and playgrounds would fall into this category. Other general services

however are not likely to be of interest to Aboriginal groups unless the services were to be tailored or marketed to them. This includes work done in the past by aged care staff at one Council to encourage Aboriginal women to use a senior citizens centre. It may also include services/facilities such as libraries and sporting venues.

It is expected that the review of the Local Government strategy will suggest further work on access and equity and identify existing "best practice" models.

Barriers and opportunities

A number of specific barriers in access to services remain.

An example is the tension arising from the legal status of roads on land held by the Aboriginal Lands Trust. These roads are public roads on private land - a status of roads not traditionally maintained by Councils. While at least one Council has undertaken work on ALT roads at Council expense it risks criticism from other land owners with public roads who are charged for such work. Clearly such communities are townships and the legal status afforded to their land should not disadvantage them in access to Council support.

Poor relationships between Councils and Aboriginal communities along with expectations of clear leadership structures in such communities (which often as in white communities does not exist) represent opportunities as they are more closely in Local Government control than the amendment of Legislation.

A lack of understanding of planning and development processes (not unique to Aboriginal communities) and a failure to communicate building safety benefits of development assessment again present opportunities for the future as in some ALT communities it is understood that no development applications are made and hence no planning or building control is applied.

Examples

Anecdotal examples of other service issues may assist in furthering understanding.

In the **immunisation** area for example, Councils are not required to provide vaccination services but must "take reasonable steps to prevent the spread of communicable diseases" (Public and Environmental Health Act, 1983) however if a Council does provide such services it should seek to do so fairly (Local Government Act, 1999 S.8 (h)).

While statistics are maintained by the Australian Childhood Immunisation Register (ACIR) in SA no Indigenous data has been released. General data which has been released reveals that almost 70p.c. of immunisations are performed by General Practitioners. This percentage has been rising, likely to be caused by the Commonwealth GP incentive program which is not available to public immunisation services.

In areas where Aboriginal Health Services provide immunisation it is understood that very little dialogue has occurred with Councils, consistent with our comments regarding intergovernment relations above.

As a consequence, we do not know what patterns are occurring in relation to Aboriginal immunisation, and it is very difficult to suggest what ought to be occurring when sound relationships do not exist at a strategic level and it is not clear whose role immunisation is nor what mix might achieve maximum immunisation levels.

A second example concerns **waste collection**. In at least one Council area with an ALT community, the council for many years refused to collect rubbish on the basis that its policy was to collect bins from the footpath adjacent to where the property entry met a public road. Because of the private nature of ALT land this was impractical as it was half a kilometre walk from the community to where it's access road joined public road.

A number of years ago, the Council offered to collect rubbish from the community but the offer was rejected on the basis that it would cost the community 2 CDEP positions. Clearly a less efficient outcome has been occurring due in part to legal issues and to poor relationships.

Again, there is no legal requirement on a Council to collect rubbish but an expectation that if it does so, it will administer the program equitably.

Capacity to respond and horizontal equalisation

A significant disadvantage South Australian Councils face in providing general or specific services to Aboriginal communities is the severe inequity in the distribution by the Commonwealth of Local Government Financial Assistance Grants and Road Grants between States.

The LGA made a comprehensive submission to the Senate Inquiry into the new tax system (23/2/99) which is on the public record. It has been estimated that the inequity in the distribution of the grants is costing SA in the order of \$24m per annum. This inevitably has an impact on Councils capacity to service Aboriginal and other disadvantaged communities as disadvantage is a key factor in the distribution of the funds within SA.

The key points made in the LGA submission to the inquiry mentioned above were:

- (1) Fiscal equalisation has served Australia well. It applies, through the funding recommendations of the Commonwealth Grants Commission between States and the Northern Territory and, through recommendations of State Local Government Grants Commissions, between local governments within each State and the Northern Territory. There is a "gap" in the system in that fiscal equalisation is not currently applied between the local government sectors in each State and the Northern Territory. Instead a simple per capita distribution has been used to allocate Commonwealth funding to each State for local government.
- (2) A specific proposal has been put forward to rectify this problem - namely to extend the assessments of inter-State relativities made by the Commonwealth Grants Commission to include the local government sector on a whole of State basis. This will require the Commonwealth Grants Commission to undertake a specific assessment that identifies the local government component of the total grant to each State and the Northern Territory.
- (3) To protect local governments in all states from disadvantage we suggest that any redistribution which may result from our proposal be subject to the provision that ensures that the general purpose grants to the local government sector in each State and the Northern Territory Government be (at least) retained at the 1999-2000 levels indexed for inflation and population growth.
- (4) Any redistribution resulting from our proposal also be subject to the agreed transition guarantee provision that no State be worse off than under current arrangements. In other words, any redistribution would take place over time and only out of the surplus which the GST arrangements are expected to produce for the States/Territories and after a transition period (ie compared with current arrangements).

The LGA would submit to your inquiry that the interstate distribution of Local Government FAGs and road funds is a significant problem in relation to provision of service by Local Government to Aboriginal communities. It leads to inequitable capacity to service communities in SA as opposed to more populous States.

Review of 1994 Strategy

The 1994 strategy document represented a huge leap forward in focusing attention on Aboriginal issues in Local Government. It also contains some statistical analysis of Aboriginal employment in Local Government and policy initiatives at the time. In hindsight the document had flaws, one being that it was written in the knowledge that the LGA was to be funded for an APO position and as a result a very large number of significant recommendations were placed on a single position within the Association.

The current review of the strategy will conduct a similar survey and this will be forwarded in draft to the Commission with a view to taking on board any proposals which may assist the Commission's inquiry. The Association will be pleased to make available to the Commission a copy of any information resulting from the survey.

As previously indicated, the Association is genuinely interested in the Commission's inquiry and keen to assist in any way and to benefit from the resulting report. I will ensure that we are represented at one of the hearings being held in South Australia. We would also welcome the opportunity to make further submissions or be involved further in the deliberations of the Commission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brian Hurn', written in a cursive style.

Mayor Brian Hurn OAM
President

The following Appendices are held in the Indigenous Funding Inquiry Library:

- A – Copy of the LGA's 1999 Annual Report**
- B – Local Councils Belong to Aboriginal People Too (1994)**
- C – Table of Aboriginal population by Council area**