



AUSTRALIAN LOCAL  
GOVERNMENT ASSOCIATION

**National General Assembly of Local  
Government**

**14 -17 June 2015**

**Call for Motions**

**'Closest to the Community:  
Local Government in the Federation'  
Discussion Paper**

*February 2015*

## *Preamble*

The 2015 NGA is being held at an important time, not only for local government, but the Commonwealth, states and territories and the Australian people. It is a time when the Commonwealth Government has invited all interested parties to consider potential reform of the Federation and of taxation.

While the Government recognises that the current Federation has given rise to '... a vibrant democracy, a strong economy and a cohesive society that millions of migrants have chosen to join', it also suggests that over time, it has '... increased the overlap of roles and responsibilities between spheres of government and reduced accountability to voters, created duplication and blame-shifting'. The Prime Minister has frequently alluded to this problem, and has established a White Paper process on the Reform of the Federation, and a White Paper on Taxation to address these issues.

The White Paper on the Reform of the Federation will '... seek to clarify roles and responsibilities to ensure that, as far as possible, the States and Territories are sovereign in their own sphere, so that voters know who is responsible for what'.

The Prime Minister in his Sir Henry Parkes Commemorative Dinner address at Tenterfield on 25 October 2014 said that '... the Government is determined to make the case for change'. But he also acknowledged that consensus is required for rethinking the conventions about which level of government is responsible for the delivery of a particular service, or the revenue measures to which particular levels of government should have access. He said, '...Without a measure of consensus, any change requiring legislation is unlikely to secure parliamentary passage and the whole exercise could turn out to be futile'. He went on to say, '...Without an element of consensus, any change that's actually achieved could be reversed at the earliest opportunity and therefore hardly worth doing'.

Local government is an essential part of the Australian system of government. Local governments are democratically elected and provide for the 'good governance'<sup>1</sup> of local communities throughout Australia. As part of that role, councils provide crucial local planning, services, programs and infrastructure including local roads, community halls, sports, cultural and recreation facilities that underpin the life of every local community throughout Australia. In this way local government is indeed the level of government that is 'closest to the community'.

It is therefore an important partner and stakeholder in the development of a national consensus on any reform proposal and should help shape this debate and make its contribution to the White Paper process. The Australian Local Government Association (ALGA) has had input to these papers, and in consultation with state and territory local government associations has made submissions on relevant matters. ALGA also intends to make substantial submissions to the Green Papers expected to be released on the Federation and Taxation during this process and encourages all councils to become actively involved in this process.

The NGA debate on motions and associated discussions will help to inform the ALGA Board in formulating these submissions.

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<sup>1</sup> See objects of state and territory Local Government Acts.

### ***How Can Councils Submit Motions***

The National General Assembly of Local Government is an important opportunity for you and your council to influence the national policy agenda.

To assist you and your council to identify motions that address the theme of the NGA the ALGA Secretariat has prepared this short discussion paper. You are encouraged to read all of the sections of the Paper, but are not expected to respond to every question contained in them. Your motion/s can address one or all of the issues identified in the discussion paper.

To be eligible for inclusion in the NGA Business Papers, and then debate on the floor of the NGA, motions must follow the following principles:

1. Be relevant to the work of local government nationally;
2. Be consistent with the themes of the Assembly
3. Complement or build on the policy objectives of your state and territory local government association;
4. propose a clear action and outcome, and
5. not be advanced on behalf of external third parties which may seek to use the NGA to apply pressure to Board members, to gain national political exposure for positions that are not directly relevant to the work of, or in the national interests of local government.

Motions should generally be in a form that seek the NGA's support for a particular action or policy change, at the Federal level which will assist local governments to meet local community needs. For example: That this National General Assembly call on the Federal Government to restore indexation to local government financial assistance grants.

Motions should be lodged electronically using the online form available on the NGA Website at: [www.alga.asn.au](http://www.alga.asn.au). All motions require among other things: a contact officer; a clear national objective; a summary of the key arguments in support of the motion, and endorsement of your council. Motions should be received by ALGA no later than 11:59pm on Friday 17 April 2015, electronically in the prescribed format.

All motions submitted will be reviewed by the National General Assembly Committee as well as by State and Territory Local Government Associations to determine their eligibility for inclusion in the NGA Business Papers. When reviewing motions, the Committee considers the importance and relevance of the issue to local government. Please note that motions should not be prescriptive in directing how the matter should be pursued. Any motion deemed to be primarily concerned with local or state issues will be referred to the relevant state/territory local government association, and will not be included in the Business Papers.

For more information, please contact the Director, National Events on (02) 6122 9400.

## ***Introduction***

During the 2013 Federal election campaign the Coalition announced their intention to produce a White Paper on the Reform of the Federation if they were to win Government. In addition, the Coalition promised to produce a White Paper on Taxation.

As a result, on 28 June 2014 the Commonwealth Government released the Terms of Reference for a White Paper on the Reform of the Federation. These can be found at <https://federation.dpmc.gov.au/>. At the time of writing the Terms of Reference for the White Paper on Taxation were not publicly available.

The Federation White Paper process will include the release of a Green Paper which will canvas options for reform in the latter part of 2015, and ultimately the White Paper which will outline '...a clear, well defined and timely policy platform', during the lead up to the next Federal election.

The Commonwealth has released five issues papers to engage interested parties on some of the key issues that will be considered in the White Paper Process. These are:

*Issues Paper 1 - A Federation for Our Future*

*Issues Paper 2 - Roles and Responsibilities in Housing and Homelessness*

*Issues Paper 3 - Roles and Responsibilities in Health*

*Issues Paper 4 - Roles and Responsibilities in Education*

*Issues Paper 5 - COAG and Federal Financial Relations*

Copies can be found at: <https://federation.dpmc.gov.au/issues-papers>

A separate Discussion Paper on Taxation is expected to be released in the coming weeks.

This National General Assembly (NGA) provides an important opportunity for local government to debate issues and options for reform, as well as to develop a national position ahead of the White Paper on the Reform of the Federation and White Paper on Taxation.

Councils and NGA delegates are strongly encouraged to read these discussion papers prior to submitting motion for this year's NGA.

## **Local Government in the Federation**

Local government in Australia pre-dates Federation. The City of Adelaide was established in 1840, the first local government in the extensive network which exists today.

The formation of the early municipal authorities built on local initiatives inspired by local citizens who recognised and acted on the need for the provision of local services and infrastructure which were not being provided by colonial administrations. Typically, the municipal authority provided traditional property services such as local roads, waste management and through these services (waste, waste water and sewerage) environmental health services to meet local needs. Over time local authorities began to provide utilities and services such as electricity and gas. Gradually colonial administrations / states began to aggregate and regulate local networks such as electricity and take them over. In addition, over time, states began to prescribe local services that should be provided locally by the

municipal government including the provision of regulatory services, planning and other services.

Arguably this was just the beginning of some 'blurring' of roles, responsibilities and accountability between the existing two levels of governments in Australia. It also, inevitably, led to the significant debates about funding responsibilities. The evolution of the roles and responsibilities between states and local government is an important part of the story of how government institutions evolved to meet the emerging needs and demands of Australians. On 1 January 1901 our current Federal system was formalised.

As Commonwealth and state relations evolved, local government continued to operate at the local level. In the 1970s both the Whitlam and Fraser Governments, supported the need for the rapid expansion of government services, including municipal services in local communities. In addition, there was a recognition of the need for Commonwealth/states services to be delivered locally and the Commonwealth forged a direct relationship with local government through the provision of funds to local government.

The Fraser Government formalised support by establishing the system of Financial Assistance Grants (FAGs). Local government received a guaranteed share of Personal Income Tax through the *Local Government (Personal Income Tax Sharing) Act 1976*. Under the Act the amount of local government's share was to rise to 2%. The Hawke Government scrapped that approach and, after an inquiry in 1985, introduced a new Act at the same time as maintaining the system of FAGs.

FAGs aimed to facilitate Horizontal Fiscal Equalisation (HFE) and support the national provision of local government services. Commonwealth responsibility to maintain funding to local government (in this broad sense) was reconfirmed during the negotiation of the Goods and Services Tax (GST) in 1999. The concept of the Commonwealth funding (part funding) local services nationally was taken further with the advent of the highly successful and much need Roads to Recovery program (R2R) in 2000.

### **White Paper Terms of Reference**

The Terms of Reference for the White Paper on the Reform of the Federation set out four overarching questions for investigation. These are:

- What are the practicalities of limiting policy and funding to core national interest matters, as typified by the matters in section 51 of the Constitution?
- How can overlap between Local, State and Commonwealth responsibilities or involvement in the delivery and funding of public programs be reduced or, if appropriate be eliminated?
- How can we achieve agreement between States and Commonwealth Governments about their distinct and mutually exclusive responsibilities and subsequent funding sources for associated programs?
- How can we achieve equity and sustainability in the funding of any programmes that are deemed to be the responsibility of more than one level of government.

These four questions are the starting point for the national debate and for councils to consider in the development of NGA motions.

*The challenge of this NGA can be considered at two levels:*

- 1. identify and propose potential reform of the Federation, including funding relationships, that will improve the operation of the Federation and improve government service delivery to the Australian people, and*
- 2. from a Local Government perspective, propose reforms that should occur to strengthen Local Government, and / or, if there are reforms to Commonwealth and state relations by shifting roles and responsibilities, how can any adverse impacts on Local Government and local communities be addressed.*

### **Principles and criteria to be applied when allocating roles and responsibilities between different levels of government**

The White Paper on the Reform of the Federation will consider principles and criteria to be applied when allocating roles and responsibilities between different levels of government. They can be considered 'design principles' for designing, or re-designing, our Federation. The White Paper's Terms of Reference set out six principles:

- accountability for performance in delivering outcomes;
- subsidiarity;
- national interest considerations;
- equity, efficiency and effectiveness of service delivery;
- durability; and
- fiscal sustainability.

It is important to note that this list extends the list of four principles agreed at the Special Premiers' Conferences in 1990 and 1991 as part of a previous attempt to reform our Federation. The four principles agreed at that time were nationhood, subsidiarity, structural efficiency and accountability. The focus on structural efficiency was borne out in the New Federalism agenda given expression in the National Competition Policy.

The first Issues Paper provides detailed descriptions of each principle and importantly it suggests that it is important to realise that these principles will often be in conflict, and in choosing between different policy options, governments will necessarily need to consider the trade-offs between them.

It poses the following questions:

- Are these the right principles? Are there additional principles that should be considered?
- How should these principles be prioritised?
- What are the likely trade-offs between the principles that need to be considered?

*Motions are invited on whether these principles are the right principles. For example a motion in the following form:*

*That this NGA supports (or does not support some or all of) the following six principles and criteria as outlined in Issues Paper No 1 to be applied when allocating roles and responsibilities between different levels of government*

- *accountability for performance in delivering outcomes;*
- *subsidiarity;*
- *national interest considerations;*
- *equity, efficiency and effectiveness of service delivery;*
- *durability; and*
- *fiscal sustainability.*

*Motions are invited on specific examples on how these principle and criteria should be applied to specific services that are directly relevant to Local Government.*

### ***White Paper Issues Papers***

*Issues Paper Number 1, A Federation for Our Future (September 2014)* begins with a discussion of the Federation from 1 January 1901 and goes on to discuss the evolution of the Federation including the Constitutional basis of the allocation of roles and responsibilities between the Commonwealth and the states and territories. Over time, the paper suggests, roles and responsibilities for service provision between the Commonwealth and state boundaries became blurred.

The second, third and fourth Issues Paper are related to specific portfolios. These include: housing and homelessness; health; and education. The final Issues Paper deals with COAG and Federal Financial Relations.

The Issues Papers only briefly touch on local government with little discussion of the evolution of the current Commonwealth, state and local government relationship.

In light of this, a series of questions arise about Local Government's responsibilities including what is Local Government's current role in these areas, what the role should be and how it should be funded.

*Housing and Homelessness*

*Which level of government should be responsible for housing policy?*

*If more than one, how should roles and responsibilities in particular policy funding and delivery, be shared between governments and how should cost shifting between governments be avoided?*

*Which level of government should be responsible for funding public housing?*

*Which level of government, if any, should be responsible for the delivery of public housing?*

*Which level of government if any should be responsible for the regulation of public housing?*

*Which levels of government should be responsible for policy, funding, delivery and regulation to address homelessness?*

*What are the roles and responsibilities of local government in housing and homelessness?*

*Who should fund that role?*

*If there are changes in roles and responsibilities in relation to housing and or homelessness between levels of government, in particular between the Commonwealth and states/territories, what measures should be taken to stop cost shifting to local government?*



*Which level of government should be responsible for health and or education policy?*

*Which level of government should be responsible for funding health and education services?*

*If more than one, how should roles and responsibilities in particular policy funding and delivery, be shared between governments and how can cost shifting between governments be avoided?*

*Which level of government, if any, should be responsible for the delivery of health and or education?*

*Which level of government if any should be responsible for the regulation of health or education?*

*What are the roles and responsibilities of local government in health and or education?*

*Who should fund that role?*

*If there are changes in roles and responsibilities in relation to housing and or homelessness between levels of government, in particular between the Commonwealth and states/territories, what measures should be taken to stop cost shifting to local government?*

## **Further Context for Consideration**

### **Outcomes of 2014 NGA**

In response to the release of the National Commission of Audit Report (2014) and the 2014 - 15 Federal Budget decision to freeze the indexation of Financial Assistance Grants (outlined below), the 2014 NGA resolved:

*Delegates of the 2014 National General Assembly, in recognition of the vital importance of the Financial Assistance Grants (FAGs) to local government for the provision of equitable levels of local government services to all Australian communities, unanimously call on the Commonwealth Government to:*

- *restore indexation of Financial Assistance Grants in line with CPI and population growth immediately,*

- *reject Recommendation 22 of the National Commission of Audit in which the Commission recommends that tied grants to local government cease, and to the extent that programs are identified as priorities, local and state government provide them to the communities they serve.*

Further Delegates also resolved that:

- *It is imperative that the Commonwealth consult with local government, the states and territories and local communities in the development of the White Paper on Reform of the Federation and the White Paper on Taxation; that the Government's White Papers must genuinely reflect the wishes of the Australian people; and that future Federal-state and local financial relationship arrangements must ensure long term sustainable distribution of taxation revenues between the levels of government that are commensurate with the roles and responsibilities of each level government in our modern Federation.*

### **2014 National Commission of Audit**

On 1 May 2014 the National Commission of Audit released its Phase 1 and 2 reports. The audit was established in October 2013 and asked, inter alia; "... assess the current split of roles and responsibilities between and within the Commonwealth government and State and Territory governments, including areas of duplication."

The two reports made 86 recommendations – 64 in its Phase 1 Report which dealt predominantly with roles and responsibilities and improving the sustainability of the nation's finances, and a further 22 recommendations in its Phase 2 Report which mostly addressed public sector performance and accountability as well as infrastructure. Many of these recommendations may be of interest to those engaged in the broad issue of Commonwealth-state relations. They may also have implications for local government. However there are some specific recommendations that go directly to the heart of Commonwealth-local government relations, and state and local government relations.

The approach taken by the 2014 Commission is similar to that of the 1996 National Commission of Audit with its central theme being that the Commonwealth has a narrow range of responsibilities (essentially outlined in Section 51 of the Constitution), and that the States have residual powers and therefore are responsible for most service delivery including health, education and ultimately local government. In stark terms the Commission proposed to sever the direct funding relationship between the Commonwealth and local government.

Recognising the degree of vertical fiscal imbalance within the Federation the 2014 Commission proposed in Recommendation 22 (Phase 2 Report) that: '... States have access to the personal income tax system so that they are in a better position to fund their own priorities. This will include support for local government.' They further conclude that in this situation, the need for separate tied funding from the Commonwealth will diminish. The Commission recommends that '... tied grants to local government cease, and to the extent that programmes are identified as priorities, local or State governments provide them to the communities they service.'

Recommendation 5 (Phase 2 Report) advances the same model for infrastructure funding: '... the States are responsible for infrastructure and should determine their own priorities'. Noting that implementing the Commission's recommendations will take time (i.e. states to

obtain access to additional revenue through personal income tax), the Commission recommends that a range of infrastructure funding, including the Identified Roads Component of FAGs and Nation Building Funds i.e. Roads to Recovery grants, be consolidated into a single pool.

In releasing the Audit Report the Treasurer explained that there were some Commission recommendations that the Government would accept, and would inform the preparation of the 2014 - 15 Federal budget, there would be some recommendations that the Government would reject and that there were some recommendations that would be considered in the context of the White Paper on Reform of the Federation and the White Paper on Taxation.

On 13 May 2014 the Commonwealth brought down the 2014 - 15 Federal Budget and provided a brief response to the Commission of Audit indicating that payments to local government would be considered in the Federation White Paper.

### **2014 - 15 Federal Budget**

In the 2014 - 15 Federal Budget the Government committed to provide \$2.2867 billion in Financial Assistance Grants to Local Government (FAGs). However, the Government also announced it would pause the indexation of FAGs for the next three years.

Local Government Financial Assistance Grants (FAGs) are a Commonwealth Specific Purpose payment to local government paid through the states and Northern Territory Government. Payments are made to councils by jurisdictional Treasurers on the advice of state and territory Local Government Grants Commissions under the provisions of *the Local Government (Financial Assistance) Act 1995*.

The objects of the *Local Government (Financial Assistance) Act 1995* enable the Commonwealth Parliament to provide assistance to the states for the purposes of improving:

- (a) the financial capacity of local governing bodies;
- (b) the capacity of local governing bodies to provide their residents with an equitable level of services;
- (c) the certainty of funding for local governing bodies;
- (d) the efficiency and effectiveness of local governing bodies; and
- (e) the provision by local governing bodies of services to Aboriginal and Torres Strait Islander communities.

Freezing of FAG's will reduce Commonwealth expenditures (and grants to councils) by more than \$925 million over the forward estimates.

The freezing of FAGs indexation means that the aggregate level of FAGs will be permanently reduced by 13 per cent, unless there is a future government decision to restore this base with a catch-up payment.

*Councils are invited to submit motions to address either these developments, and or that build on the 2014 resolution of the NGA.*

Note:

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