



Australia

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Australian local government consists of some 537 elected municipalities, plus a small number of special-purpose entities appointed by state governments.¹ Perhaps local government's most telling characteristic is its sheer diversity—a consequence of Australia's size, geography and distribution of population, and of seven differing state and territory systems.² Other key features are its limited range of functions and revenue sources; the many small (in population), poorly resourced rural and remote municipalities; and the single-tier arrangements whereby all municipalities operate under essentially the same legislation within each of the seven systems. These elements combine to make it difficult for local government to act collectively (that is, at both state and federal levels) and consequently

¹ Examples include the Lord Howe Island Board in New South Wales, South Australia's Outback Communities Authority, and the former Docklands Authority in Melbourne Victoria (1991–2007).

² In this chapter, the term 'states' should be read to include the Northern Territory, unless clearly intended otherwise. There are no municipalities in the Australian Capital Territory, which is in effect a 'city-state'.

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to determine and pursue robust policy positions. Importantly, they also inhibit the ability of the growing number of large, well-resourced municipalities to ‘stand out from the crowd’ and play a national leadership role.

Local government is not recognised in the Australian Constitution and, in many respects, it plays only a minor role in the federation. It accounts for just 2.5 per cent of gross domestic product (GDP), reflecting its limited focus on municipal services and infrastructure. Main highways, public transport, utilities, police, education, and hospitals are all solely or primarily provided and managed by state governments, or have been privatised.³ Similarly, the governance, planning, and management of metropolitan regions is dominated by state agencies rather than municipalities, however large the latter may be.

Nevertheless, from the early 1980s until about 2012, Australian local government progressively established a significant national profile, one built to a large extent on a strong working relationship with the federal government, which sponsored its participation in inter-government forums. Hence a decade ago, local government seemed well advanced in achieving acceptance as the ‘third sphere’ in the federation, although this position was by no means guaranteed:

Despite its weak constitutional and legal position local government has made considerable progress towards acceptance as a partner – albeit junior – in the Australian federal system ... A key question now is whether local government can secure this federal presence. Or will the states, some of which appear to see strong municipalities and robust local democracy as a threat (or at least a nuisance), re-assert their dominance?⁴

The short answer to that question is that the potential for recognition as a legitimate ‘third sphere’ has not been realised, and the states have indeed re-asserted their dominance. This chapter reviews the present

³ The principal exceptions are water supply and sewerage in Queensland, Tasmania and non-metropolitan NSW; some highways and bus and ferry services in the City of Brisbane; light rail in the City of Gold Coast; and many regional airports. The City of Brisbane is a co-owner of the main airport.

⁴ Graham Sansom, ‘Commonwealth of Australia’, in Nico Steytler (ed) *Local Government and Metropolitan Regions in Federal Systems* (McGill-Queen’s University Press, 2009) 8–36, 28.

status of local government in the Australian federation and explores the forces at work.

I COUNTRY OVERVIEW

The Australian federation was formed in 1901 and comprises a federal (aka Commonwealth) government, six states (New South Wales, Queensland, South Australia, Tasmania, Victoria, Western Australia) and two semi-autonomous federal territories (Australian Capital Territory, Northern Territory). It has a written constitution, hardly amended since federation; an independent High Court; and a system of common law that is uniform across all states and territories.

Australia has an area of 7.7 million km² and a population of some 25.7 million, of whom about 85 per cent live in metropolitan regions and other cities. Since 1970, population growth has averaged about 1.5 per cent per annum (compounding), largely due to immigration. However, growth is expected to slow due to reductions in both natural increase and net migration. In 2019 (before the Covid-19 pandemic) GDP was approximately AUD 1.9 trillion or AUD 70,000 per capita. Despite heavy borrowing during the pandemic, public sector debt remains relatively low by global standards.

The population is extremely diverse, although the dominant group and culture remains that of Anglo-Celtic settlers who colonised Australia from the late eighteenth century. Subsequent waves of immigrants have come from across the world, though mainly from Europe and Asia. Indigenous Aboriginal and Torres Strait Islander peoples comprise about 3.2 per cent of the population. They have inhabited the continent for 60,000 years or more and their cultures are some of the oldest on earth, but their numbers were decimated by the wars, reprisals, displacement, and disease which followed European settlement. Today they live mostly in the larger towns and cities, but are also a major presence in rural-remote areas, especially across northern Australia.

Reflecting its colonial history, Australia remains a constitutional monarchy under a King (of England and Australia). A 1999 referendum to establish a republic was unsuccessful, and the Governor General—effectively appointed by the Prime Minister—is the de facto head of state. The Commonwealth, states, and territories have Westminster-style parliaments, all of which are dominated by the Australian Labor Party and the Liberal-National Coalition (or variants of it). Numbers of minor party and

independent members of parliament (MPs) have increased steadily over recent decades, reflecting disenchantment with the status quo, shifting policy agendas (such as the environmental movement, represented principally by the Greens party), plus specific regional and local concerns. Nevertheless, the major party in power usually maintains firm control over policy and programmes, although that control is constrained when governments lack a clear majority in an upper house (parliaments are bi-cameral, with the exceptions of Queensland and the two territories).

Except in Tasmania and the Australian Capital Territory (ACT), lower house MPs are elected to single-member constituencies. Upper houses are elected through various forms of proportional representation. Voting in all federal, state, and territory elections is compulsory and requires or allows voters to allocate preferences. Systems of voting in local government elections vary (see below). There are no reserved seats for First Nations or other minority groups at any level.

Governments are held accountable principally through parliamentary and electoral processes, but also through the courts, various anti-corruption bodies, independent auditors-general, ombuds, freedom of information laws (typically weak), and the media. The Australian High Court plays a key role in applying and interpreting the federal constitution.

2 HISTORY, STRUCTURES, AND INSTITUTIONS OF LOCAL GOVERNMENT

Democratic local government dates from the mid-nineteenth century, when roads, boards, and municipalities began to form, but only in certain areas and under tight colonial (later state) control. They had minimal devolved powers and the franchise was confined to property-owning elites.⁵ The modern system evolved during the twentieth century and especially in response to post-war reconstruction and strong economic and population growth in the 1950s and 1960s. Today, by far the greater part of Australia's landmass, and most of its islands, have elected local governments. Exceptions to this include the ACT, which is in effect a

⁵ Andrew H Kelly, *The Development of Local Government in Australia, Focusing on NSW: From Road Builder to Planning Agency to Servant of the State Government and Developmentalism* (Faculty of Law Papers, University of Wollongong, 2011), <https://ro.uow.edu.au/lawpapers/530/> (accessed 1 August 2021).

small city-state; the sparsely populated north-west of New South Wales (NSW), managed by state departments; and northern South Australia (Aboriginal lands and areas managed by the Outback Communities Authority).

All 537 municipalities are established under state constitutions and laws. Their average population is relatively large by international standards—about 47,000—but populations range from less than a hundred to 1.2 million (the City of Brisbane), and areas from just 2 to almost 380,000 km². Most rural and remote municipalities (usually known as ‘shires’) have fewer than 10,000 residents. Many have populations of less than 3000 and often little income apart from federal and state grants. Municipal tax revenues and expenditures across Australia amount, respectively, to just 3 and 5 per cent of the total public sector, and local government’s mandatory functions are typically limited to various municipal services, local roads and community infrastructure, land-use planning, development control, and environmental management. In Queensland, Tasmania, and non-metropolitan NSW, municipalities are also responsible to varying degrees for water supply and sewerage.

However, all local government Acts now grant a power of general competence or its equivalent, and the sector’s scope of activity has increased considerably over recent decades, partly due to the general-purpose federal funding support that was introduced in the 1970s. Moreover, municipalities control assets with a replacement value (2018/2019) of approximately AUD 450 billion and employ nearly 200,000 people nationally (akin to employment in the mining industry). Local government thus accounts for approximately 1.6 per cent of the total workforce and nearly 10 per cent of all government employees.⁶ It is a particularly significant employer in rural and remote regions. In 2011, the municipality employed 10 per cent or more of the workforce in 46 local government areas across Australia, while in small Aboriginal shires in Queensland that figure rose to 50 per cent or more.⁷

As noted earlier, local government operates everywhere as a single tier, regardless of differences in scale and capacity. There are no directly

⁶ Australian Local Government Association (ALGA), *Local Government Key Facts and Figures*, <https://alga.asn.au/facts-and-figures/> (accessed 1 August 2021).

⁷ Su Fei Tan, *Local Democracy at Work: An Analysis of Local Government Representatives and Democracy in New South Wales, Australia* (unpublished PhD thesis, 2020), <https://opus.lib.uts.edu.au/handle/10453/142526> (accessed 1 August 2021).

elected regional or special-purpose local government bodies,⁸ but many municipalities enter into joint arrangements for planning, major projects, business enterprises, and specific services, as well as to share resources (for example, skilled staff, major items of equipment, information technology).⁹ In NSW, Tasmania, South Australia, and Western Australia, local government Acts include enabling provisions for various types of joint authorities. In Victoria, the Act includes ‘collaboration’ as a guiding principle. Nevertheless, municipalities lean towards protecting their autonomy, and cooperation tends to be tentative, patchy, and intermittent.¹⁰

Municipalities may discharge some of their responsibilities through committees or other organisations. Typically, they may form and/or join incorporated associations and companies, and also establish locality-based or special-purpose committees to provide advice, assist with advocacy, or undertake aspects of planning and service delivery. However, Australian local governments have been reluctant to delegate much of their authority, especially in the ‘core’ areas of service delivery, and there has been widespread resistance to the concept of ‘lower-tier’ bodies along the lines of Britain’s parish, community and town councils, or New Zealand’s community boards.¹¹

2.1 *Amalgamations*

There have been recurring moves to amalgamate local government areas into larger units.¹² These initiatives are driven by the limited resources of smaller municipalities; pressures to increase efficiency, cut costs, and

⁸ Where special-purpose or regional bodies exist, their governing boards are appointed by, and often from among, the councillors of their constituent local governments.

⁹ Brian Dollery, Bligh Grant, and Michael Korrt, *Councils in Cooperation: Shared Services and Australian Local Government* (The Federation Press, 2012).

¹⁰ Graham Sansom, *The Practice of Municipal Cooperation: Australian and Comparative Perspectives* (Institute on Municipal Finance and Governance, University of Toronto, 2019).

¹¹ Graham Sansom, ‘Is Australian Local Government Ready for Localism?’ (2019) 15(2) *Policy Quarterly* 26–32.

¹² Neil Marshall, ‘Restructuring and Reform: Australia’, in Emmanuel Brunet-Jailly and John Martin (eds) *Local Government in Australia and Canada: The Challenge to Federation in a Globalised World* (University of Toronto Press, 2010) 179–212.

promote more effective strategic planning and management; and sometimes sheer political expediency. State governments may implement boundary changes and amalgamations (or, very occasionally, subdivision) of municipalities as they see fit, but usually there is some form of (semi) independent commission or ad hoc inquiry that makes recommendations to the responsible minister.

Since 1990, mainly forced but also some voluntary mergers have reduced the number of municipalities by more than 200. The 1990s saw widespread amalgamations in Tasmania, South Australia, and, most dramatically, Victoria. This century, the focus has shifted to Queensland, Western Australia, and NSW. In early 2007 the Queensland government cut the number of local governments from 157 to 73.¹³ More recently, however, the complete (in Western Australia) or partial (in NSW) failure of amalgamation programmes, plus associated political damage (real or perceived), has led state governments to pursue local government reforms in other ways—at least in the short to medium term.¹⁴

2.2 *Metropolitan Regions*

The governance of Australia's metropolitan regions is heavily dominated by the states, with local government (and, in different ways, the Commonwealth) only playing an essentially supporting role.¹⁵ Australia's six widely dispersed colonial capitals remain the dominant population centres in each state and, as such, the focus of state politics and administration.¹⁶ State governments thus exercise tight control over metropolitan management and planning, including any major development proposals, and most have established special-purpose agencies for urban transport, main roads, water, sewerage and drainage, pollution control, major

¹³ Following a change of government and successful local referenda, four areas subsequently de-amalgamated.

¹⁴ Graham Sansom, 'Recent Trends in Australian Local Government Reform' (2020) 23 *Commonwealth Journal of Local Governance*.

¹⁵ Australian Housing and Urban Research Institute, *Local Government Coordination: Metropolitan Governance in Twenty-first Century Australia*, Final Report No. 352 (2021).

¹⁶ In order of the population of metropolitan areas, the state capitals are Sydney (New South Wales), Melbourne (Victoria), Brisbane (Queensland), Perth (Western Australia), Adelaide (South Australia), and Hobart (Tasmania). Canberra is the national capital and only city within the Australian Capital Territory.

cultural facilities, and other functions that might otherwise have been the responsibility of local government.¹⁷

A key factor limiting local government's role is its continued division into numerous separate municipalities with no upper tier or mandatory sub-metropolitan groupings. In addition, as noted above, even very large metropolitan municipalities do not enjoy any enhanced legal status or greater authority than their smaller counterparts. Greater Sydney, for example, with a total population of about 6 million, remains divided into 34 local government areas, while Greater Perth has 31 for just 2 million.¹⁸ This fragmentation undermines local government's potential to partner state and Commonwealth governments in metropolitan planning and management, or to advocate effectively on behalf of local communities.

Nonetheless, most municipalities resist both mergers and mandatory joint-planning and resource-sharing. At the same time, most state governments appear reluctant to amalgamate metropolitan municipalities into very large units or to create upper tier local governments that could handle a substantial devolution of responsibilities and, in the process, might begin to rival the state's own authority. In Perth, the state government has twice intervened to divide large municipalities; while after abandoning planned amalgamations in 2016, the then NSW government both strengthened its control over major development projects and excluded direct local government representation in new metropolitan planning and development agencies.

The picture is somewhat different in South East Queensland. There, 95 per cent of the metropolitan region's 3.5 million people live in just seven municipalities. The City of Brisbane alone houses 40 per cent of the population and has an annual budget of about AUD 3 billion. It is a key provider of metropolitan infrastructure and services, including some highways and parts of the public transport system. Also, there is an influential, region-wide Council of Mayors. Until recently, metropolitan region planning was carried out as a truly cooperative venture by state agencies and

¹⁷ Graham Sansom and Jeremy Dawkins, 'Australia: Perth and South East Queensland', in Enid Slack and Rupak Chattopadhyay (eds) *Governance and Finance of Metropolitan Areas in Federal Systems* (Oxford University Press Canada, 2013).

¹⁸ Australian Bureau of Statistics (ABS), *Greater Capital City Statistical Areas*, <https://www.abs.gov.au/websitedbs/censushome.nsf/home/factsheetsgeography/> (accessed 1 August 2021).

local government, but concerns around water supplies and local government's capacity to manage population growth and infrastructure provision effectively have prompted a shift towards greater state control.¹⁹

2.3 *Indigenous Communities*

Australia's troubled history of dealings with its indigenous Aboriginal and Torres Strait Islander peoples is reflected in local governance. In large urban areas, First Nations people are typically a minority group and few have become elected councillors.²⁰ However, in the remote regions of the Northern Territory, Queensland (including the Torres Strait), and Western Australia, indigenous communities form a large proportion of the population and do have substantial representation in elected local governments.

Queensland has 15 'Aboriginal Shires' or their equivalent. These were originally missions or reserves, and later lower-status community councils, which have now become mainstream local governments; in addition, there is a further shire and a regional authority in the Torres Strait. In the Northern Territory, what were previously 60 small Aboriginal community governments separated by vast areas of unincorporated lands, have become advisory 'local authorities' within seven new regional councils. There are also three small indigenous local governments in the Darwin region, plus a regional council for the Tiwi Islands to the north. In South Australia, three Aboriginal Community Councils operate on Aboriginal Lands Trust land, while Aboriginal authorities (established under land rights legislation) perform some municipal functions in the state's remote north.

3 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Local government is not mentioned in the 1901 Australian Constitution. It enjoys varying degrees of recognition and protection under state constitutions, but as a general rule these can be altered simply by an Act of

¹⁹ John Abbott, 'A Partnership Approach to Regional Planning in South East Queensland' (2001) 38(3/4) *Australian Planner*.

²⁰ There are no dedicated wards or reserved seats for First Nations people in any Australian local governments.

state parliament, whereas changes to the federal constitution require a referendum.²¹

There have been two unsuccessful referendums seeking to recognise local government in the Australian constitution. Each was supported by federal Labor governments and opposed by the conservative Coalition and most states. The first, in 1974, sought the explicit authority to provide federal grants directly to local government bodies, rather than through the states. The second, in 1988, would have required states to maintain systems of democratic local government, albeit subject in all respects to state laws. Both propositions were easily defeated. Nevertheless, in 2011 the federal Labor government began formulating proposals for a third referendum. This was triggered by a High Court judgment²² that cast doubt on the legality of some Commonwealth grants to municipalities.²³ As in 1974, the proposition was limited to that issue,²⁴ but again following widespread conservative and state opposition, the referendum was abandoned in 2013.²⁵

At this stage, there is little or no prospect of revisiting the issue. In addition to the inherent difficulty of passing referenda, three critical factors are in play.²⁶ First, recognition of Australia's indigenous peoples has taken priority, and is an area in which the Commonwealth can build on existing constitutional authority. Secondly, there is no practical threat to continued payment of Commonwealth grants directly to municipalities, regardless of the constitutional position: federal MPs promote such funding for their local constituencies; some of the larger programmes (such as 'Roads to Recovery') were introduced by conservative federal

²¹ Cheryl Saunders, 'Constitutional Recognition of Local Government in Australia', in Nico Steytler (ed) *The Place and Role of Local Government in Federal Systems* (Johannesburg: Konrad-Adenauer-Stiftung, 2005) 47–63.

²² See Duncan Kerr, '*Pape v Commissioner of Taxation: Fresh Fields for Federalism?*' <https://lr.law.qut.edu.au/article/download/37/36/37-1-74-1-10-20120525.pdf> (accessed 1 August 2021).

²³ Anne Twomey, 'Always the Bridesmaid: Constitutional Recognition of Local Government' (2012) 38(2) *Monash University Law Review* 142–180.

²⁴ Expert Panel on Constitutional Recognition of Local Government: Final Report (December 2011), <https://bit.ly/3v2ENtX> (accessed 1 August 2021).

²⁵ Australian Local Government Association: Constitutional Reform Campaign Website, <http://councilreferendum.com.au>.

²⁶ A referendum must gain majority support in a majority of states (that is, four out of six), plus a national majority, and voting is compulsory.

governments; and the states are not opposed because Commonwealth grants reduce their need to provide support. Thirdly, it is now abundantly clear that the states are likely to oppose *any reference* to local government in the federal constitution that (depending on future High Court interpretations) might undermine their authority or enable the Commonwealth to re-direct funding support from the states to local government.

On the other hand, there are opportunities—and perhaps growing needs—to strengthen recognition of local government in state constitutions.²⁷ As noted above, the form of such recognition varies widely and may be amended with relative ease. Typically, constitutions require the establishment of elected local governments across all or part of the state and empower the legislature to pass laws as it sees fit concerning the boundaries, institutions, elections, and operations of those entities. Some provide additional protections for local democracy. Queensland requires that dissolution of an individual local government be ratified by the legislative assembly, and that a referendum be held before a bill may be passed that abolishes the system of local government altogether. In South Australia, such a bill requires an absolute majority of both houses of parliament, while Victoria defines local government as a ‘distinct and essential tier’ of government and dismissal of an individual elected council requires an Act of Parliament (importantly, a provision that may only be changed by referendum). Local government could argue for such ‘best practice’ provisions to be replicated in all states.

However, not one of the state constitutions *guarantees* democratic local government even where this is the expressed wish of the people, and the NSW constitution envisages that municipal councils might be ‘duly appointed’ rather than elected. Nowhere does local government enjoy constitutionally entrenched powers or revenues, while both local government Acts and other legislation (notably that governing land-use/development planning) may include provisions which work to remove the rights of communities to exercise meaningful control of their local affairs.

²⁷ Saunders (n 21) 53–56.

4 GOVERNANCE ROLE OF LOCAL GOVERNMENT

Municipalities derive their powers and functions from a combination of state local government Acts and related special-purpose legislation (for planning, roads, environmental protection, public health, and so on). The former prescribes a governance and operational framework, including such matters as purpose and functions, electoral systems, revenue-raising and financial management, corporate planning, meeting procedures, and the like. Some capital city councils have supplementary Acts which include additional or modified provisions, but the differences are minor. Provided they act lawfully, all municipalities set their own budgets, choose and employ their own staff, and have a ‘power of general competence’—or its equivalent—to pursue the good governance of their local areas as they see fit. Some states also empower municipalities to pass local laws.

Australia’s seven local government systems are all unitary and assign essentially the same legal status, powers, and responsibilities to every municipality. However, the huge differences in geography, scale, and capacity have produced matching variations in what local governments actually do. A remote rural shire may simply maintain roads, provide some services as an agent of the state or Commonwealth, and advocate on its community’s behalf; while a large regional centre or metropolitan local government would offer a full range of municipal services (other than those provided directly by state agencies) and play a significant role in strategic planning, environmental management, and social and economic development. These differences impact the way individual municipalities see themselves and how they relate to state and federal governments (see below).

In addition to their ‘core’ activities, municipalities may be required to provide services or collect charges and levies on behalf of state governments, or pay levies to the states (for example, for emergency services and waste disposal), and they are often also contractors to state or federal agencies, notably in road construction and maintenance. Municipalities and government agencies frequently play overlapping or complementary roles in delivering services (for example, in public health and community services, especially in Victoria) or administering regulations (for example, development control, environmental management). In almost all cases, however, the state agency is dominant.

Recent decades have seen a trend to contracting-out or corporatising some local government services, especially in public works and waste

management. A more business-like approach to service delivery was strongly promoted under the National Competition Policy, which was adopted by federal and state governments in 1995, and by the then Victorian government's policy of compulsory competitive tendering for many municipal services (a policy since abandoned).²⁸

Since the 1950s, local government's functions have expanded and diversified considerably, whatever the mode of service delivery. Municipalities have responded to community pressures to do more, as well as to new state or Commonwealth legislation and funding programmes. Key areas of increased activity include land-use and strategic planning, environmental management, and economic development and community services. In parallel with this expansion of local government functions, there has been significant growth in the number of larger and better resourced municipalities. This development has occurred partly by design and policy intent (as in the number of amalgamations) but also as a result of the rapid population growth in middle and outer metropolitan areas, accessible coastal regions, and some inland urban centres. On the metropolitan fringe, what were once large semi-rural shires are now suburban cities with populations of 150–350,000 or more.

The development of corporate and strategic planning has been particularly important. Corporate plans became mandatory during the 1990s, although some of the larger municipalities had already introduced new planning and management systems of their own to handle their expanding role.²⁹ At the same time, local government has had to improve its efficiency and effectiveness within a more competitive global economy. This has engendered more sophisticated financial and asset management, as well as performance monitoring, organisation development, benchmarking, increased contracting-out of services, and joint delivery of services to capture economies of scale and scope.

The emergence of 'integrated' and 'place-based' strategic planning has complemented this trend in improved corporate management. Municipalities are having to take a more synoptic view of trends and issues

²⁸ Chris Aulich, 'Markets, Bureaucracy and Public Management: Bureaucratic Limits to Markets: The Case of Local Government in Victoria, Australia' (1999) 19(4) *Public Money and Management* 37–43.

²⁹ Su Fei Tan and Sarah Artist, *Strategic Planning in Australian Local Government: A Comparative Analysis of State Frameworks* (Australian Centre of Excellence for Local Government, University of Technology Sydney, 2013).

in their local areas, even when these may extend beyond the formal responsibilities of local government, in order to handle new roles in community services, environmental management, and economic development. Concepts of sustainable development and the ‘triple or quadruple bottom line’ (economic-social-environmental-cultural) have been particularly influential in this regard. In addition, municipalities have moved to expand and intensify their efforts in community engagement. Several local government Acts now require the preparation and implementation of community engagement strategies, both as an integral element of strategic and corporate planning as well as for a wider range of routine municipal operations, including budgeting.³⁰

5 FINANCING LOCAL GOVERNMENT

Municipal revenues and financial management are subject to detailed regulation under local government Acts. Even so, municipalities do enjoy a substantial measure of local choice in the way they manage their financial affairs, especially in the setting of expenditure priorities. They are not legally prevented from running deficits from time to time, although consistent deficit budgeting would undoubtedly attract some form of intervention by the state minister. In practice, the goal is generally to achieve ‘balanced’ budgets.

On average, municipalities fund over 80 per cent of their expenditure from their own sources, mainly through property tax (‘rates’) and service charges, plus investments and commercial revenues. The balance of funding comes from federal and state grants. While limited, this revenue base is well-matched to local government’s narrow range of mandatory responsibilities. The larger urban municipalities, with their high property values, can raise 90 per cent or more of their revenues locally and also have the capacity to provide additional services and infrastructure to underpin community well-being.

Typically, local governments carry little or no debt and the majority of them appear to be financially sound, at least in the short-medium term. There is a high degree of transparency and accountability: municipalities report extensively both to state agencies and to their constituents, audits are generally thorough, and financial corruption is very rare. Nevertheless,

³⁰ Helen Christensen, ‘Legislating Community Engagement at the Australian Local Government Level’ (2018) 21 *Commonwealth Journal of Local Governance*.

longer-term financial sustainability remains a cause for concern.³¹ Since 2000, inquiries into the sector's funding and/or financial sustainability have been undertaken in all states (in some cases more than once) and also nationally. There are several reasons for this.

First, the small (in population) rural and remote municipalities typically lack sufficient capacity to raise revenue locally and are highly dependent on central government grants. A 2008 study by the federal Productivity Commission found that 20 per cent of local governments are dependent on grants for at least 34 per cent of their revenue, while 10 per cent are highly dependent, with grants accounting for 43 per cent or more of their revenue.³² (It should be noted, however, that the latter are home to less than 0.5 per cent of the Australian population.)

Secondly, many municipalities have accumulated substantial backlogs in infrastructure maintenance and renewal. This has come about, at least in part, from the need to fund increased responsibilities in planning, environmental management, economic development, and community services.³³ Revenues have simply not grown fast enough to cover both the new functions and adequate infrastructure maintenance. In addition, municipalities are often averse to carrying debt, despite the fact that borrowing is widely accepted as the appropriate way of funding costly infrastructure with a life of several decades. This reluctance reflects (pre-Covid) Commonwealth and state government rhetoric about the need to minimise public sector debt; together with a reluctance to lock-in future rates increases for the repayment of loans.

Slow revenue growth is in part a consequence of the high public visibility of rates, which are raised mostly through annual or quarterly payments. The Productivity Commission's study found that, had rates revenue nationally kept pace with GDP over the period 1990/1991 to 2005/2006, it would have been 20 per cent higher, and that many larger urban municipalities could potentially raise enough revenue from their

³¹ See, for example, NSW Independent Local Government Review Panel (ILGRP 2013), *Final Report: Revitalising Local Government*, 25–29, <https://bit.ly/3E4Sdd2> (accessed 1 August 2021).

³² Productivity Commission, *Assessing Local Government Revenue Raising Capacity* (Draft Research Report, Commonwealth of Australia, 2007). The Productivity Commission is a statutory body that undertakes independent investigations into economic and policy issues referred by the federal government.

³³ See, for example, NSW Independent Local Government Review Panel (n 31).

own sources to dispense with most or all grant funding. However, councillors often reject proposals for substantial rate increases due to concerns about opposition from ratepayers, and state politicians regularly engage in rhetoric which suggests that municipalities are inefficient and rates excessive. The NSW and Victorian governments limit annual increases in rates to a set percentage. While municipalities may apply to exceed the limit, the political risks and administrative effort of submitting complex applications discourages many from doing so, regardless of the evident need for more revenue.

A third factor in this is the way in which financial pressures on local government have been increased by ‘cost shifting’: state, and to a lesser extent, federal governments may require or encourage councils to undertake additional functions, but do so without providing adequate financial support or the ability to raise additional revenues.³⁴ Cost shifting also occurs when state governments set statutory fees and charges below cost-recovery levels; exempt their own agencies and other types of property owners (for example, churches, charities, private schools, and even some commercial enterprises) from paying rates; and force municipalities to offer concessions on rates or fees and charges to pensioners (thus in effect transferring a social welfare responsibility).

Despite the lack of any specific provision in Australia’s Constitution, local government’s largest source of external funding is the Commonwealth. As noted earlier, financial assistance grants (FAGs) were introduced in the mid-1970s and have, since then, continued to increase steadily under bi-partisan policies. Currently, these grants amount to around AUD 3.0 billion per annum and are ‘untied’ (essentially unconditional). FAGs serve two purposes: first, they reduce the vertical fiscal imbalance in the Australian federation that results from Commonwealth dominance of all major forms of taxation; and secondly, they facilitate partial horizontal equalisation between ‘rich’ and ‘poor’ municipalities. They are distributed by state local government grant commissions that determine relative needs and calculate the annual grant to each municipality. All local governments receive at least a minimum per capita grant, but about two-thirds of total funding is allocated to non-metropolitan areas where municipalities are judged to have greater needs.

³⁴ House of Representatives Standing Committee on Economics, Finance and Public Administration, *Rates and Taxes: A Fair Share for Responsible Local Government* (Parliament of the Commonwealth of Australia, Canberra, 2003).

The Commonwealth also channels substantial support through special-purpose assistance (notably for regional development projects and roads). The ‘Roads to Recovery’ programme, introduced in 2000, provides a minimum AUD 500 million per annum. Total Commonwealth funding for local government, including smaller special-purpose grants, is now more than AUD 3.5 billion per annum, roughly 10 per cent of the sector’s total revenue.

6 SUPERVISING LOCAL GOVERNMENT

Almost all aspects of municipal governance are subject to state control and intervention. State governments have virtually unqualified powers to establish and alter local government areas; to suspend or dismiss duly elected councils and to appoint commissioners or administrators in their place (usually following an inquiry); and to create appointed bodies to undertake municipal functions in designated locations. In both Sydney and Melbourne, for example, the urban renewal of some inner-city areas has been placed in the hands of statutory authorities or state agencies, even though these areas lie within the boundaries of well-resourced capital city councils. Suspension or dismissal of elected councils occurs occasionally in most states, either on the grounds of unsatisfactory governance or as part of amalgamation processes.

Oversight is exercised through ministers for local government, various departments, auditors-general, statutory pricing authorities, anti-corruption commissions, ombuds and conduct committees or tribunals. Municipalities must submit annual reports and other statistical and financial returns to state agencies, and the minister or his or her department may undertake various forms of intervention if they consider it necessary to do so. In Victoria, for example, the minister may appoint ‘municipal monitors’ to observe governance processes and report on issues, provide advice to the council, and make recommendations for further action. Also, councillors and, in some states, municipal managers and staff, must abide by detailed, statutory codes of conduct. Formal complaints about their behaviour can be made by almost anyone, and subsequent inquiries can lead to punitive action or even dismissal.

Supervision can, of course, be undertaken in a cooperative and constructive fashion. There are numerous examples across Australia of state departments and local governments or their associations collaborating to introduce improvements to management and governance.

However, the political reflex of state governments tends to be one of asserting their pre-eminence and authority and keeping local government (and, as a result, local democracy and autonomy) in check. A related factor is the frequently limited capacity and lowly bureaucratic status of state local government departments, which tend to lack staff with sufficient practical experience in municipal management or in-depth understanding of the complex issues involved in local governance.

In several instances, local government is also subject to the Commonwealth's powers with respect to immigration, indigenous affairs, and foreign affairs. Examples include rules (and sometimes threats) concerning the way municipalities hold citizenship ceremonies and recognise Australia Day (widely termed 'Invasion Day' among First Nations peoples); environmental protection measures flowing from treaty obligations; and most recently a requirement for international agreements (such as those for Sister Cities) to be vetted for any manifestation of adverse foreign interference. Moreover, the Commonwealth may attach conditions to grant funding as it sees fit. Surprisingly, however, it has taken little or no action to protect the effectiveness of its billions of dollars in grants to municipalities against the adverse impacts of state restrictions on other local government revenues, such as rates and charges.

7 INTERGOVERNMENTAL RELATIONS

A literal interpretation of Australia's Constitution places Commonwealth and state governments on roughly equal terms, with little overlap in functions, while local government is wholly subservient to the states. In recent years, however, the practical reality has been one of Commonwealth dominance and extensive functional overlap, including direct links (both financial and functional) between the Commonwealth and local government. This reflects the Commonwealth's financial strength, derived from control of both income and indirect taxes, as well as a series of High Court decisions that have interpreted the Constitution in such a way as to extend federal powers.³⁵

³⁵ See Clement Macintyre and John Williams, 'Australia: A Quiet Revolution in the Balance of Power', in Raoul Blindenbacher and Abigail Ostien (eds) *Dialogues on Distribution of Powers and Responsibilities in Federal Countries, Booklet Series, Volume 2, A Global Dialogue on Federalism* (McGill-Queen's University Press, 2005).

Commonwealth and state constitutions and laws have very little to say about intergovernmental relations and how to advance cooperation or resolve disputes between governments. What has emerged in practice is a framework of ministerial councils and other intergovernmental forums and mechanisms. These have been mostly established administratively, but also through complementary federal and state legislation in some key functional areas, such as long-distance road transport. In the 1980s, local government started to become part of this emerging framework, and from 1992 to 2020 the president of the Australian Local Government Association (ALGA) was a member of the peak Council of Australian Governments (COAG), alongside the Prime Minister and first ministers of the states and territories. Local government was also represented on numerous ministerial councils. However, in recent years its involvement has diminished (see below).³⁶

7.1 *Organised Local Government*

Australia has seven state and territory local government associations. Together these constitute and control the Canberra-based Australian Local Government Association (ALGA). Municipalities are members of the state and territory associations, and their links with ALGA are confined largely to attendance at national conferences. Funding of ALGA by its parent associations is now insufficient to support a wide-ranging role in federal forums and national policy debates; ALGA's agenda is thus confined to a few agreed priorities, chiefly focused on seeking additional Commonwealth grants to municipalities.

ALGA is not local government's only national voice. There are several other groupings of municipalities—principally the larger and better resourced ones—with a well-established federal presence. Examples include the Council of Capital City Lord Mayors, representing the central cities of each metropolitan region; the National Growth Areas Alliance, consisting of rapidly growing municipalities on the metropolitan fringe;

³⁶ For an overview of local government's evolving intergovernmental relations, see Graham Sansom, 'What's Fair? Intergovernmental Relations in Australia', in John F Martin and Emmanuel Brunet-Jailly (eds) *Local Government in Australia and Canada: The Challenge to Federation in a Globalised World* (University of Toronto Press, 2010) 179–212.

and Regional Capitals Australia, advocating on behalf of larger non-metropolitan towns and cities. In addition to these, professional institutes engage in policy debates and have links with Commonwealth agencies. These and other more specialised organisations fill gaps in ALGA's agenda and capacity, but with the accompanying risk of a local government Tower of Babel.

State associations tend to be preoccupied with the 'day-to-day' working relationships between their member councils and government agencies, as well as the provision of valued practical services to their members, such as insurance, recruitment, industrial relations, and legal advice. Their efforts and achievements in policy development are typically spasmodic and tend to be linked to advocacy on contemporary issues of concern rather than innovative research and ideas about the future of local communities and their governance. The associations often struggle to reconcile the differing needs and opinions of their diverse membership, one that typically includes numerous poorly resourced rural and remote municipalities. This can produce a 'lowest-common-denominator' approach that inhibits meaningful contributions to 'big-picture' debates. It also results in larger municipalities and regional groupings dealing directly with ministers and agencies, opening the door for the states to 'divide and rule'.

7.2 *Local-State Relations*

Relationships between local and state governments vary greatly from state to state and over time, but generally tend to be somewhat uneasy and unstable. This reflects the underlying forces at work: on the one hand, local government is created by and legally subservient to the states, while on the other, municipalities are accountable to their electors and local government Acts have granted them a substantial degree of autonomy. Moreover, many administrative, regulatory, and public works functions can only be carried out effectively at the local level, and populous urban municipalities are largely financially independent. While the states dominate the delivery of major social services and networked infrastructure, and have regionalised their biggest bureaucracies, they still need a partner to 'fill the gaps' locally.

Given their complementary functions, state and local governments are necessarily engaged in a more or less continuous operational dialogue,

conducted by means of a raft of special-purpose consultative or advisory committees. However, formal mechanisms for exchanges of views on policy matters, or for joint-planning, have been less common, particularly on a ‘whole of government’ basis. There is rarely a clearly articulated statement of respective roles and responsibilities or shared priorities, and effective coordination of activities is patchy.

Nevertheless, most states have a forum of some sort for regular meetings between the premier and/or senior ministers and local government leaders (the association, mayors, senior managers). Most have also seen the negotiation of protocols or partnership agreements between state and local governments on key policy issues, although such agreements may prove short-lived if there is either a change of state government or its political priorities and attitude towards local government alter. In NSW, for example, an agreement signed in 2013 was abandoned only a few years later following bitter disputes over proposed amalgamations. By contrast, Tasmania’s arrangements for state–local dialogue and cooperation have lasted since the beginning of this century and survived a change of government. This cooperative approach was exemplified with the passing of the Greater Hobart Act of 2019, which aims ‘to assist councils ... and the State Government to better collaborate with each other in the making of decisions that will affect strategic land-use planning, and the provision of infrastructure in the Greater Hobart area’.

7.3 *Local–Federal Relations*

Since the early 1980s, there has usually been a federal minister with the words ‘local government’ in his or her title, and the Commonwealth’s policies have been a significant driver of the expansion in local government’s role over the past half-century. The critical threshold in local–federal relations came during the term of the Whitlam Labor government in the early 1970s, with a combination of increased grant funding and closer engagement of the Commonwealth in local and regional affairs. Subsequent decades saw further initiatives to strengthen local–Commonwealth relations and local government’s place in Australia’s federal system. Those include the following:

- Research into local and regional governance by the then Advisory Council for Inter-government Relations during the 1980s, leading to the second (1988) referendum on constitutional recognition.³⁷
- The establishment of a National Office of Local Government and a dedicated Commonwealth-states Local Government Ministers Council (also during the 1980s).
- ALGA's involvement in the establishment of COAG in 1992.
- In 1995, the signing of a Commonwealth-Local Government Accord which set out a shared policy agenda (though this was abandoned the following year due to a change of government).
- A 2006 parliamentary resolution recognised the importance of local government.
- Also in 2006, all governments adopted an 'Inter-Governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters'.
- In 2008, the establishment of the Australian Council of Local Government (ACLG) as a dedicated federal-local forum (abandoned in 2013 following election of a conservative Coalition but revived by a new federal Labor government in 2023).
- Funding of an Australian Centre of Excellence for Local Government (ACELG) from 2009 to 2015.
- Since 2016, inclusion of local government in the negotiation and implementation of several City and Regional Deals (Commonwealth-state agreements for funding major infrastructure and facilities in metropolitan growth areas and selected regional centres).

During the past decade, however, the impetus for federal-local cooperation on policy issues (as opposed to grant funding for projects) and Commonwealth support for local government's national presence has waned. There is still a nominated (assistant) minister, but (apart from City and Regional Deals) local government issues now occupy a lowly place in a large, multi-functional department. The parliamentary resolution and the 2006 intergovernmental agreement came to nothing. ACELG played a valuable 'research and development' role but ceased operations in 2015. Successive reviews of COAG's network of ministerial councils have led

³⁷ Saunders (n 21) 50–53.

to the abolition of the Local Government Ministers Council and several others that were particularly useful for local government.

In April 2020, COAG itself was summarily disbanded by Prime Minister Scott Morrison as part of his reaction to the Covid-19 pandemic (see below).³⁸ Morrison claimed that COAG had been cumbersome and ineffectual, ‘a place where good ideas went to die’.³⁹ He wanted a streamlined operation with a narrower agenda, focused in the first instance on a collective response to Covid-19. Accordingly, COAG was replaced by a ‘National Cabinet’ consisting only of first ministers that would meet more frequently, mostly online and ‘behind closed doors’ with fewer advisers in attendance. ALGA was excluded from this, but under the federal Labor government elected in 2022 it has been guaranteed attendance at one of National Cabinet’s quarterly meetings each year.

8 POLITICAL CULTURE OF LOCAL GOVERNANCE

Throughout Australia, local governments are now elected under a universal adult franchise for residents, but with a supplementary property franchise in all jurisdictions except Queensland and the Northern Territory.⁴⁰ The level of voter turnout in municipal elections varies widely across the country. In Queensland, New South Wales, Tasmania, Victoria, and the Northern Territory, voting is compulsory (as it is for state and federal elections throughout Australia) and turnout averages about 80–85 per cent (5–10 per cent lower than state and federal elections). In South Australia and Western Australia, voting is voluntary and turnout is typically low (30–35 per cent). Measures such as postal voting have been introduced to encourage greater participation.

³⁸ Bill Browne, *State Revival: The Role of the States in Australia’s COVID-19 Response and Beyond* (The Australia Institute, July 2021), <https://bit.ly/3upUlc0> (accessed 1 August 2021).

³⁹ ABC News, ‘COAG is No More as Scott Morrison says National Cabinet will Replace Old System in Wake of Coronavirus’ (29 May 2020), <https://ab.co/38s0VGj> (accessed 1 August 2021).

⁴⁰ A ‘property franchise’ gives a vote to owners of property as well as residents. See Yee-Fui Ng, et al. ‘Democratic Representation and the Property Franchise in Australian Local Government’ (2016) 76(2) *Australian Journal of Public Administration* 221–236.

The level of overt party politics in Australian local government is highly variable. In some states, party politics is seen as contrary to a preferred culture of cooperative community governance, but overall it appears to be increasing, especially in major metropolitan areas and regional cities. For ambitious politicians, success in local government can often lead to positions in state or federal parliament, while control of a large, strategically placed municipality is increasingly seen as a glittering political prize in itself. The Labor and Greens parties tend to be more visible at the local government level, but the Liberal Party is now also becoming more openly engaged in urban areas. Liberal-leaning business-oriented and 'ratepayer' or 'progress' groups are not uncommon, and in rural Australia, many 'independent' councillors are seen as aligned with the National Party. Local elections do also feature many truly independent candidates with no party affiliations, but they may forge electoral alliances to improve their chance of winning seats.

There are approximately 4800 local councillors across Australia, roughly five times the number of state and federal parliamentarians. On a per capita basis, the number of councillors is relatively low by international standards. This reflects the large average population of municipalities; the legislative limits applied to the number of councillors (no more than 15 everywhere except the city of Brisbane); and the lack of elected lower-tier ('community') councils and regional bodies. On average, an Australian councillor represents more than 5000 people, and in larger metropolitan and regional municipalities he or she may have 10–15,000 and even, in several cases, more than 20,000 constituents. Yet (with the sole exception of Queensland), councillors work mostly part-time, receive only expenses and/or modest allowances, and must perform their duties with little administrative or research support. Historically, this represents both a persistent 'volunteer' culture as well as the desire of property owners to keep costs low. It certainly tends to limit the number and type of people who feel able to stand for election.

Little information is available on the demographic profiles of elected councillors. Data from NSW indicates that councillors as a group tend not to reflect their communities in terms of gender, age, or social class. In 2014, 73 per cent of councillors (but only 49 per cent of the population) were men, while women accounted for just 27 per cent of

councillors (although that figure rose to 39 per cent in 2021).⁴¹ Similar disparities exist in terms of age and levels of education. While a fifth of the population is aged 18–29, a mere 4 per cent of councillors were drawn from this age group; and, in the 2016 census, the majority of councillors identified themselves as ‘professionals’ compared to only 37 per cent of the population. Thus older, professional men are over-represented on local councils. In addition, in the absence of hard data, anecdotal evidence suggests that indigenous peoples, ethnic minorities, LGBTQ groups, and people with disabilities are all significantly under-represented in elected councils.⁴²

Political governance continues to reflect the neoliberal and associated managerialist tendencies of the late twentieth century.⁴³ Nearly all municipalities operate in accordance with the ‘council-manager’ model.⁴⁴ Except in the City of Brisbane, regardless of size of population and budget, the elected body comprises only 7–15 councillors; there is no ‘cabinet’; and neither councillors nor mayors have executive powers as such. Mayors may be directly (‘popularly’) elected by the voters for the full term of the council (four years), or elected by and from the councillors, in which case mayoral elections take place every one or two years. Most local government Acts now give mayors some additional responsibilities as the leader of the elected council and the local community (such as liaising with and guiding the chief executive on policy issues and representing the municipality in intergovernmental forums). Also, mayors may even enjoy a quasi-executive role through delegated authority if they enjoy clear majority support among the councillors and/or a strong personal mandate. This occurs particularly in capital city councils and

⁴¹ NSW Office of Local Government, *NSW Councillor and Candidate Report 2012, Local Government Elections* (Office of Local Government, Nowra, 2014), <https://www.algwa.org.au/docs/candidates.pdf> (accessed 1 August 2021).

⁴² Tan (n 7).

⁴³ Su Fei Tan, Alan Morris and Bligh Grant, ‘Mind the Gap: Australian Local Government Reform and Councillors’ Understanding of their Roles’ (2016) 16 *Commonwealth Journal of Local Governance*.

⁴⁴ See, for example, James H Svava and Kimberly L Nelson, ‘Taking Stock of the Council-Manager Form at 100’ (August 2008) *Public Management* 6–15.

in larger municipalities where a popularly elected mayor belongs to an entrenched majority party or group.⁴⁵

Since the 1990s, however, local government Acts have placed implementation of the elected body's plans and policies, along with all routine operations of the organisation (including the hiring and firing of all other staff), in the hands of a chief executive. Councillors are expected—in their new role as a kind of 'board of directors'—to focus on governance, policy, oversight, and performance review. 'The elected council oversees the activities of the council but is not involved in the day-to-day running of the council. The "shareholders" of a public company can be likened to a local community'.⁴⁶ This approach can lead to difficult relationships between councillors and management, especially if the chief executive seeks to limit the decision-making role of the elected body and resists interventions by individual councillors on behalf of their constituents.⁴⁷ Such tensions become particularly significant when most senior officers are on relatively short-term, performance-based contracts and may be summarily dismissed.

Councillors often struggle to understand how and where to draw the (frequently blurred) line between 'policy' and 'administration'. Many can articulate the conceptual difference, but find it very hard to express in practice, especially given the far-reaching administrative and, in effect, political power which is placed in the hands of the chief executive.⁴⁸ This applies particularly to the chief executive's capacity to set parameters for council agendas and to shape the information provided to councillors, as well as the power to lead policy development by drafting strategic and corporate plans and budgets.

Tensions also arise from the expectation that the councillors will work smoothly as a collective. This ignores the reality that every councillor

⁴⁵ Graham Sansom, 'The Evolving Role of Mayors: An Australian Perspective', in Graham Sansom and Peter McKinlay (eds) *New Century Local Government: Commonwealth Perspectives* (Commonwealth Secretariat, London, 2013) 212–239.

⁴⁶ NSW Office of Local Government, *Councilor Handbook* (Office of Local Government NSW, Nowra, 2017) 8, <https://www.olg.nsw.gov.au/councils/councilors/councilor-handbook> (accessed 1 August 2021).

⁴⁷ John Martin and Roland Symons, 'Managing Competing Values: Leadership Styles of Mayors and CEOs' (2002) 61(3) *Australian Journal of Public Administration* 65–75.

⁴⁸ Tan (n 7).

is answerable to his or her constituents, may be a member of a political party or group, and may see his or her position as a councillor as leading to a position in state or federal parliament. Different perspectives and priorities are inevitable, and these can give rise to robust political debate. In addition, local government Acts require formal decision-making to be conducted almost entirely in public meetings: a situation more likely to generate theatrics than thoughtful ‘boardroom’ discussion. Closed meetings are usually strictly limited to matters affecting individual members of staff or deemed commercial-in-confidence. Councillors may establish committees and delegate some aspects of decision-making to them, but these committees also normally meet in public, with their recommendations to be considered at the next council meeting.

Most council meetings are accompanied by very lengthy and complex agenda papers that councillors are expected to absorb and understand in order to discharge their statutory decision-making functions: ‘Meeting or business papers should be of sufficient quantity and quality to allow all councillors to do their job properly and effectively’.⁴⁹ While some of the content will be routine matters and updates, the agenda papers often include lengthy technical reports. There may also be further background and policy papers which are distributed separately to read, as well as papers from preceding committee meetings. For part-time councillors, dealing with such a mass of papers can and often does become impossible in terms of both the hours of reading required, not to speak of the political and intellectual demands imposed in processing them.

At the same time, municipalities face steadily rising demands for good governance and accountability to both their local communities and state governments. Greater accountability to the community is reflected in requirements for better and more continuous public reporting, improved access to information, and preparation of comprehensive engagement strategies that go beyond consultation and provide opportunities for local people and key stakeholders to contribute more effectively to decision-making processes.⁵⁰ Tensions may well arise concerning the respective roles of elected councillors and management in these processes of engagement.

⁴⁹ Ibid, 28.

⁵⁰ Emanuela Savini and Bligh Grant, ‘Legislating Deliberative Engagement: Is Local Government in Victoria Willing and Able?’(2020) 79(4) *Australian Journal of Public Administration* 514–530.

9 COVID-19'S IMPACT ON THE ROLE OF LOCAL GOVERNMENT

Both constitutionally and operationally, the primary responsibility for addressing the public health dimension of the Covid-19 pandemic fell to state governments, which also took wide-ranging action in support of their economies. However, the Commonwealth dominated the economic response, raising huge borrowings to provide fiscal stimulus and boost social security payments. It also controlled Australia's international borders, the aged care sector, and vaccine supplies and distribution. As well, the Commonwealth assumed—or tried to assume, with mixed success—responsibility for national leadership and coordination. As described above, this involved frequent online meetings between first ministers and led to the establishment of National Cabinet as a replacement for COAG, with local government excluded.

There is some irony here. As the 'frontline' agencies, municipalities were severely impacted by the pandemic. Within their limited resources, they did a great deal to support local economies and communities, acting on their own initiative as well as at the urging of state governments. Some states provided substantial financial support to help maintain municipal employment, but the Commonwealth declined to include local government in its national 'Jobkeeper' programme as it deemed municipalities to be purely a state responsibility.

The pandemic obliged municipalities to make far-reaching changes to modes of service delivery and to close facilities—such as customer service centres, libraries, child-care services, leisure facilities, and community centres—where people gather together. Council meetings had to move online and, wherever possible, staff worked from home, necessitating action to strengthen their IT and communications skills. Large numbers of staff were reassigned to other roles or required to take unpaid leave; some were retrenched. In addition, many councils introduced programmes to support local businesses and community well-being, including action to minimise the adverse impacts of isolation and loneliness.

Changes and reductions in service delivery reduced municipal revenues as income streams from fees and charges declined. There were many efforts to assist struggling businesses and households: rates relief, accelerating payment of local suppliers, rent relief for tenants in council buildings, waiving various fees and charges, and new or increased grants

programmes for economic and community development. These all came at a substantial cost, and there are likely to be lasting impacts on municipal budgets: reductions in own-source revenue will be locked-in and make it difficult for some municipalities to contribute effectively to promoting post-Covid recovery in their communities, on top of their own financial recovery. In a 2021 survey, 59 per cent of local government chief executives reported negative impacts on their municipality's financial sustainability, with that figure rising to 73 per cent in metropolitan areas.⁵¹

The Covid-19 pandemic also impacted the demographic profile of some local government areas. The Australian Bureau of Statistics reported that in July, August, and September of 2020, Australia's capital cities experienced a net loss of 11,200 people due to internal migration.⁵² This is the highest loss since records began. As people moved to working-from-home arrangements, some also gained greater freedom of choice in where they live, and the high cost of living in the major metropolitan areas provides an incentive to consider moving to attractive coastal or rural locations. This may well have significant longer-term implications—both positive and negative—for regional and metropolitan municipalities alike. Similarly, there was the additional impact of potential lasting downturns in the influx of tourists, backpackers, farmworkers, and international students to both metropolitan and regional areas.

Importantly, the Covid crisis empowered and emboldened the states. They appeared to relish their opportunity to demonstrate their capacity in public health roles and exercise their constitutional authority, notably in the popular measure of closing state borders to prevent the spread of the virus.⁵³ The pandemic also highlighted and reinforced the central importance of relations between the Commonwealth and the states. By contrast, it appears to have weakened local government's position in terms of its overall political profile, particularly relative to the states. The financial capacity of municipalities to accept additional responsibilities has also been reduced, at least in the short to medium term while they recover from

⁵¹ Davidson Consulting, *Australian Local Government CEO Index 2021*, <https://bit.ly/3up3NMC> (accessed 1 August 2021).

⁵² Australian Bureau of Statistics, *Regional Internal Migration Estimates Provisional (2021)* ABS catalogue number 3412.0.55.005, <https://bit.ly/3rdlFby> (accessed 1 August 2021).

⁵³ Browne (n 38).

revenue losses and unplanned expenditures, though there are concerns that this may become a lasting trend. All in all, despite the essential contribution municipalities made to tackling the epidemic, the impact of Covid-19 could leave local government in a significantly weaker position than before.

10 EMERGING ISSUES AND TRENDS

A decade ago, nearing the end of the Rudd-Gillard Labor federal government, the president of ALGA was a member of COAG; ALGA was also represented on numerous ministerial councils and inter-government committees; the federal local government minister was a senior member of cabinet; his predecessor had established the high-level Australian Council of Local Government (ACLG) as a vehicle for direct federal–local relations, and funded the Australian Centre of Excellence for Local Government (ACELG) together with a range of local government reform and development initiatives; and there was agreement in principle on holding a third referendum on constitutional recognition.

Local government seemed to have met the first part of the challenge identified by Chapman and Wood in the early 1980s: ‘To survive as part of the body politic local government must accustom itself to, and be seen to be, operating as part of the intergovernmental network’.⁵⁴ However, Chapman and Wood had also made it clear that intergovernmental negotiations demand much more than simple advocacy of local concerns and perspectives: ‘Advocates respond to issues: what is needed to protect local interests in the intergovernmental system is not advocacy alone, but full-time involvement in the political and administrative activity of the federal and state governments’.⁵⁵ In these terms, local government has been found wanting. It has failed to grasp and pursue the longer-term ‘big-picture’ opportunities presented by COAG, ACLG, ACELG, and ongoing federal support for reform and development. Instead, it has focused its energies on what again proved to be the holy grail of constitutional recognition, while continuing to couch its relationship with the federal government principally in terms of the need for increased

⁵⁴ RJK Chapman and Michael Wood, *Australian Local Government: The Federal Dimension* (George Allen and Unwin, Sydney, 1984) 12.

⁵⁵ *Ibid.*, 167–168.

financial support, rather than emphasising the expertise and resources municipalities could bring to national agendas.

This response may be ascribed to several related factors: the hold that the state associations have over ALGA; their inevitable preoccupation with state–local relations; and the very large number of resource-poor rural and remote shires. The result is a tendency to pursue and adopt ‘lowest-common-denominator’ policies that highlight areas of weakness rather than the strengths of large metropolitan and regional city governments, particularly their capacity to play an expanded role. Nationally, local governments can agree on the importance of federal grants and the desirability of constitutional recognition, but not much else. As Nicola Brackertz observed in 2013:

there appears to be a persistent reluctance on the part of local government to take up its own cause and initiate change. This is evidenced, for example, by the fact that although local government peak bodies have initiated a number of inquiries, local government has been hesitant to put together and action packages of reforms, leaving responses to the recommendations of inquiries largely to state and federal governments.⁵⁶

There have been several other contributing factors. The new federal minister appointed after the 2010 election proved to be more interested in regional economic development than the relationship with local government; municipalities in Queensland were preoccupied with implementing the sweeping amalgamations that took place in 2007–2008; and the attention of local government in Western Australia and NSW had also become focused on state government reform initiatives.

Whatever the explanation, subsequent events point to a significant downturn in local government’s federal presence. The conservative Coalition in office during 2013–2022 showed little or no interest in a federal–local dialogue, even though it maintained high levels of both general-purpose financial assistance and, especially, grants for local and regional projects. The latter include (non-metropolitan) regional development programmes, strongly supported by the National Party; and the 2016 City Deals initiative, which now encompasses nine metropolitan

⁵⁶ Nicola Brackertz, ‘Political Actor or Policy Instrument? Governance Challenges in Australian Local Government’ (2013) 12 *Commonwealth Journal of Local Governance* 3–19.

areas and major regional centres, as well as ‘Regional Deals’ in three other locations. Remarkably, however, it appears that neither the participating municipalities nor ALGA have sought to generate a national conversation about how these programmes might be networked as part of a broader federal–local agenda.

The culmination of a decade of steadily declining institutional engagement between the Commonwealth and local government was reached in 2020 with Prime Minister Morrison’s decision to exclude ALGA from the new ‘National Cabinet’. Evidently, the premiers and chief ministers supported this approach, and there is little doubt they would have been pleased not to have local government—their underling but potential rival for Commonwealth support—at the table. Indeed, recent years have seen a re-assertion of state primacy and control over municipalities. For example, Victoria has joined NSW in capping annual rates increases while, having failed to legislate rate-capping as such, the South Australian government has empowered its Essential Services Commission (a pricing authority) to oversee municipal financial plans.⁵⁷ Several states have implemented land-use planning ‘reforms’ that transfer decision-making authority from municipalities to state ministers and their appointees. Most have subjected councillors to more demanding codes of conduct and complaints procedures, while elected councils that exhibit failures (real or perceived) to deliver good governance have been exposed to additional avenues for state intervention, suspension, or dismissal.

Perhaps state governments want to ‘put the genie back into the bottle’. Having established democratic local government, given it a significant degree of autonomy plus the power of general competence, watched the growth of large metropolitan municipalities and initiated across-the-board amalgamations, they worry that their creation may become an out-of-control rival for status and resources. In the foreseeable future, Australia will have a string of local governments with populations of 400,000 or more, big budgets, extensive professional and technical resources, significant international links on issues such as climate change, and undoubted capacity to partner directly with the Commonwealth in major initiatives. Effective local democracy on that scale could disrupt the exercise of the powers of the states to determine infrastructure and development priorities and promote business investment in property, transport,

⁵⁷ Statutes Amendment (Local Government Review) Act 26 of 2021.

mining, energy, industry, or agriculture. Local objections may hinder favoured projects, while uncontrolled municipal rates and charges may impede increases in state land tax and other revenues from property development.⁵⁸

Faced with these and other challenges, Australian local government in the early 2020s seems to lack a collective sense of direction. For the most part, it tends to focus on local gains even at the expense of—rather than together with—more substantial advances achievable only through collaborative efforts. Municipalities appear to lack interest in pursuing a broader and more robust localist agenda,⁵⁹ perhaps because it might entail devolving some of their own functions to communities, and granting meaningful authority to cooperative regional entities that could partner more effectively with state and federal governments.⁶⁰ On the whole, their response to increasing state oversight and intervention has been notably incoherent. State associations tend merely to react to individual government practices, decisions, or proposals that are seen to disadvantage a substantial number of their members, rather than promulgate a rounded set of their own policies for community well-being. This may be due in part to a lack of high-profile leaders with the reputation and authority needed to speak for local government as a whole and achieve a more constructive relationship that advances community and regional governance. In the absence of productive relationships with the states, local government is bound to struggle for support in federal forums. The difficulty is compounded by ALGA's very limited resources and agenda, plus the existence of competing national voices.

In 2016, Local Government Professionals Australia published *Australia in a Century of Transformative Governance: A Federation for Communities and Places*.⁶¹ The paper observed that the value of local action is often overlooked in the workings of the Australian federation, but also noted that:

⁵⁸ Sarah De Vries, 'Australian Local Government's Contribution to Good Governance on Major Projects: Increasing Information, Participation and Deliberation' (2021) 24 *Commonwealth Journal of Local Governance*.

⁵⁹ Sansom (n 11).

⁶⁰ Sansom (n 10).

⁶¹ Mark Evans and Graham Sansom, *Australia in a Century of Transformative Governance: A Federation for Communities and Places* (Local Government Professionals Australia and University of Canberra, Institute for Governance and Policy Analysis, 2016).

collaborative governance involving local citizens and all key stakeholders is the only way in which Australia can bring to bear all the skills and resources required to address 21st century challenges ... local government could make a far greater contribution to the success of the federation as part of a concerted campaign to promote collaboration between governments, business and civil society at local and regional levels.

The 2016 paper documented some of the plentiful evidence that shows the highly beneficial—and increasingly essential—contributions that municipalities, both individually and in groups, are making to a range of national agendas. As noted earlier, most municipalities performed strongly during the Covid crisis, supporting local communities and economies. Many are focused on improving relationships with Australia’s First Nations peoples and their unacceptable social and economic disadvantage; on the needs of an ageing population; and on climate change, promoting renewable energy and advancing a circular economy.⁶² While regional cooperation remains patchy, there are good examples of how to make it work and of the gains to be made when it does, such as the leadership displayed by the South East Queensland Council of Mayors in securing the 2032 Summer Olympics for Brisbane. Moreover, there is surely considerable scope to network the various ‘special-purpose’ national organisations and combine their resources in a concerted effort to reinvigorate local government’s role in the federation.

The central lesson of the last half-century is that Australian local government flourishes when it gains active Commonwealth engagement and support for its role—not just financial assistance and project grants—to offset the centralist and controlling tendencies of the states. In the wake of Covid-19, those tendencies appear stronger than ever. There is now an evident risk that, at least in some parts of the country, municipalities will be relegated simply to the role of ‘line managers’,⁶³ while the ideals of ‘local democracy’ become no more than empty words.⁶⁴ Local government might not be facing an existential threat, but to secure

⁶² One-hundred-and-forty local governments, representing 50 per cent of Australia’s population, are members of the Cities Power Partnership taking action on climate change. See <https://citiespowerpartnership.org.au> (accessed 1 August 2021).

⁶³ Australian Housing and Urban Research Institute (n 15).

⁶⁴ Graham Sansom, ‘Not So Simple: The Origins and Implications of Central Coast Council’s “Financial Calamity”’ (LogoNet Australia, 2021), <https://bit.ly/3xkkgDN> (accessed 1 August 2021).

a valued role in the federation it needs to strengthen its democratic base, demonstrate its *collective* worth, and engender consistently productive relationships at all levels. It may now have an opportunity to do just that. In May 2022 Australians elected a federal Labor government under Prime Minister Anthony Albanese, who was the local government minister from 2007 to 2010 and responsible for supportive initiatives such as the establishment of ACLG and ACELG. Labor's 2022 election platform recognised local government's potential to play a significant role in the federation. Among other things, it foreshadowed reinstating ACLG and restructuring the City Deals as genuine partnerships involving local government. The ball is now in local government's court to seize the opportunity by crafting an effective *national* response.

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