

## 5.3 Public Accounts Committee Inquiry (05-068-02-0001) (Attachments Page 113)

By Wayne Scheggia, Director Policy

### *In Brief*

- Parliamentary inquiry announced at the end of August 2005.
- Association draft submission and questionnaire distributed to all Local Governments.
- Issues of concern raised with Parliamentary Committee Chairman.

### *Relevance to Strategic/Business Plan*

Key Objectives:

- Identify and evaluate emerging issues, trends and responses.
- Effectively engage our members.
- Effectively influence Government policy.
- Provide Local Government s with access to contemporary information and advice.

### *Policy Implications*

The outcomes of any Inquiry may influence government legislative and regulatory regimes and are therefore likely to have implications for the future positions of the Association.

### *Budgetary Implications*

Nil, at this stage.

### *Background*

In late August 2005, the Public Accounts Committee advised the Association that it had decided to:

*"Undertake an inquiry into the effectiveness and/or adequacy of accounting mechanisms for Local Government authorities. Following recent events involving a number of local councils, the Committee is concerned as to whether the accountability mechanisms for Local Government expenditure are adequate. The Terms of Reference are as follows:*

*The Public Accounts Committee will examine and report on:*

1. *Current accountability mechanisms for Local Government in Western Australia, including finance, probity and performance;*
2. *The capacity of the Department of Local Government and Regional Development to examine Local Government finance, probity and performance issues;*
3. *Whether the State Auditor General should have a role in Local Government audit processes; and*
4. *Other matters deemed relevant by the Committee."*

Submissions were initially invited to be made by 30 September 2005, however following representations by the Association and individual Local Governments, the submission deadline was extended until 11 November.

At its October 2005 meeting, State Council resolved to note the Inquiry's Terms of Reference and to encourage the Inquiry to hold hearings in rural and regional WA.

A "Discussion Draft Submission" was developed and distributed to all Local Governments to provoke consideration of, and comment on, the Terms of Reference and thereby inform the Association's final submission. A copy of the Discussion Draft is included in the attachments.

## **Comment**

Committee Chairman John Quigley MLA addressed a breakfast meeting of LGMA Board members, WA Local Government Association Representatives and DLGRD Directors on 20 October 2005, outlining some of the background to the Inquiry and clarifying the focus of the Terms of Reference.

He stressed the independence of the Inquiry from the Minister, the Department of Local Government and Regional Development and the State Government, and acknowledged that the Terms of Reference needed to be expressed in the context of a discussion paper to give greater understanding to Local Governments of the directions the Inquiry was seeking to pursue and the rationale behind them.

The Chairman clarified that the Inquiry is fundamentally concerned with the question of whether the Auditor General should play a role in Local Government audits, and if so, what that role should be. In addition to issuing a discussion paper to clarify these matters, a further extension of time for submissions will be arranged.

As at the time of writing, no official advice from the Inquiry had been received regarding their Discussion Paper or the mooted extension to the submission deadline, so the Association is proceeding with its current submission process.

The Association's Discussion Draft Submission seeks member responses to four key questions based on the Inquiry's Terms of Reference. Approximately 10% of Local Governments have responded to the survey.

1. *What specific legislative or regulatory accountability/compliance requirements do you find overly onerous or reasonably consider to be irrelevant?*
  - A wide range of responses have been received to this question, including a number of assertions that none of the current requirements are problematic.
  - The most commonly referenced compliance burden was the lack of indexation to the \$50,000 tender threshold, which causes Local Governments to follow tender procedures for expenditure decisions which shouldn't require that level of process.
  - There was multiple respondent support for the compliance regime be proportionate to the level of risk, meaning a lesser level of compliance should be attached to smaller Local Government operations.
2. *What specific changes should be made to the role, operations and resources of the Department of Local Government & Regional Development?*
  - Most respondents did not want changes to the role and operations of the Department of Local Government and Regional Development (DLG&RD), but recognised a resource gap, in terms of the capacity of the DLG&RD to support Local Governments in fulfilling their compliance obligations.
  - Recruitment and retention of staff with operational experience within the sector was considered important to enhancing the effectiveness of the DLG&RD.
  - DLG&RD should focus on support, advice and guidance to develop more effective Local Government, rather than regulation and compliance.
3. *Do you support the re-establishment of the positions of "Local Government Inspector" within the Department of Local Government & Regional Development?*
  - Approximately 65% of respondents (to date) support the DLG&RD establishing "outreach" positions which would serve as direct advisors to CEOs and Councils in understanding their compliance and operational responsibilities.
  - There was no real support for an interventionist or punitive approach based on "inspection" of Local Governments.

## **5.4 Hawker Report – Development of Inter Governmental Agreement (05-013-03-0001)**

*By Wayne Scheggia, Director Policy*

### ***In Brief***

- State Council considered the Australian Government response to the Hawker report at its October 2005 Meeting.
- The Australian Local Government Association (ALGA) has been advised of the Association's prerequisites for the development of an Intergovernmental Agreement.
- A national working group has been operating for some 12 months on the development of an appropriate IGA.
- ALGA provided a brief update on the IGA.

### ***Relevance to Strategic/Business Plan***

Key objectives:

- Improve the public image of Local Government.
- Effectively engage our members.
- Effectively influence Government policy.

### ***Policy Implications***

Nil.

### ***Budgetary Implications***

Nil.

### ***Background***

The October 2005 State Council meeting considered advice on the Federal Government's response to the Hawker Report (*Taxes and Charges: A Fair Share for Responsible Local Government*).

The Federal response had four key components:

- Intergovernmental agreement on cost shifting.
- Productivity Commission study on barriers to Local Government revenue.
- Recognition of Local Government by both Houses of Federal Parliament.
- Review of interstate distribution of the identified roads component of financial assistance grants

State Council resolved as follows:

1. *That the key aspects of the Federal response to the Hawker Report be noted.*
2. *That ALGA be requested to ensure that any Inter Governmental Agreement (IGA) be based around;*
  - a. *a growth based revenue share, predicated on 1% of total Commonwealth taxation, net of GST;*
  - b. *an agreed process for negotiating the devolution of responsibility;*
  - c. *revenue streams to accompany new responsibilities;*
  - d. *an independent body to police compliance by all spheres of government;*
  - e. *appropriate sanctions for non-compliance with the requirements of the IGA.*

4. *Is there any real threat in involving the Auditor General's Office in the Local Government audit process, and if so what specifically concerns you?*
- Respondents to this question were more concerned about what the Auditor General's role would be if involved in the Local Government Audit process, rather than whether or not the Auditor General should be involved.
  - Administering the existing system of audit would seem inadequate justification for engaging the Auditor General.
  - Potential cost increases to Local Governments raised concern amongst respondents.

The survey responses are essentially consistent with the arguments proposed in the Association's Discussion Draft Submission. It would be appropriate to modify the draft to emphasise the survey outcomes in the final submission.

### ***Recommendation***

That the Discussion Draft Submission be enhanced to provide emphasis on the issues highlighted by the survey responses from Member Councils.



WESTERN AUSTRALIAN  
LOCAL GOVERNMENT ASSOCIATION

# LOCAL GOVERNMENT ACCOUNTABILITY INQUIRY



## Introduction

The Public Accounts Committee has recently established an Inquiry into Local Government Accountability in Western Australia with the following Terms of Reference;

The Public Accounts Committee (the Committee) will examine and report on:

1. Current accountability mechanisms for local government in Western Australia, including finance, probity and performance;
2. The capacity of the Department of Local Government and Regional Development to examine local government finance, probity and performance issues;
3. Whether the State Auditor General should have a role in local government audit process; and
4. Other matters deemed relevant by the Committee.

The Western Australian Local Government Association (WALGA) in response to the Inquiry Terms of Reference has determined to make a formal submission to the Inquiry.

There has been limited information available to inform our understanding of the motivation behind the Inquiry and on which WALGA can base its response to the Terms of Reference.

Against that background this discussion paper has been prepared as a draft response from WALGA to the Inquiry, on which we are seeking comments from Local Governments to inform our final submission.

Each of the three main Terms of Reference is considered, and the elements of WALGA's proposed response are listed. In some instances we have highlighted some key questions on which we would appreciate your council's specific response. In all other cases your general comment would be welcomed.

## Opening Comment

In the absence of a clear explanation of the motivation for this Inquiry, WALGA is of the view that there is an assumption held by the Committee and underpinning this Inquiry that Local Government is in a financial and governance dilemma due to a perceived lack of accountability mechanisms. The Committee appears to believe that this demands the introduction of stronger financial, probity, compliance and performance controls. There is an implied criticism of the capability of the Department of Local Government & Regional Development (the Department) in relation to these issues and an equally implied preference for the Auditor General's Office to play a role in these matters.

In advising WALGA of its intent to carry out this Inquiry, the Committee commented, without specifying, that it was due to "*recent events involving a number of local councils*". It would greatly assist WALGA and indeed Local Governments generally, if the Committee could detail the events to which they refer and offer some explanation of the logic used to deduce sector wide implications from these specific instances.

If we take a leap of faith and entertain the idea that a dilemma of finance and governance may indeed exist, the question to ask is whether or not this is occurring due to inadequate accountability mechanisms, or is it the result of other catalysts?

WALGA is of the view that Local Government is indeed on the horns of a dilemma, but not one fostered by a lack of accountability mechanisms. We would contend that there is a much bigger question at issue - that of the systemic sustainability of Local Government.

The recent Independent Inquiry into the Financial Sustainability of Local Government in South Australia, found that their Local Government sector is largely considered to be unsustainable in a financial sense, with 26 of 68 Local Governments found to be financially unviable in the medium to long term and only one third of councils considered to be currently in a comfortable financial situation. (*Refer p.10, "Overview" Volume 1 of the report for more specific detail*).

Discussions with the Municipal Association of Victoria indicate that approximately 20% of Councils in that state are considered financially unviable, despite making reasonable efforts in terms of Local Government rates, debt utilization and fees and charges regimes.

There is anecdotal evidence that the WA Local Government system may be confronted by similar challenges, and WALGA contends that it is at this systemic level that the Government must be encouraged to inquire. Whilst such activity may well prove to be outside the scope of this Inquiry, or indeed outside of the scope of the Committee, we encourage you to champion the need for an examination of the systemic sustainability of Local Government, if for no other reason than to place the findings of this current Inquiry in the broader context of the challenges confronting councils in governing their communities.

#### **Current accountability mechanisms for local government in Western Australia, including finance, probity and performance**

- It is the view of WALGA that the current mechanisms are adequate in terms of the required minimum standards of compliance. The absence of advice from the Committee as to the specific issues that have lead to establishment of the Inquiry makes it difficult to comment specifically on this Term of Reference.
- WALGA would prefer to see the promotion of best practice and elected member professional development as a means of enhancing issues of probity, performance and financial accountability, rather than more regulation;
- In reviewing the framework of the compliance issues in Local Government there should be a focus in freeing up the existing measures and examining ways that Government can assist, rather than hinder, the effective development of accountability and reporting mechanisms.
- The notion of "one size fits all" means that many smaller Local Governments are perhaps unnecessarily saddled with accountability and reporting mechanisms that are not relevant to local community needs and impinge on the general competency principle that was inherent in the original proposals for the Local Government Act 1995.
- The impact of the loss of the Local Government Development Fund needs to be reviewed as this fund enabled the industry to deliver low cost initiatives to the sector which are not now available, including sector benchmarking initiatives, elected member professional development initiatives and sector wide research.
- The information a community requires to give it the confidence that its Council is functioning effectively is likely to exceed any mandated minimum standards of accountability that governments might reasonably establish for sector wide purposes and may well vary from council to council. WALGA encourages the Committee to recommend the funding of initiatives that enable councils to develop locally relevant, best practice reporting and accountability mechanisms.

#### **Question to Councils:**

***What specific legislative or regulatory accountability/compliance requirements do you find overly onerous or reasonably consider to be irrelevant? (It will be critical for WALGA to be able to quote specific instances of poorly constructed mandatory controls in order for us to be able to argue this Term of Reference with the Committee).***

The capacity of the Department of Local Government and Regional Development to examine local government finance, probity and performance issues.

- The Department currently utilises a compliance return to assess annually the compliance by Local Governments with a number of significant statutory matters. The issue that arises is whether the Department has the capacity to effectively monitor the outcomes of those returns in a timely manner. There is a body of opinion that the return is not as effective as it could be due to the lack of resources within the Department to follow up in a timely manner.
- There is no annual benchmarking process that is centrally managed and therefore no capacity to provide a snapshot of the performance of the industry.
- There appears to be some confusion in the Department regarding how to fulfil its dual role as both a regulatory watchdog and a mentoring institution to the sector.
- It is one thing for the Government, through the Department to create legislative and regulatory regimes and quite another to be adequately funded and resourced with appropriate expertise to fully implement and overview those regimes.
- The Department should consider providing support to Local Government through the regular preparation of reports that provide industry wide analysis and trends particularly of emerging issues that will impact on the sector.
- There has been substantial reference from Local Government CEOs to the now defunct positions of "Local Government Inspectors" and the important role played by these Departmental Officers in the past in ensuring compliance by detecting and correcting inappropriate practices through early intervention with Council administrations.

Questions to Councils:

*What specific changes should be made to the role, operations and resources of the Department of Local Government & Regional Development?*

*Do you support the re-establishment of the positions of "Local Government Inspector" within the Department of Local Government & Regional Development?*

**Whether the State Auditor General should have a role in local government audit process**

- The inference that the issues of accountability, probity and performance that are confronting the Local Government industry might be resolved by having the Auditor General play a role in the audit of Local Governments seems to us to presume that any problems that may exist for the Local Government sector are a matter of agency focus. For WALGA this issue is not about who has responsibility for audit, but about the availability of resources to invest in developing appropriate standards and fostering the exercising of appropriate practices.
- The industry is already subject to an audit standard. It may be appropriate for the Auditor General to review that standard and advise the Department on changes to that standard in terms of industry wide requirements to ensure that there is an appropriate alignment with public sector standards.
- There is no doubt that from an industry perspective the minimum standard approach to the council audit has been interpreted by some Councils as the full extent of their audit obligation and has resulted in a "lowest cost" approach to the audit, rather than taking a best practice governance approach.
- There is a significant question about the costs that might accrue to Local Governments in any mandated change to the audit process and these should be addressed as part of any recommendation for change. Councils are concerned that if the Auditor General's Office undertakes the work it may be more costly. Equally, if the same minimum standards are used by the Auditor General for the Local Government audit as are currently prescribed, there seems little chance of any real difference in audit standard occurring. Local Government experience with the WA Electoral Commission in relation to electoral costs for postal elections has made councils cautious about being statutorily mandated to use and pay for government agencies to service the industry.
- In the event that the Auditor General's Office was to be mandated to undertake council audits, Local Government questions how these would be carried out? If the Auditor General simply contracted to the various private accounting firms as is the current practice, it would seem that the change in contract administration arrangements would be a purely symbolic, and somewhat academic, exercise.

Question to Councils:

*Is there any real threat in involving the Auditor General's Office in the Local Government audit process, and if so what specifically concerns you?*