



7 Cabinet Notes for Information

Not relevant



708 OUTBACK AREAS COMMUNITY DEVELOPMENT TRUST - APPROVAL TO DRAFT LEGISLATION (Jennifer Rankine) - NOTED

Not relevant



TO: THE PREMIER FOR CABINET TO NOTE

**RE: OUTBACK AREAS COMMUNITY DEVELOPMENT TRUST -
APPROVAL TO DRAFT LEGISLATION**

1. PROPOSAL

- 1.1 For Cabinet to note the review of the **Outback Areas Community Development Trust**, and my intention to seek Cabinet approval to draft legislation to provide for future governance arrangements for the outback areas of **South Australia**.

2. BACKGROUND

- 2.1 The Trust is constituted by the *Outback Areas Community Development Trust Act 1978* to carry out development works and to provide services to local community organisations in those parts of **South Australia** that are located outside of local government areas, but excluding the **Aboriginal lands**. It serves about 5 000 people living in 36 communities.
- 2.2 On 16 April 2007, Cabinet noted my intention to undertake a comprehensive review of governance structures across the outback areas of **South Australia**.
- 2.3 The Trust, and communities, have had ongoing concerns about increasing pressures brought about by factors associated with the mining boom, including rapid increase of the population in some communities, and the loss of community leadership in others. These small isolated communities currently have limited capacity to respond to planning and service delivery requirements.
- 2.4 As part of the review, in June-July 2007, in conjunction with the Trust, the **State Government** undertook an intensive outback community engagement process on future governance arrangements. The strategy enabled community leaders and outback residents to provide feedback on the Trust's operations, and to offer suggestions for improved future governance and sustainability of outback communities.
- 2.5 The community engagement process revealed a clear expression of support for updated governance arrangements for the Trust to enable it to be more resilient and responsive to community needs and aspirations.

3. DISCUSSION

- 3.1 The review has culminated in a report – "*Local Governance in the Outback Areas of South Australia – The Case for Change*" (attached) that makes recommendations for future governance arrangements of outback areas. This also contains outcomes of the community consultation process. The report concluded there is strong case for updating the legislative foundation of the Trust in ways that would enable the Trust to address more effectively local governance issues in the outback areas.

3.2 The report recommends:

- the continuation of the Trust in its current form with expanded roles, functions and powers enshrined in new legislation, similar to those of a council administered under the Local Government legislative framework;
- the need to develop a consultative strategic planning process to articulate local infrastructure and service delivery objectives;
- the capacity of the Trust to raise revenue to contribute towards the funding of prescribed facilities, infrastructure and services in outback areas. For example, the administration of aerodromes under the Trust's or a progress association's control, public toilets, and local water supply. The capacity to raise revenue to be balanced with a consultative process;
- the power for the Trust to issue orders to maintain local amenity and deal with nuisances (eg unsightly conditions, hazards); and
- increased community accountabilities through improved consultation processes.

3.3 It is my intention to shortly seek Cabinet approval to draft new legislation for the Trust. At that time, Cabinet will be provided with detailed analysis in support of the case for change.

4. RECOMMENDATION

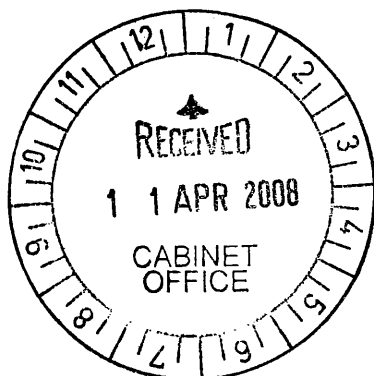
4.1 It is recommended that Cabinet note the review of the Outback Areas Community Development Trust, and my intention to seek Cabinet approval to draft legislation to provide for future governance arrangements for the outback areas of South Australia



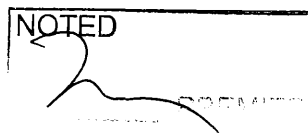
Hon Jennifer Rankine MP

MINISTER FOR STATE/LOCAL GOVERNMENT RELATIONS

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Attachment

**LOCAL GOVERNANCE IN THE OUTBACK AREAS
OF SOUTH AUSTRALIA**

THE CASE FOR CHANGE

Ione Brown BA LLB Dip Ed GDLP

October 2007

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Executive Summary

This Report has been commissioned by the Outback Areas Community Development Trust (the Trust) and the Office of State/Local Government Relations to look at issues affecting local governance in the outback areas of South Australia and how they might best be addressed.

It sets out the original reasons for the creation of the Trust by the Dunstan Government in the late nineteen seventies, the Trust's purpose, functions and structure and what it does now.

It examines the issues confronting the outback areas, with the greatly increasing levels of activity in mining and tourism in some areas and diminishing levels of population in others, and particularly at those issues that relate to local governance such as managing local services, raising resources locally to improve amenity, and regulatory aspects of local administration.

It looks at ways in which the issues may be addressed and at the results of recent community consultations about these.

The Report notes that the outback communities have changed their view significantly about the need for more formal local governance since the last review of the Trust in 1998, finding the communities now asking for help with local administration and being prepared to contemplate some local financial support for it.

The Report reaches the view that it would be in the interests of the State as a whole and the outback communities to substantially update the arrangements for local governance in the outback areas, with a view to supporting orderly development and effective local administration under today's conditions. It sees an opportunity for putting in place an innovative administrative framework to underpin diverse operational arrangements suited to the diverse communities. The framework would allow the Trust to provide advice and coordination to the State agencies working in outback areas such as Planning SA as well as service and other support to the communities seeking it. It concludes that there is need to review and revise the Outback Areas Community Development Trust, to clarify and strengthen the Trust's position as a local government body within the State government in order to enable the Trust more effectively to bring together State and local interests and to provide tailored approaches to local administration in the various communities.

Introduction

This Report has been commissioned by the Outback Areas Community Development Trust (the Trust) and the Office of State/Local Government Relations to review local governance arrangements in the outback areas and to make recommendations about desirable changes. It follows extensive work undertaken in recent years by the Trust to assess the issues facing the outback areas of South Australia in relation to local governance and is informed by the results of specific consultations on the issues with outback communities during 2007.

The Report draws substantially on an issues and options paper commissioned by the Trust in 2006.

Some of the issues are not recent in origin. For example, where to find the resources needed for local government services in the outback areas similar to those available in within-council areas has been a continuing question for many years.

Other issues have become more important more recently. The current increase in mining and related activities is having a dramatic impact on the number of people and what is being done in some areas. In addition more people are visiting the outback areas as tourists, for shorter and longer stays. As a result, some communities are growing in population while others are diminishing. At the same time, local administration, at present undertaken mainly by volunteers in the outback communities, is becoming increasingly complicated, with the devolution of responsibilities such as the administration and maintenance of local aerodromes. The changes mean that ensuring the outback areas receive the coordinated attention they need to ensure their unique features and amenity can be both enjoyed and conserved is becoming increasingly important. They also mean that the long-held reliance on volunteer community administration in the towns of the outback areas has become unacceptably burdensome as factors such as risk management and insurance compliance gain importance with the increasing number of responsibilities.

The Report looks at the origins of the Trust, its purposes and the structure of governance it operates. It summarises what the Trust does now and recent work on issues confronting the outback areas. It looks at governance issues that hamper how the Trust can respond to the issues at present and at the summary results of recent consultations with the outback communities about the issues and about approaches to resolving them. The Report considers approaches to growing local governance in the outback areas. It recommends a way forward at this time that would give the Trust a clearer role in representing the needs of the outback areas of South Australia as a region, and as their conduit and coordinating body within the State Government, and would give outback communities flexible opportunities for additional tailored measures of local governance and management under the Trust. To this end, the Report recommends consideration be given to revision of the *Outback Areas Community Development Trust Act 1978*.

Origins of the Trust

The outback areas of South Australia are characterised by very long distances, widely diverse physical characteristics, very small populations, and a significant number of small and disparate communities. Local Government in its traditional form in South Australia has been seen as impractical in the outback areas because of the diverse nature

of localities, their small populations, and difficulties both in holding elections and in imposing and enforcing rates, the usual form of taxation revenue for councils, in the form in which they are known in Local Government Act areas.

The Outback Areas Community Development Trust (the Trust) was created by the *Outback Areas Community Development Act 1978* (the Trust's Act), on the initiative of the Dunstan Government, primarily to provide a way of receiving Commonwealth Local Government Financial Assistance Grants for the outback areas and of disbursing the grants to the outback communities. Creation of the Trust also had the effect of increasing South Australia's capacity to raise loans under the then prevailing rules of the Australian Loans Council. The Premier, who took carriage himself of the Bill for the Trust's Act, described the Trust as a *quasi* local government body in the parliamentary debates, several times reiterating the view of his Government that the outback communities should move to full local government as soon as the communities were willing to support it.

In local governance terms, the unwillingness of the communities was not the only reason for the creation of the Trust rather than the incorporation of the outback areas under the Local Government Act. Added to it were the practical difficulties of conducting elections over large distances and disparate communities, as well as the impracticality of raising adequate local revenues from rates and of enforcing rating decisions.

It is clear from the parliamentary debates on the Bill that bringing in Local Government Financial Assistance Grants from the Commonwealth Government for South Australia's out-of-council areas was generally seen as the main publicly endorsed reason for setting up the Trust.¹ No secret was made of this in the debates. And to ensure that the essentially local government nature of the Trust was clear a section was included in the Trust's Act to enable sections of the Local Government Act to be applied to the Trust by regulation, should a later Government see fit. At the same time, the Trust was placed under the general control and direction of the Minister administering the Act, a move designed to allow intervention by the Government of the day should the Trust make decisions that were anathema to the people affected by them.²

In a real sense, therefore, the Trust is a hybrid organisation, a body with local government functions and responsibilities within the South Australian state administration.

For the longer term future, it should be noted that the South Australian constitution has provided since 1980 for the State to have a local government system, created under statute. It is to be expected, then, that the outback areas will move to a more local form of local governance as and when circumstances support that. There is nothing in the parliamentary debates to suggest that detailed consideration had been given to the form that outback areas local governance might take in the longer term.

¹ *Parliamentary Debates South Australia, House of Assembly 1977-78* pp1980 et seq, pp2191 et seq (introduction and second reading debate)

² The Premier explained inclusion of this provision by reference to the need for a Government to be able to intervene in decisions that it would be held responsible for. The Dunstan Government had recently been held politically responsible for the raising of rents by the SA Housing Trust, which the Government had no power to prevent under that body's Act.

The present review presents an opportunity to grow local governance in the outback areas towards that possible future, while securing both state and communities' interest in the outback areas for the medium term.

The Trust's purpose, functions and structure

To achieve its primary purpose of being recognised as a local government equivalent for the outback areas, in addition to being empowered to make grants and loans to community organisations the Trust was given a general local-government-like mandate to carry out development projects and to provide services for those communities.³ A specific function also included was to carry out works to improve or promote improvement of communications to country districts, in this case both inside and outside the areas covered by the Trust.

While these functions can be read broadly they have been well and truly overtaken by those now attached to local government councils under the *Local Government Act 1999* (the Local Government Act). The comprehensive review that resulted in the 1999 Local Government Act was based on an underlying policy that councils should have broad, general executive powers to get things done in their areas. This policy for local government authorities was not explicit in 1978 when the Trust's Act was passed.

The functions outlined in the Trust's Act have also been overtaken by expectations both of its communities and of other levels of government. Examples of this can be seen in local responses to the recent community consultations on future local governance in the outback areas⁴ and in such changes as the 1991 devolution of aerodromes management and maintenance to local authorities by the Commonwealth Government.

The Trust itself consists of between three and five members, appointed by the Governor (that is, by the State Government of the day) with provision also for appointment of deputy members. The Trust's Act contains no criteria for appointment of Trust members. Although recognised by the Commonwealth Government as a local government authority, the Trust comes under the "general control and direction" of the Minister to whom its Act is committed and its annual budget is required to be approved by the Minister. The public accountability of the Trust is thus discharged through the elective office of the Minister to the South Australian Parliament.

The Trust is serviced by a small staff now based largely in Port Augusta.

What the Trust does

The funds it receives from State and Commonwealth governments enable the Trust to engage in a wide range of local government-type activities, as its Annual Reports show.⁵

Much of the Trust's work lies in providing funding and other support to community associations. The Trust recognises 35 community associations in 33 localities throughout the outback areas, for financial assistance purposes. In principle it

³ *Outback Areas Community Development Trust Act 1978* section 15(2)

⁴ See Appendix 1

⁵ See www.oacdt.sa.gov.au

recognises only one group in each locality, with the exception of three coexisting Aboriginal community groups.

Community support functions include assistance to school-community libraries, support for tidy towns, and, importantly, community insurance for recognised associations, through the Local Government Association Mutual Liability Scheme. Infrastructure maintenance includes operating and maintaining public toilets (in 18 remote locations), septic tank effluent drainage systems (in two townships), waste water treatment in two townships, UHF radio repeater towers, radio and television rebroadcast services, and aerodrome maintenance. The Trust also undertakes some regulatory functions eg registration and control of dogs.

All in all the Trust's operations look very much like those of other local government authorities, albeit limited in range and selected and undertaken with careful thought to the remote environments.

Issues confronting the outback areas

The State of the Outback Report

The State of the Outback Report commissioned by the Trust in 2005 looked at factors indicating the social, environmental and economic condition of the outback areas. Among the strengths it discerned in the outback areas are rich mineral resources, declining unemployment and growing diversity of employment, though accompanied by significant dependence on income support, strong regional outback culture and strong identification with local communities and townships, comparatively good pay for those who are employed, improving communications and transport reducing isolation, and strong adoption of renewable energy sources leading to more reliable power supply.

Importantly, from a perspective of local governance, the Report noted inadequate availability of housing and land available for housing (planning issues), potentially serious difficulties with infrastructure (eg local roads, and aerodrome maintenance and management), significant differences between "haves" and "have nots" (local human services delivery such as the Home and Community Care program), weak regional identification by residents, and over-reliance on too few individuals to fill key local roles (local services management). [The interpolations in brackets indicate local government council functions in Local Government Act areas.]

The view from the communities

Much of the emphasis in the State of the Outback report is very well known in the communities, so it comes as little surprise to know that the 2007 community consultations stressed similar issues to those brought out in that report⁶.

The local government-type functions that were specifically recognized in 2007 as needed now and in the future were

- administration of aerodromes,
- ensuring emergency access to airstrips,
- maintenance of public toilets,

⁶ The summary report of the consultations appears as Appendix to this Report.

- preventing nuisances,
- maintaining outback amenity, and
- representing the needs of the outback areas of South Australia as a region.

Insofar as the information from the consultations may be surprising, it is in the significant change of heart the communities showed in supporting moves towards more formal local government in the outback areas in order to address the issues confronting them.

Governance Issues

Managing local services

In its present form the Trust's Act does not envisage the Trust directly providing management services for the local administration of outback communities.

In practice at present the Trust's role within its communities relies heavily on the volunteer Progress Associations, incorporated under the *Associations Incorporation Act 1985*. For many community development purposes this is a definite strength. However, there are some service and regulatory functions that volunteers are not well-placed to take responsibility for. These include administering aerodromes and preventing nuisance, for example.

Although for many years outback communities in general have resisted the introduction of local government, as mentioned the community consultations show that this feeling has changed, especially among those who have carried, and continue to carry, the increasing administrative burden as volunteers. Risk management considerations also suggest that from a State as well as a local point of view it would be helpful if some township local government-type services were administered on a firmer legal and personnel base than can be accorded by the voluntary Progress Associations.

Resources

In the Parliamentary debates on the Bill for the Trust's Act it was expected that the State Government would meet the administrative expenses of the Trust, while the Commonwealth Local Government Financial Assistance grants (FAGs) that it would receive on behalf of the outback communities would be entirely deployed to the communities.

This has generally been the pattern of the Trust's financial arrangements since its inception. Allocations made to the Trust in 2004-05 included \$926,000 from the Commonwealth Local Government Financial Assistance Grants, through the South Australian Local Government Grants Commission, \$242,000 from State Parliamentary appropriation, and a further \$321,000 from State and Commonwealth Governments in project support. The Commonwealth local government financial assistance grants are available to the Trust because it is recognised as a local governing body under the Commonwealth *Local Government Financial Assistance Act 1995* and the South Australian *Local Government Grants Commission Act 1992*. The recognition also makes the Trust eligible for the special projects grants money it submits for and receives for the outback areas.

The Trust has substantially greater calls on the resources available to it than it can meet. This is no different from other agencies and levels of government. The Trust has had little capacity to raise revenue from its own sources but taking steps to allow the Trust

to facilitate local expenditure by authorizing the introduction of local contributions in defined circumstances, would go some way towards overcoming its financial constraints.

What the communities said

Among the preferences expressed in the outback community consultations on the future of governance arrangements, high priority was accorded to the following matters (not necessarily in this order):

- A legitimate role for the Trust as advocate, or voice, for the outback areas, (which also goes to coordinating or advising on the activities of other agencies);
- A consultative strategic planning process;
- the Trust rather than the community associations taking responsibility for essential services such as aerodromes
- support for the role of community associations in cultural and social development
- flexible, fair and equitable “user pays” arrangements for essential services; and
- possibly a general levy for provision of essential public use facilities and infrastructure in outback areas such as aerodromes and public toilets

Powers of the Trust

The discussion of issues affecting local governance in the outback areas would be incomplete without mentioning the Trust’s existing powers to deal with the issues. As mentioned earlier it is possible to read the Trust’s powers broadly under its current Act. However, a recognized role as representing the needs of the outback areas, and powers to require compulsory payments for services and to issue orders affecting people’s property, do not exist in the Trust’s Act at present. The matter of the Trust’s powers, and its relationship with the State government in exercising them, is therefore central to addressing the local governance issues affecting the outback areas.

Addressing this issue and the others identified is the subject of the next section.

Addressing the issues

Many of the considerations still apply that led to establishing the Trust in its present form rather than incorporating the outback areas under the Local Government Act. In particular there would be difficulty in developing an acceptable electoral system that produced a single workable, accountable and genuinely representative elected body. And at this point in time it is likely that collecting general local government rates across the outback areas would cost a disproportionately large amount relative to the revenue obtained.

This means that for accountability and resource purposes, since the Trust does and can be expected to undertake local governance functions with public funds from State and Commonwealth governments, its relationship through the South Australian Government to the elected body of the SA Parliament will continue, as an essential accountability link to elected officers. As indicated earlier, this is now secured by the Trust’s Act which gives the Minister general control and direction of its operations.

Continuing this relationship while recognizing the nature of the Trust as a body created to administer and foster local governance in the outback areas could create real

opportunities for innovative arrangements tailored in diverse ways to the needs of the diverse outback communities.

An earlier Issues and Options paper prepared for the Trust proposed that the issues might be addressed by applying appropriate parts of the Local Government Act 1999 to the Trust by regulation, in accordance with the Trust's Act, leaving the Act itself intact.

However, the broad-ranging nature of the changes that have been disclosed by the community consultations, and further discussions about the proposal, suggest that it would be more desirable to consider updating the Trust's Act.

Making the governance changes now needed for the outback areas by revising the Trust's primary legislation rather than by using regulations to apply the Local Government Act provisions could mean simpler, clearer, more flexible and more innovative arrangements could be made.

Powers of the Trust

When the Local Government Act 1999 replaced the larger part of the Local Government Act 1934 the former narrowly defined powers of councils were replaced by broad general executive powers, enabling councils to respond to their areas in many different ways. At the same time, detailed by-law making powers gave way to powers to make orders to deal with nuisances on a case by case basis, and by-law making was confined to council land.

One of the advantages of considering revision of the Trust's primary Act is that it would give opportunity to consider what powers and obligations if any the Trust should have under other legislation that conveys powers and obligations to Local Government Act councils.

While the Local Government Act sets out the general constitutional and operational provisions for local government councils to work under, many other Acts give councils powers and responsibilities in particular administrative areas. The Trust is affected by some of these (eg. the Dog and Cat Management Act) but not others (eg. the Development Act). In the case of the former, the Trust has full responsibility legislatively, as though it were a council; in the latter case the Trust has recently become a referral agency without the legally recognized standing of a council in matters affecting its area. Reviewing the Trust Act would create a useful opportunity to review the range of roles conveyed upon councils by other legislation, and tailoring any provision about the Trust to the needs of the outback areas.

In terms of the general operational provision affecting the Trust, in light of the variety of challenges confronting the outback areas, and to secure the State's interest in ensuring its local governance arrangements work well in the outback areas, it would be sensible for the Trust to receive similar executive and order-making powers to those of Local Government Act councils, to be exercised in close consultation with the communities affected and with clear, regular, requirements for reporting to the Minister.

Adopting such an approach could be seen as modeling the outback areas' arrangements for local governance on those of some of the larger SA regional local government councils. These councils have committees or incorporated progress associations representing their townships. The local groups bring the townships' needs to the attention of the council, contribute to forward planning for their part of the area, and engage in social and community development activity of many kinds.

For the Trust's part, the ground for diverse administrative forms to suit diverse communities' needs has already been laid with the development of Community Affairs Resource Management agreements (CARM agreements).

CARM agreements provide a written agreement between the Trust and each community setting out the resources to be made available and the services to be provided.

It would be helpful to have a stronger legislative basis for CARM agreements for the future, in which the Trust's and the associations' powers to enter into such agreements are clear and in which community associations can be recognized and have protections, responsibilities and support suited to their capacities.

The Trust representing the needs of the outback areas

While the revision of the Trust's Act has much to commend it there are features of the present relationship between the Trust and the State Government that are unlikely to change much in the revision. Some of these would benefit considerably by clarifying the relationship by means of agreed statements or protocols.

This has been done from time to time in relation to public statements regarding the needs of the outback areas, and this practice merits being continued and refined. In the State government system agencies do not make representations publicly for resources or anything else their functional areas may need. Agencies make representations for their areas through a confidential Cabinet process and all public statements are the prerogative of the Minister. However one of the roles of local government councils is to represent both publicly and privately the needs of their areas and it is clear from the community consultations that the communities hold this to be one of the most important roles of the Trust too.

Strategic planning

Since the twenty-year review of the Trust's constitution in 1998 the Trust has engaged in a significant level of forward planning, broadly in consultation with its communities. However in the intervening years since that review the mechanism of strategic planning has grown in importance as a formal mechanism for accountability, both in state and local government spheres. The complexity of today's world and the scope of demands on governments makes it essential to identify broad expenditure priorities some time ahead and to ensure that actual expenditure reflects those priorities.

Recent moves to enhance the accountability of local government councils to the people in their areas have greatly strengthened requirements for consultative strategic and budget planning. Similar, though largely non-statutory, requirements have been put in place for state agencies. The provisions in the Local Government Act could usefully be paralleled in a revised Act for the Trust, accompanied by consultation also with relevant state agencies and reporting of the planning process to the Minister. This would meet the communities' interest in taking part in planning for the future of their areas and link them to possible support from the State.

Other forms of accountability

The essence of holding authorities accountable is that people affected by them can ask questions and require them to be answered. Although in Australian public administration elections are widely regarded as being central to the accountability of governments, they are not the only avenue. The Trust is already subject to a number of routine accountabilities generally common to state and local government agencies and

authorities. The **Auditor-General** audits its financial statements, the **Ombudsman** has jurisdiction to look into complaints about its administration, its records are open to the **Freedom of Information Act**, the propriety of its operations is subject to the **public offences** provisions of the Criminal Law Consolidation Act, and so on. While its political accountability is exercised through the Minister to whom the Trust's Act is committed, parliamentary questions about its activities are in practice infrequent.

Resources – Rates and charges

With appropriate process safeguards, requiring local publicity and clear evidence of majority, or absolute majority, support from the people affected locally, provisions similar to the separate rates, service rates and charges, and fees and charges sections of the Local Government Act could be made available to the people of the outback through the Trust. These provisions could, in the case of the outback areas, be tied to service agreements with the communities, to provide a vehicle for community agreement that allows for the diversity among community needs and willingness and capacity to pay. These sections have in common that they tie revenue raised to a purpose and a locality, rather than featuring general revenues deployed to the common good of a larger local government area and group. Such provisions should also be consistent with requirements for strategic planning and consultative budgeting.

For these kinds of impositions, local process requirements, both of publicity and of evidence of strong local support, could reasonably meet the expectations of accountability usually seen in elected decision-makers, together with a part to be played by the Minister in authorising decisions that have complied with the process requirements. Rather than using the sale of land provisions for enforcement, attention could be focused on recovery of unpaid amounts as debts through the courts.

Regulatory controls – order-making powers

In the same way it would not be difficult to construct an approach that would enable a local community organisation to request the making of an order of the kind provided for by Part 2 of Chapter 12 of the Local Government Act, and for the Trust to make such an order. This chapter empowers local government councils to deal with matters such as unsafe hazards on private land by ordering the owner or occupier to do something. It should also be possible for the Trust itself to initiate use of such powers, in the interests of community cohesion and well-being.

Regulatory controls – planning

As with the CARM agreements seeds for inclusive approaches to making and amending development plans are well sown in the outback areas while planning approvals and development assessments rest with Planning SA. The challenge is to ensure that the people of the outback areas have at least the same influence over the physical development of their localities as do those living in Local Government Act areas and in today's circumstances in the outback this is a challenge indeed. It is understood that the Trust has recently become a referral agency for planning approvals and development assessments affecting the outback areas, a sensible solution that may well prove helpful in bringing together the state and local interests in these matters. Consideration should be given over time to ways of ensuring the Trust is made full use of by the State as representative of the outback communities in these decisions.

Conclusion

There is a strong case for updating the legislative foundation of the Outback Areas Community Development Trust in ways that would enable the Trust to address more effectively local governance issues in the outback areas. The need for this has become more urgent with the mining boom and the growing popularity of the outback areas for tourism. Resistance to any stronger form of local governance from the outback communities themselves, noticeable at the time of the 1998 review of the Trust's Act, has largely dissipated. Volunteer local administration is no longer a viable option.

Financial cost is not a significant element of the change. Rather it is the potential environmental, economic and social cost of not making the change that lends the case its strength.

The South Australian Constitution provides that there shall be a system of local government in South Australia, created by statute. While for the short and probably medium term future conditions within outback areas and the interests of the State as a whole suggest the status of the Trust should remain that of a local governing body within the SA State government, the steps that are taken now should in the long term be precursors to local government in their own right in the outback areas. This short and medium term solution also has the possibility of demonstrating to the local government system as a whole in South Australia improved ways of doing business between State and local government.

APPENDIX

OUTBACK AREAS COMMUNITY DEVELOPMENT TRUST

GOVERNANCE REVIEW

"RESPONDING TO CHANGES IN THE OUTBACK"

TRANSLATING COMMUNITY ENGAGEMENT OUTCOMES

INTO UPDATED GOVERNANCE ARRANGEMENTS

August 2007

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1. INTRODUCTION

This document has been prepared for the Outback Areas Community Development Trust (the Trust) following the community engagement process initiated as part of the review of structures for local governance in the outback areas. The review was initiated to consider the formal capacity of the Trust to respond adequately to the needs of the outback areas, and to propose possible future options for updated governance arrangements for the Trust.

The outcomes of the community engagement process have been collated and analysed and summarised in the *Community Engagement Report August 2007*. The Community Engagement Report will be made available to all community associations and participants in the community engagement process, and comments and/or feedback on the Report will be invited by 7th September.

The purpose of this document is to assist the Trust's deliberations in framing its report and recommendations to the Minister for State Local Government Relations, the Hon Jennifer Rankine MP, by translating community engagement outcomes into future governance arrangement options which reflect the views and aspirations expressed by participants during the community engagement process.⁷

2. SNAPSHOT OF COMMUNITY ENGAGEMENT OUTCOMES

There has been a clear expression of support for updated governance arrangements for the Trust which includes a consultative strategic planning process; a legitimate role for the Trust as an advocate and voice for the outback; strengthened links between Planning SA and the Trust; and supporting community associations' role in cultural and social development rather than managing and maintaining essential services.

It is also generally recognised that a fair and equitable "user pays" arrangement for essential services is necessary to ensure future sustainability of these services in the outback. The accountability and forward planning implications arising from a shift to a community contribution arrangement are central to shaping an updated legislative framework for the Trust.

2.1 Community Contributions

The transition to contributions through a "user pays" cost recovery system is supported on the basis that a flexible system will enable agreement to be reached with individual communities about essential service requirements and priorities. A smoother transition is more likely to occur if users understand what they are paying for. However, a "one size fits all" community contribution system applied across all outback areas would not be supported as this is likely to result in actual and/or perceived inequities.

The application of a general levy across the outback has some support and is more likely to gain acceptance by land holders and pastoralists outside of townships if the rationale for applying the levy is based on a shared community responsibility to contribute to a fair and equitable cost recovery mechanism for ensuring the provision of public use facilities and infrastructure in the outback, including administering

⁷ It is to be observed however, that the community engagement outcomes are not presented as statistically valid, qualitative research data and the information presented is not intended to be used in that way.

aerodromes, ensuring emergency access to airstrips, maintenance of public toilets, preventing nuisances, maintaining outback amenity, and representing the needs of the outback as a region.

The combination of a general regional levy, and a localised "user pays" cost recovery system which ties revenue raised to a specific purpose would seem the most equitable arrangement for the outback areas and one which responds to the social structure of outback communities. Provisions similar to those found in the Local Government Act 1999 (SA) should also be included as follows:

- Concessions, minimum charges, and variable charges which recognise disadvantage and genuine hardship; and
- Powers for the Trust to dispose of private land if requested to do so by community associations if charges are not paid, a significant debt accrues, and the land is abandoned.
- A sunset clause which gives advance notice of a phasing in period for the general levy and the option of annual incremental increases to a maximum charge.

Implementation issues raised will also require resolution relating to identifying and locating owners of land, whether charges are made to owners or occupiers, and strategies for maintaining a credible data base and other records.

2.2 Accountability and Transparency

A shift to a "user pays" and levy arrangement strengthens the need for greater accountability measures, and prescription of a strategic planning and community engagement process. Provisions similar to those found in the Local Government Act 1999 (SA) would therefore need to include arrangements for:

- developing a strategic plan (3 – 5 year cycle) and annual financial plans;
- strategic plans to be developed in consultation with community associations, the broader community, and all other key stakeholders and interested parties; and
- taking account of other State and regional plans.

This would ensure that community priorities are articulated and understood, and that strategic and financial management plans clearly set out local infrastructure and service delivery objectives for the planning period, as well as separate priorities associated with revenue raised through a regional levy.

Key stakeholders and regional interests will include infrastructure and essential service providers, economic development interests, NRM Board, telecommunication and re-broadcasting service providers, and health and social development planners. This process would also facilitate better informed State and regional planning processes such as those related to tourism, economic development, infrastructure planning, and social planning.

It is noted that the Trust is already subject to audits of financial statements by the Auditor-General, the jurisdiction of the Ombudsman and the Freedom of Information Act. Accountability and transparency would be further enhanced by provisions similar to the Local Government Act 1993 (SA) which would require the Trust to:

- prepare and publish an annual report (suggest this could be web based); and
- prepare, and advise of access to a grievance procedure for aggrieved parties to request the Trust to review an action or decision.

2.3 Community Engagement

The vastness of the outback areas poses significant challenges to designing a cost effective, inclusive community engagement processes.

The established information networks between community associations and the Trust provide an effective and ongoing conduit for two-way communications and representation of local needs and priorities. However, it is also acknowledged that volunteer community organisations do not always represent the diverse views of a local community. It is therefore important that opportunities are available for broader community interests to have input into any planning or community engagement process.

The requirement for the Trust to develop a community engagement strategy based on best practice principles is suggested as the most appropriate solution, with a draft strategy being made available for community input and feedback prior to endorsement. It is to be noted that the minimum standards prescribed in the Local Government Act 1999 (SA) (advertisement in a paper circulating in the area and at least one public meeting) are not appropriate for the outback areas. Indeed many Local Government Councils are implementing leading practice frameworks which far exceed the prescribed requirement.

The Office of State/Local Government Relations and the Local Government Association of SA are currently developing a collaborative community engagement project. The outcome of the project will be the release of a handbook to assist Councils to develop effective community engagement frameworks, and the Trust would have access to these resources.

2.4 Leadership, Representation, Community Development and Amenity

The Trust was strongly supported as the appropriate agency to be the “voice of the outback”. Future arrangements should articulate the Trust’s legitimate role as representing the views and needs of the outback areas to other levels of government and relevant agencies, similar to the role of Councils set out in the Local Government Act 1999 (SA).

This should extend to protocols at a political and State Government agency level which reflect the strong community support for the Trust having a role in the following matters.

- An advisor to agencies in relation to regulatory requirements in the outback to ensure requirements reflect the remote geographic location and unique characteristics of outback communities;
- An advisor to Planning SA in relation to development controls and standards in the outback, and significant planning and development proposals in the region.
- Extending this advisory role in relation to proposals for significant mining activities in the outback could also be considered.

There is also strong community support for the Trust to have powers to enforce compliance with orders made by local community associations, similar to those prescribed in the order making powers of the Local Government Act 1999 (SA), including the capacity to appoint an “authorised officer” at the local level to ensure a timely response to enforcement issues.

2.5 Supporting Community Capacity Building

Community association volunteers have strongly expressed a need for additional and on-going support from the Trust including training to perform increasingly complex administrative tasks and to meet accountability requirements.

The Trust could also play a role in promoting and supporting succession planning by community associations, including increased opportunities for training (for example in administration, meeting procedures, and book-keeping) and mentoring arrangements for potential new members with existing members.

In addition, there is also support for updated governance arrangements to re-focus community association activities on social and cultural development. It is therefore likely that community association constitutions will require review and updating. The Trust could have a role in preparing model constitutions and optional clauses to enable "tailoring" arrangements to individual community requirements.

With respect to essential service management and maintenance, local employment options should be pursued in the interest of strengthening local communities as well as being the most cost effective and sustainable solution. Consideration could be given to prescribing an exemption from competition policy principles if the arrangements is in the interest of local community sustainability, similar to the provisions which apply to Local Government incorporated Councils in SA.

It is also noted that IT offers effective techniques for supporting community associations and for communication and consultation initiatives in remote communities. However, the effectiveness of this technique generally relies on broadband internet services which are not consistently accessible throughout the outback. Access to broadband services has been strongly represented as an essential service for people living in the outback, with the lack of access being an impediment to community capacity building.

2.6 Legislative Review Program

The package of proposed updated arrangements discussed in this document represents an integrated framework which will enable the Trust to respond to changes that have occurred and will continue to occur in the future in the outback.

As the updated governance arrangement model is likely to be without precedent elsewhere in Australia, it is recommended that a timeframe be prescribed for review and evaluation of the effectiveness of updated arrangements. This will enable any unintended negative impacts or consequences which arise during implementation to be identified and evaluated, and addressed through a staged legislative review program.

At the time of that review consideration could also be given to the appropriateness of continuing the current arrangement of appointing Trust members versus an election process.

2.7 Resource Implications

An expanded role for the Trust will clearly have resource implications with respect to increased statutory responsibilities, community engagement and other accountability requirements, and as a result of administering a community contribution scheme.

Careful consideration will need to be given to how the resource implications will be addressed. Concern was expressed during the community engagement process about revenue raised through community contributions being consumed by administrative costs and hierarchical structures, with no clear benefit evident.