

An Introduction to Local Government (Councils)

The three spheres of government, local, State and Commonwealth, work together in various ways to govern and provide services to the Australian community. Each level functions differently and has very distinct powers and each has an important role to play in the total picture of government in Australia.

Local government has been an important part of community decision making since the earliest days of settlement of South Australia. The Minister for Local Government in the South Australian government is responsible for the administration of Local Government in South Australia.

The *South Australian Constitution Act 1934* provides for a system of elected local government bodies.

The *Local Government Act 1999* sets out the constitution, system and operational framework for local government in this State.

The *Local Government (Elections) Act 1999* contains the requirements for local government elections. It sets out how the elections are to be conducted, who can nominate, who can vote, how the votes are counted and other important matters.

Local government is an elected system of government directly accountable to the local community. A major theme of the *Local Government Act 1999* is that of a council and its community having the appropriate degree of autonomy to meet its needs and influence its own future.

Councils in South Australia form important political and social communities with an unparalleled depth of knowledge of the needs of the local area and for this very reason local government is often referred to as the 'grass roots' level of government. It uses its own resources or that of State and Commonwealth governments to deliver a diverse range of services in its local area.

Currently in South Australia, 68 individual autonomous councils provide local government. Each council covers a defined geographic area. Council areas vary in geographic size, population, land use and location. Despite these differences, all councils have the same powers and responsibilities but can choose some of the services they wish to provide.

Councils are corporate bodies and are comprised of members, headed by a principal member generally called a mayor or chairperson. Individual council members have no authority to make decisions on behalf of the council, it is the elected council as a whole that is the corporate body and has this power.

The Local Government Act 1999 sets out the role and functions of a Council

Some of the roles and functions of a council set out in the Act are:

- being a representative, informed and responsible decision-maker in the interests of its community
- participating in public policy development and planning activities with the other spheres of government
- providing and coordinating services and facilities that benefit its area, ratepayers, residents and visitors
- developing its community and resources in a socially just and sustainable manner
- providing for the welfare, well-being and interests of individuals and groups within its community
- representing the interests of its community to the wider community and other levels of government
- planning at the local and regional level for the development and future requirements of its area
- managing, developing, protecting, and conserving the environment
- regulating local activities such as building, keeping animals, parking, and maintaining public health. Some of these responsibilities include a regulatory and law enforcement role.

Each council decides what services it will provide in its local area

Councils provide some services in accordance with specific roles and powers defined by the *Local Government Act 1999* or other legislation, and others at the discretion of the council. The discretionary services vary from one area to another, and depend on the size of the council area, the number of people living in the area, where the area is located, the physical environment, what the priority needs of the local community are, and the resources and funding available.

All councils provide regulatory services within specific statutory responsibilities or powers.

Examples include:

- land use planning and development and building control
- fire prevention
- dog and cat management and control
- parking control
- food and public health inspection.

Other services are provided and work is carried out at the discretion of each council as part of its general roles and functions under the *Local Government Act 1999*.

Most councils also provide infrastructure, and community services and facilities such as:

- road and footpath construction and maintenance
- street lighting
- waste management and recycling
- library and information services
- stormwater drainage
- care and maintenance of parks, ovals and sporting facilities
- swimming pools and leisure centres
- community facilities and halls
- coastal care
- home and community care services for elderly people and people with a disability
- tourism initiatives
- wetlands and water resource management
- promoting economic development.

The principal member of the council is generally called the mayor or chairperson

A council is comprised of:

- a principal member of the council who is either elected as a representative of the area as a whole, or a member of council chosen by the members. If the principal member is elected by the electors he or she is called the mayor. If the principal member is chosen by the members of the council he or she is generally called the chairperson, however, the council may decide to use another title.

The council area may be constituted with or without wards

Depending on how the council is constituted i.e. with wards or not, the councillors are elected;

- by the electors of the area, to be a representative of the area as a whole; *or*
- if the area is divided into wards, elected by the electors of a particular ward to be a representative of that ward. A ward is a specific geographical area used as an electoral base for electing councillors.

If a council has wards it may choose to have area councillors and ward councillors. If a council does not have wards it follows that only area councillors are elected.

All the members of the council will be elected for a four-year term from November.

With the exception of the mayor, the members of a council are known as councillors. The term council member is used to refer to all members of the council including the mayor.

The role and responsibilities of mayors and chairpersons

The role of the mayor or chairperson is to:

- preside at meetings of the council
- carry out the civic and ceremonial duties of the office of principal member
- provide advice, if required, to the Chief Executive Officer (CEO) between council meetings regarding the implementation of a decision of the council
- act as the principal spokesperson of the council (unless the council determines otherwise).

The role and responsibilities of council members

Council members (principal member and councillors) become part of an incorporated body which has responsibility for carrying out the duties and exercising the powers conferred on the council by the *Local Government Act 1999* and other relevant State legislation.

The Act specifically states that council members:

- represent the interests of ratepayers and residents
- provide community leadership and guidance
- facilitate communication between the community and the council.

The role of a council member involves:

- participating in the deliberations and civic activities of the council
- keeping the council's objectives and policies under review to ensure that they are appropriate and effective; *and*
- keeping the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review.

Council members are involved in the long term strategic management of the local area. They take part in determining the needs of the community and establishing the range and scope of services necessary to ensure the social and economic development and environmental management of the council area.

Development Assessment and Panels

In addition to the *Local Government Act 1999* there are a number of other pieces of legislation that council members must be familiar with such as the *Development Act 1993*.

The *Development Act 1993* creates a number of key roles and tasks. The council will need to review and/or create a Development Plan or sections of a Development Plan for the council area. The Development Plan is the legislative document prepared by the council to guide the future of development in the council area. Council members will need to participate in and be informed of the formulation of key strategies and policies for future development.

The *Development Act 1993* also creates the legislative framework for assessing development proposals.

Councils play an important role as a 'relevant authority' under the *Development Act 1993*, assessing and making decisions about development applications. Clearly these decisions impact on the character and amenity of the area.

The *Development Act 1993* requires all councils to establish a Council Development Panel, to assist councils to exercise their development assessment powers and functions. This requirement clarified that decisions on development applications are made under the *Development Act 1993*, not the *Local Government Act 1999*. The Council Development Assessment panel is quite distinct from other functions of a council.

Membership of the Council Development Assessment Panel is prescribed under the *Development Act 1993* and requires that a majority of members be independent from the council.

Council members as policy makers

Council members participate in making policy and decisions on behalf of their local communities. As a 'policy maker' they have responsibility for establishing and reviewing the rules, regulations and guidelines by which the community will be governed in the future. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing demands, and allocating resources. This requires the development by councils of effective working relationships with various government agencies to explore opportunities for collaborative effort.

The policy framework, together with the council's strategic management plans, provides the direction for the ongoing management and operation of the council.

The Chief Executive Officer (CEO)

Every council must appoint a CEO who is the most senior member of the staff. The CEO may be called the Town Clerk, District Clerk, the City Manager or other title.

The CEO is responsible to the council for the implementation of council decisions and the general administration of council functions and affairs. The CEO is also responsible for employing and managing all the other staff of the council. Council members have no direct involvement in administration or managing council staff. The CEO also has a responsibility to act as an adviser to the council members and to ensure that the council acts within the law.

Council meetings

One of the most important functions of a member of council is attending and participating in the decision making process at council meetings.

Council members can only make decisions and act through a decision of the council as a whole. They have no legal role independent of the council and as such an individual council member has no authority to act or make decisions. Council meetings are held at least once a month.

Decisions of the council are made by a majority vote of the members present and entitled to vote.

With the exception of the mayor every member present at a council meeting must vote on every question (motions and amendments) arising for decision unless precluded from doing so by the conflict of interest provisions of the *Local Government Act 1999*.

The mayor does not have a deliberative vote, but only a casting vote if the votes are equal.

Participation in committee meetings

A chairperson (a principal member chosen from within the council members) does have a deliberative vote, but in the event that the votes are equal, does not have a casting vote.

A good deal of council time is spent in committee meetings. The work of committees is significant in local government, because of the wide range of activities and functions a council is responsible for. Councils establish committees to assist in its work and to increase community input in policy development. Committee members may be council members, council staff and community members appointed by the council. All council committees report to the council and are subject to the requirements of the *Local Government Act 1999*.

The roles and tasks of committees vary. A council may establish a committee to:

- inquire into matters and provide and make recommendations to the council
- carry out a specific project or task on behalf of the council
- manage or administer property, facilities or activities, on behalf of the council
- oversee works on behalf of the council *and*
- exercise, perform or discharge delegated powers functions or duties.

Council members may also be required to represent the council on other bodies, for example, regional bodies, local organisations, and school councils. This could also include representing local government at the State and national levels by involvement in the Local Government Association of SA.

Staying in touch with the community

It is important that Council members are in touch with the community and that they:

- are aware of the needs and wishes of the community as a whole;
- are prepared to initiate change and bring to the council ideas and activities as community needs change and evolve; *and*
- keep abreast of matters affecting the whole council area.

To keep in touch with electors Council members may need to:

- attend meetings of local organisations
- participate in a range of local activities
- be available to discuss individual concerns
- respond to issues raised and refer enquiries or complaints to council staff
- read the local paper to keep abreast of local news and issues
- communicate with the community *and*
- keep informed about state and national current affairs which give a broader view of issues that may affect the council.

The Annual Allowance

Council Members are entitled to an annual allowance for expenses associated with their position. Section 76 of the *Local Government Act 1999* requires the Remuneration Tribunal to determine the amount of the allowance for each office in each Council before nominations open of the election year. This amount is then adjusted annually by movements in the CPI for each of the remaining 3 years in the term of office.