

STANDING COMMITTEE ON LEGISLATION

**LOCAL GOVERNMENT AMENDMENT
(REGIONAL SUBSIDIARIES) BILL 2010**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 17 AUGUST 2011**

SESSION THREE

Members

Hon Michael Mischin (Chairman)

Hon Sally Talbot (Deputy Chair)

Hon Donna Faragher

Hon Mia Davies

Hon Alison Xamon

Hearing commenced at 12.09 pm

COOPER, MR GRAHAM JOHN,
Councillor, Shire of Cunderdin, Chairperson, South East Avon Volunteer Regional
Organisation of Councils, sworn and examined:

CARBONE, MR DOMINIC,
Executive Officer, South East Avon Volunteer Regional Organisation of Councils, sworn
examined:

The CHAIRMAN: We will now reconvene and commence. Hon Sally Talbot and Hon Alison Xamon have another commitment that I understand will conclude relatively shortly. As I understand it, there is no objection to us proceeding in their absence and they will be able to have reference to the evidence in due course anyway. They will rejoin us as soon as practicable. I now ask for the witnesses of the Shire of Cunderdin.

On behalf of the committee, I welcome you to this hearing. Before we begin, I ask you to take either an oath or an affirmation.

[Witnesses took the oath or affirmation.]

The CHAIRMAN: You will have sighted and signed a document entitled “Information for Witnesses”; have each of you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you may refer to during the course of this hearing for the record. Please also be aware of the microphones and try to talk directly into them. Ensure that you do not cover them or make any noise near them because it might obscure what you have to say. Please try to speak in turn if both of you have something to say to us. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. I do not think there is any media; it has not incited that much attention. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of the uncorrected transcript may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

You have received a copy headed “Policy Statements” setting out seven paragraphs that encapsulate what we understand to be the policy underlying the bill; is that right?

The Witnesses: Yes.

The CHAIRMAN: Have you had an opportunity to read it and think about it?

The Witnesses: Yes.

The CHAIRMAN: Would you like to say something to us by way of opening remarks?

Mr Cooper: Thank you for the invitation to present to this committee. The Cunderdin shire, through its affiliation with the SEAVROC group has been looking at models and we have looked at the South Australian subsidiary model for some time and have commissioned several reports to look at those options with the view of taking it forward for SEAVROC. We support this legislation

because we believe it is the best option for shared service and regional cooperation in rural and remote WA. I cannot speak on behalf of the metro councils, not being a member of a metro council, and I understand that they may have some other models that they think better suits their option. The comments I would like to make in relation to some of the questions and comments that have already been made: firstly, this is an option of choice; it is not a compulsory option. It is the best model we have come across in terms of shared service delivery and joint ventures for country and remote WA. We have looked at all the other options and there is a copy of a study that was a joint project between WALGA, the local government department and SEAVROC, looking at a feasibility study of regional collaborative models for SEAVROC local governments by Neil Douglas from McLeod and Partners. There are copies there, if you have not read that report. It gives you the reasons why most of the other options are ineffective. Can I point out that our main objection to what is available currently is duplication? The duplication and cost to form another council to run dual projects, we think, is ridiculous and not the professional way we should be doing business in this day and age. We believe the accountability is not lessened in any way whatsoever, because this is about the membership being constituent councils, so it does not matter what model we use; we have to form another entity to operate under, and currently under the act, for most of our joint ventures, we create another council that has to report; or, if we go to a regional council, we create another full council with all the associated compliance costs, or we go to where individual council takes on the management of that particular project. The problem with that is, once you get beyond one or two projects, you overload the member councils to effectively carry out the work that they should be doing, and we do not think that is an efficient way to go into the future.

I guess we look more at the South Australian model and we support that in principle. We are quite happy to accept some of the changes that are in the bill before us; however, from an accountability point of view, we believe this committee needs to take consideration that they are happy with the accountability issues in relation to a regional subsidiary operating. I would like to re-emphasise the fact that the charter is the key document here; it is the legal document that it operates under, and it adds the additional compliance. We still have the same compliance through our member constituent councils under the current local government act, under this subsidiary option. It is a legal entity that is the simplest form of legal entity that currently exists, or would exist if it was an option under the act. That does not exist now and in our view it is the most cost-effective way to manage a range of joint ventures and partnerships in the country. We also believe it suits the push that is coming from both state and federal governments for regional planning and regional projects, both through royalties for regions and through the Regional Development Australia fund. We also think this model is the ideal model for the collaborative transition groups that exist in the north of the state as having a legal entity to operate under.

The CHAIRMAN: Thank you for that. Dealing with membership being the constituent councils, and the accountability and compliance, what duplication of compliance requirements do you say that current regional councils are subject to that a regional subsidiary ought not to be subject?

Mr Carbone: An obvious one is an annual return. A member of a regional subsidiary is a councillor, and a councillor is required to lodge an annual return at their own local government, so why are we doing it twice? There are many areas—we have given you supporting information—of duplication in those areas, and you do not need to do it twice. It is the local government function to be able to control the council in relation to compliance. They then become members of the regional council, if it was legal to do so, under those same rules. What is effective about the delivery of service is creating a structure with minimal amount of burden and cost to regional local government because all the efficiencies are taken out the minute you try to comply with the Local Government Act in relation to a structure through the regional organisation of councils. It is about reducing that structure.

[12.20 pm]

The CHAIRMAN: Things like submitting an annual return, surely, assuming that your regional subsidiary is going to be a corporate body of some form, would not that be providing an annual return, as a matter of course? If not, why should it not?

Mr Carbone: Because it is already being done at the local government.

The CHAIRMAN: But it is a separate corporate entity where those on the governing body of that corporate entity are responsible to that entity. There would be no automatic responsibility by any individual council from that corporate entity. Would that not require some kind of an annual return or some reporting compliance provisions to local government?

Mr Cooper: It would, but it would be back through the constituent councils. It would, because under the charter, the audit process, the business case processes and the reporting processes would be outlined. But, rather than under regional government reporting back as a separate entity to a local government department, you provide the report back through your constituent councils.

The CHAIRMAN: Alright. How would you see governance being exercised over the regional subsidiary by the Department of Local Government or the minister? I suppose what I am driving at is, let us say you have a regional subsidiary that is established by two or more councils that is starting to get into areas that are not governed by their charter, or are doing things that are not complying with the regulations of their charter? That relies on local governance then to not only uncover that and be made aware of it, but to inform the minister. There is no direct control by the minister, the department or the government of Western Australia over what this corporation is doing unless there are some specific governance provisions; would that not be right?

Mr Cooper: Under the South Australian model there is, because the minister signs off and can add to the charter conditions that the minister feels are appropriate. We are not opposed to that; we think that is just another governance issue that would be part of the management package anyway. Under the South Australian legislation, the minister, through the department, has the ability to call the subsidiary to account, should they feel that they are not performing as per the charter. I think that is important because, from our perspective, the charter is the governing document, and from the perspective of the constituent councils that has to be right. It is for a specific project, and even under reasonable governance I would question how legal a lot of activities that go on in local government are now in relation to their establishment agreements, and are they sticking inside those establishment agreements. Whereas the charter probably goes into a little bit more detail than most of these establishment agreements do at the moment, and you are required to produce a business plan and budget to support the projects you are putting up. To vary that, then quite clearly you have to re-present the charter or put up new projects under a new charter arrangement. We believe that there is enough governance in the South Australian model to address the issues you are raising.

The CHAIRMAN: Well, going to that, the South Australian model is fairly prescriptive in the legislation as to what the parameters are for a regional subsidiary, how it is to be set up, what its minimum governance requirements are and the like, and conflict of interest resolution—issues such as that. The bill before us does not appear to have anything like that level of prescription. What is your view on whether the legislation does reflect the South Australian model, or what ought to be done in order to achieve that? Do you think there should be more prescription along the lines of the South Australian model, or that it ought to be all left up to regulations and ministerial discretion regarding the charter?

Mr Cooper: I think it probably needs a compromise between the two. I think there is a commonsense middle road that we should get to, and I guess that is of part the job of this committee, to look at what you might be comfortable with under those circumstances. I mean, we understand the importance of accountability, as does our local communities, and we are not trying to short-circuit that in any way, shape or form, but we are just looking for that compromise that gives a good professional operation, a practical operation, that is not an overkill on compliance. My answer to that would be that most of the things I have seen in the South Australian model are not of

great concern to us, but there is obviously a case, when reviewing someone else's legislation, to maybe improve slightly on it. That is what I would be looking at; whether there are some moderate changes to that legislation that would still keep the right sort of governance in place, but not overburden it with unnecessary requirements.

The CHAIRMAN: You mentioned in your submission the key difference with regional local governments is the joint control of the regional subsidiary by the member councils.

Mr Cooper: Yes.

The CHAIRMAN: That is not to be found or prescribed in the bill at the moment—would you agree with that? It leaves it to regulation, basically, and in the charter, whatever that might be.

Mr Cooper: I guess our view is that under the charter, that is pretty well defined and determined, and that is how we would expect it to be from an operational point of view if it was adopted in WA.

The CHAIRMAN: Do you feel it ought to be spelt out clearly in the bill, as is the case in South Australia, or do you think it ought to be left up to regulations to prescribe that level of responsibility in some way?

Mr Cooper: All the charters I have seen do describe that, as well as the responsibilities of the member constituents and the liabilities, so I would expect that to be the case in any charter that was adopted locally.

The CHAIRMAN: The bill does not, at the moment, prescribe any essential elements of the charter—would you agree with that?

Mr Cooper: Yes, but I guess my question would be how much detail you want to prescribe for a charter given how it operates in South Australia?

The CHAIRMAN: At the moment, the bill does not prescribe anything, just what ought to go into a charter, which is one of the reasons I am exploring that. Do you think that there ought to be at least some —

Mr Cooper: Guidelines?

The CHAIRMAN: — governance or guidelines. I suppose guidelines can be issued by the minister in any case as to what he or she thinks ought to be provided as minimum to getting a charter approved. But should there be guidance in the legislation regarding issues such as that and the minimum governance requirements and compliance requirements of any charter or should that be left up to regulation and the minister's discretion?

Mr Cooper: From my perspective I think there should be a compromise between the openness of the current proposal here and the guidelines that are put up by the South Australian model. I have not gone into detail in comparing those and making a submission on how they should vary. I am quite happy to have a look at that as a separate issue. There has to be some substance in what is expected of the charter, but I am against the regulations being too descriptive in the establishment; the charter should stand on its own. It goes up to the minister in the South Australian model, if it goes up to the minister, obviously the department is going to have a look at it and they are going to raise the issues that the charter does not cover for those member councils to address before it gets approved. So, I just wonder how descriptive you need to be in setting the legislation for this type of model.

[12.30 pm]

The CHAIRMAN: I am not necessarily advocating that this is what the committee's view is, but if it were to be argued that the South Australian scheme ought to be picked up and with appropriate modifications put into the bill in respect of the new scheme for regional subsidiaries—their obligations, responsibilities, entitlements and the like—what would you say to that? Do you think that is going too far and too prescriptive or does that strike the right balance or what?

Mr Cooper: We would not oppose that at all. We have actually made submissions in the past to the reform committee in Western Australia, the local government reform committee, the local government department, and WALGA, that we would be quite happy if the South Australian model was adopted in WA.

The CHAIRMAN: The FORC did mention that many of the things that are contemplated by a regional subsidiary, as I understood their evidence, can be accommodated by a regional council if they were less compliance requirements as opposed to governance requirements. What you have to say about that?

Mr Cooper: We would disagree with that and I think the feasibility study that Neil Douglas looked at highlighted those problems. We actually attempted to look at forming a regional council with variations to the governance requirements and in the end we decided it was too cumbersome, too complicated and required too many legal legislative-type issues to be addressed to make it worthwhile. I guess that is in that report. Dominic may like to comment because he was involved with that report as well.

Hon DONNA FARAGHER: Can I just ask why, because there are other, obviously, examples, and perhaps this might be a difference from a metro to a regional point of view, but why is it that you say that, whereas we know that there are other regional councils that do operate in terms of that? In terms of your answer if you could just —

Hon MIA DAVIES: So speaking from SEAVROC's perspective as a non-metropolitan regional council?

Hon DONNA FARAGHER: Yes, that is right.

Mr Carbone: And we have taken that into account in relation to SEAVROC, because we are looking at resource sharing and delivery of services through to a number of councils. When you have an organisation that you have to build under a regional council, it becomes top heavy. So, any efficiency that you have in operations in delivering that service is wiped away because of the administrative burden that you have. It is as simple as that. So, what you need is a simpler structure to be able to support the distance that you are dealing with. So, there is no sense building something as big as BHP when you are only trying to provide planning services or environmental services to five local governments. It only generates a couple of hundred thousand dollars at the best. You have to add on another \$50 000 on that project so that you can administer it. It just becomes unviable.

Hon MIA DAVIES: Can I just pick that up, because I think that is really the crux of this—the non-metropolitan versus the metropolitan? In a non-metropolitan area you are seeking—correct me if I am wrong—to provide services that the marketplace has failed to provide. So, the structures that you are talking about setting up are not to deliver some of the projects that we heard about perhaps from earlier witnesses in terms of metropolitan councils, in terms of large waste recycling projects; it is actually very simple, sometimes back-office functions that do not require that degree of administration.

Mr Carbone: That is correct.

Hon MIA DAVIES: It is a non-metropolitan issue.

Mr Carbone: And from a SEAVROC perspective, in that back office, as you call it, take planning for example, the back-office area would obviously receive a development application and go through the processes. Rather than report, it goes back to the town where it originated for that decision-making process to be made. It would not be made by the regional subsidiary that would be established in relation to that. So, the control stays very much with the local government. Hence that legislative-heavy list of requirement compliance is not required there because the decision-making is with the local government where the business is being done.

Mr Cooper: Can I just come back to the earlier question? I am not aware, and the local government department can correct me, where anyone has successfully—or I am not sure whether they have even attempted—applied for exemptions under compliance requirements to form a regional local government. My understanding is we were the first group to have a go at it and we used professional legal services to do so. That was to reduce the duplicate of requirements under the regional council that basically operates under a delegation of power authority. It still reports back to the constituent member, but it allows some staff to operate under delegation of powers. But all those other compliance issues are still there, and our finding via that project was it was just too cumbersome and too complicated to try to get significant exemptions that would stack up legally; and that was the opinion of the legal company at the time.

Hon MIA DAVIES: This might be a bit of a tangent, but can you perhaps, from SEAVROC's perspective if this legislation was successfully passed, tell us what the first thing is that you would do? Run us through the process that you would go through. I think what some of us are struggling with is actually what you can do and why it is better. You talked about a development assessment approvals process and all the rest of it. Give us an example of what you would do. What would happen?

Mr Cooper: One of the first projects that we would tackle, and we have looked at it and it is complicated in dealing, is combine the road building services through the group under one as a project that is managed by an entity for the whole group. So, five councils would allocate their funding for road construction and some of their resources—staff, plant and equipment—or they may even employ more professional people to carry out their actual road construction on an annual basis. The reason for that is that we struggle to get competent staff at road construction. We have a variance of capacities in terms of grader drivers and construction knowledge. In our belief we would get significantly better outcomes for the money that is allocated for road construction within the group if it became a separate project with a stand-alone business case and budget to manage and run road construction, which is a big part, probably \$2 million or \$3 million at least, for us on an annual basis as a group. That probably sees some inefficiencies where we are trying to do it with current staff in five separate entities. Now, from a local government point of view, we obviously get a contractor in to lay the bitumen and maybe the blue metal, but all the other work is done at a local level. And we are at all levels in the state in terms of competency and efficiencies in that area. So, that would be one project that we have already discussed that we would seriously take on under this that we would really struggle to do. And we have not progressed it because we just think it is a little bit too daunting to tackle it under current arrangements.

Hon MIA DAVIES: You were talking about compliance requirements previously. Would all the member councils allocate the line item in their budget toward that regional subsidiary—so that has been reported through there as reporting back to the department that that is a regional subsidiary activity?

Mr Cooper: Yes.

Hon MIA DAVIES: So that is your compliance with local government and reporting and all the rest of it?

Mr Cooper. That is, but also the project management would report back as per the charter agreement to those constituent councils as part of its accountability process, and there would be valuation criteria; you would have a project manager; and it would have gone through a business case and a budget before it was approved by the group. You would then farm out those resources and funding, with the project business plan, to a separate entity under the subsidiary to run.

Hon MIA DAVIES: It is written in the charter, though, that you have to do the business case and the budget, and this is what you are operating within?

Mr Cooper. Yes.

[12.40 pm]

Mr Carbone: Mr Chairman, let me take you through an example that is real life; it is really what SEAVROC instigated some two years ago; that is, in relation to providing planning, building, health and environmental services. Obviously the first thing we did was prepare a business case. We endeavoured, basically, to say: how are we going to provide these services to the member councils? Each member council would then have to basically decide whether they want to be part of the provision of that service in accordance with the business plan. The problem that we have is very, very simple. For SEAVROC, as a voluntary regional organisation, councils could not manage that service—it could not do it. It has no legal entity to be able to do that. So what are our options? We could perhaps operate under an association. The problems you have there are that you cannot distribute profits that might be generated or cannot be returned back to the member councils, because any profit that is generated, most of it has to stay with the association. We looked at the regional councils; obviously, it was clumsy to work with because it was administratively top heavy. From that point of view, there has to be an alternative. The only other option that you have is a host council has to be found in order that they take responsibility and then deliver the service to all the other member councils. Now, because we have not been able to establish a legal entity in the way that SEAVROC was intended to operate, it really had no option but to instigate the services to be provided to all these councils for planning, building, health and so by member councils—different host councils providing that service to all the other councils on a fee-for-service basis. That is how it is working today. That is how we have been able to manage; it is a clumsy way of doing things, but that was the only way that we could actually deliver the service. A regional subsidiary would make things a lot easier for us from the point of view of SEAVROC being able to control the operation and manage that operation on behalf of its member councils.

The CHAIRMAN: One area that does also concern me is the question of delegation of powers and responsibilities. I will pick up on one of the examples that has been mentioned—planning. There are certain responsibilities that are on local governments, in the act and other planning legislation and the like, to set up a separate corporate entity that then deals with planning generally and may involve it having to make decisions that are strictly the responsibility, by law, of individual councils within their area. Does that not create some problems? You would have to be very careful as to what planning functions are being devolved onto this corporate body; final decisions would need to be made by the council still and its officers because the separate corporate entity would be responsible only for its own particular function and making decisions independent of those councils, and not having the input of those councils. You would have to be careful as to how these things are structured to be able to not have these regional subsidiaries performing things that are beyond their power and that are really the responsibility of an individual council.

Hon DONNA FARAGHER: And to which there might be people who are not councillors on that —

Mr Carbone: Very much so, and as I stated earlier —

The CHAIRMAN: If I may just add, another example would be things like ranger services. Each of these individual councils may have their own bylaws; they may or may not be consistent. One can understand a regional subsidiary employing a pile of rangers that trawl around and patrol several councils, as a matter of efficiency and economies of scale and their vehicles are being provided by this regional subsidiary and financed by the regional subsidiary and the like, but when it comes to a particular ranger who is not an employee of, say, York, patrolling in Cunderdin, where does he draw his power to issue an infringement notice on behalf of Cunderdin? Is there not a legal problem there potentially as to his authority to do that? Can it be devolved to a regional subsidiary corporation which then delegates power to a ranger who is not employed by any one of the councils?

Mr Carbone: And that is the difference and that is why I said right from the very beginning that the decision making in relation to any of that process and regulatory compliance will stay with each of the member councils.

The CHAIRMAN: Well, that is what I am driving at. Where is the decision-making process? If I am a ranger of —

Mr Carbone: Yes, the processing side, Mr Chairman, would be done by SEAVROC, which is basically receiving the applications, doing all that background office work, prepare a report on behalf of the constituent council, will go before the council for a decision to be made. Once a decision is made, then it comes back to SEAVROC for on-processing. So the decision making always stays with the council where it originates. You talk about the ranger, while he might be employed by SEAVROC to provide services for Cunderdin, he would have to comply with Cunderdin's rules and report to Cunderdin shire in relation to any statutory compliance, not back to SEAVROC.

Hon DONNA FARAGHER: Take the rangers—just because I have been talking a lot about rangers—if there were three different councils with three different bylaws with respect to ranger services but you had one number of rangers who obviously then traversed across those, they would just in effect, under the model that we are talking about here, need to know the bylaws for those respective shires. Then wherever they may be, they would just abide by those but essentially they would still be under not the authority but the purview of the overriding council.

Mr Cooper: It is about providing professional services, whether it be planning, health, rangers. Yes, unless there were common laws across the member constituent councils, that fact would have to be part of the agreement and you would probably find in the South Australian act somewhere that the charter cannot override the legal requirements of the act at any rate. So I personally do not see that as an issue; it might be something that other legal people would comment on, but we would see it. If you look again in the country, we do not have the business in 75 per cent of country councils to employ a full-time ranger, a full-time building inspector or a full-time health inspector, so we are trying to set up an entity that allows us to employ those professional services through a practical way of delivering service outcomes for all of us but still adhering to the legislative requirements. I guess that we are not going to be able to change some of those things—we understand that—it is more about the reporting and compliance duplication that exists under the act for us to do shared services in any way, shape or form as they exist now. All we are asking for is consideration into that area.

Hon MIA DAVIES: I want to clarify just one thing, in following up on your question around the fact that you might find someone acting outside how local government is allowed to act. The charter would set out exactly what you are able to do, and the intent, I believe, is to go to the minister, so the minister and the department will have the opportunity to flag any issues where it is not going to comply with the Local Government Act and other acts that might be relevant. Is that correct?

Mr Cooper: Yes, it is, and if it is not in the current proposal, we do not have any problems with that as part of whatever goes ahead in WA, or a recommendation to adopt the South Australian model—pretty close to how it exists over there now. We are not trying to get out of accountability. We are not trying to make it tougher. We are just trying to make it more professional and easier to do this in the country, which is aimed at giving better service delivery, with more value for our ratepayers. At the moment, as a small business man, I do not think we deliver that, and a lot of it is to do with a restraint under the act in terms of being able to operate in the most effective and efficient way.

[12.50 pm]

Hon MIA DAVIES: Just to follow on from that, there was some concern raised by other members of the committee, and it has been canvassed before, and Hon Max Trenorden raised it during his

evidence to the committee, around the fact that there is the capacity for profit to be made, but it is not the driving force. From a regional non-metropolitan council's perspective, can you explain why it is important—if it is important—to be able to do that, given some of the market situation that you were referring to?

Mr Cooper: We have a different perspective. We believe profit is okay and that under the system, if you are in a scenario where you are not competing in a way that is causing harm to the local community —

Hon MIA DAVIES: That was the concern.

Mr Cooper: —then you should be entitled to make a profit. Under our current arrangements, there are some issues about how you might distribute profit within the current structures, and probably Dominic can comment on that. But I will give you a good example. There are shires around country WA that have entered into maintenance contracts with the main roads department, or whatever they are called these days, and that is for profit. They do make money out of that. We struggle to get qualified construction teams for roadworks in the country, or even operators, and from what I have seen around the traps, there are a lot of commercial people where you have to question some of their costings and value for money that state and federal governments get for some of their investments. We have just had a case in point where some roadworks that we carried out under special funding for a particular grains road was done effectively by our shire, met all the standards and came in a lot cheaper than what the normal contracts were going for. So it is not our prime objective to go out and make a heap of money. It is about service delivery and more effective delivery of the funding options that we have from both state and federal level in the country projects that we take on, and there are heaps of those. Another classic example I could give is the Bruce Rock shire, which employs its own building team and has for some time, and their investment in the local community for housing and sports facilities has seen their construction costs at about 30 per cent of what it normally would have cost, which means that it has far more facilities and is pretty well set up. There are a couple of examples where I believe we can compete and provide a service delivery that is of value and may create profit. Waste management, again, our shire has taken on a truck, because we ran into problems with the costs that were being passed on to us by commercial waste management in the area. That saved us a heap of money, and we are now in a position to maybe provide that service to surrounding shires—and why should we not?—if the competition is not there to provide a cost-effective service. So to me there are probably three ideal scenarios where projects could be set up under the subsidiary scheme that are of value to both the funding investors at state and federal level, and to the local shire and ratepayers.

Hon MIA DAVIES: Just to be clear, the challenge in non-metropolitan areas, as you said, is that that the market has failed to provide those services at a cost-effective rate, because of lack of competition in the market. This is really important, because I guess in a metropolitan area there will be opportunities for councils to do this under their model, where they may well be competing with other similar service providers. But in non-metropolitan councils, there may be one, or none, in the marketplace.

Mr Cooper: In the wheatbelt, there is one waste management company that operates in the country across that. So that is exactly the case: there is no competition.

Hon MIA DAVIES: And the failsafe, in your view, would be that because it is still reporting back through your local council that there is accountability to your local community if you are seen to be taking business away from a local ratepayer.

Mr Cooper: That is right.

Hon MIA DAVIES: For them to say, “See you later. I don't want you back next time.”

Mr Cooper: And in our view, if you adopt the South Australian model, the department and minister will look at it and say, “This is not core government business. Make your case, otherwise we are not going to support it.”

Mr Carbone: One initiative that SEAVROC has taken is in relation to software in relation to its financial planning. It is basically an integrated service as well. From that point of view, we shopped around and found a software supplier in South Australia, which is basically owned by 13 local governments in South Australia. We have introduced that into WA, and Cunderdin is now going live with the system within probably the next couple of weeks. In terms of that, we own the marketing rights. Not only are we providing better services to the communities out there in relation to up-to-date software, but if there is a buck to be made, we are there, because we control the marketing rights in WA. So you can see how opportunities can come in relation to regional local government and how we can —

Hon MIA DAVIES: Non-metropolitan.

Mr Carbone: No. The country ones.

Hon MIA DAVIES: Yes. Non-metropolitan—not regional local.

Mr Carbone: Sorry. So from the point of view that there are opportunities there, we can draw on those opportunities and hopefully provide better services at a cheaper cost and maybe a return back to the community by way of any potential sales that might be generated through that software.

The CHAIRMAN: Nothing may turn on this, but at the moment the way the bill stands is that two or more local governments making arrangements under which they are to perform a function shortly may, with the minister’s approval, form a subsidiary body to perform that function. Nothing may turn on the use of the word “function” as opposed to “functions”. Likewise, nothing may turn on the word “function”, but what you are saying is that what you would also contemplate is it is not strictly a responsibility-type function, but part of the function may be performed by a regional subsidiary. So although you have a function, for example, to dispose of waste—there may be a technical way of framing that—but you may not actually wish to devolve all of that to a regional subsidiary but only a bit of it. For example, instead of dealing with bottles, let us say, the other sort of non-recyclable waste, so part of the function, or just even employing people for that or hiring trucks for that, so not even the whole function that is the responsibility of the local government but just an aspect of it. Like with the planning, you may want to employ a town planner, but not actually handball all of the responsibilities involved with planning to them.

Mr Cooper: Again, I think that would be picked up in your charter.

The CHAIRMAN: I am just wondering whether the bill needs to be finetuned to perform that function, whether that includes some aspect of a function and what a function might be under the Local Government Act or some other act.

Mr Cooper: Maybe it just delegates those issues to the charter in some fashion. You raised the question earlier on of whether one council should be able to form a subsidiary. I think we initially supported that, because there may be cases where you may have other people you want to work with. I do not know about the legality of maybe forming a subsidiary with outside partners. That is maybe another whole can of worms. But certainly the term “plus” is probably where most of it is going to be at any rate. We do not have a position that stops the one option.

[1.00 pm]

The CHAIRMAN: Are there any other questions anyone wishes to ask? Is there anything else that you would like to say in the light of our questioning or any evidence that has been heard up till now that you have not already addressed?

Mr Cooper: No. There are just a couple of quick points, I guess. From our experience, the voluntary ROCs have not worked because of the duplication process and because of the doubling up

of compliance requirements by councils, and then parochialism comes in if you have a conflict of interest with staff. We also believe it is restricted by the number of projects they can take on effectively. I just emphasise the fact that it is the duplication and the inflexibility that exists now that is our concern that we believe the subsidiary addresses. In our view, the legal compliance requirements are not reduced as they currently exist under the act by the constituent councils; in actual fact, we believe the charter probably makes them more accountable.

The CHAIRMAN: Thank you. Two things have just been brought to my attention that you might want to quickly comment on. You have mentioned that you would expect business plans, or it is current practice, to be put up in advance of SEAVROC having been formed and any other cooperative arrangement between councils. I think the South Australian legislation provides for a business plan to be formulated and submitted up to six months after. What do you have to say on that? I take it that, from your perspective, a business plan ought to be presented at the time of the charter.

Mr Cooper: Yes, because the business plan has to go past your constituent councils to be accepted. We have always viewed this on a project-by-project management basis—you put a project up, you do the business plan and the budget, and the constituent councils look at it. Under SEAVROC, it was not compulsory to be in a project; you evaluated the project and it came back with who wanted to be part of it. That decision was made by the individual councils. If two or three pulled out, obviously that affected its viability, but if one pulled out, often it did not and we would go ahead at any rate. Yes, I believe it is a commonsense business approach to have your business plan and your budget. How can your constituent councils make a realistic assessment about that project and the commitment and risk that you are going to take unless that is done? I think that is fundamental to how these things should operate.

Mr Carbone: Mr Chairman, we basically do not do anything without the preparation of a business plan. I mentioned the software. Basically, that was that a business plan was prepared. Four out of the five member councils decided to participate in that. The Shire of Brookton decided to stay out. That is how it is. It works with four. It worked quite effectively with four; five did not have to be in the game if they did not want to be. Basically, you can still provide good services by a number of councils coming together, although you have not got all of them involved.

The CHAIRMAN: Lastly, community consultation was prescribed in the South Australian legislation. The bill is silent on that. What is your view? Should that be something that ought to be prescribed by regulation or left at large depending on the nature of the project involved?

Mr Carbone: I think the way that we would look at it is that our view is that basically the local governments are responsible to the community. We, being SEAVROC, report to the local government. Then the local government has an obligation to its community. Basically, the consultation would be between the local government and its community, not necessarily between SEAVROC and the member local government.

Mr Cooper: Could I also point out that under WA structures now and the way we operate, there has been a very strong commitment to local consultation on a whole range of issues. We have forward capital works for five years. Most of us have forward finance reports. In our case, it is seven years, but I think it is a five-year requirement. We are just completing for the first time proper, accurate, professional asset management plans. All this is out in the public domain. We do hold quite regular meetings, updating the constituents of our projects and the things we are looking at and where we are going. In answer to your question, I think that already occurs, and unless it was something unusual and it was not part of the forward planning issues that are being discussed, you might take that back to the public. But, otherwise, the council is elected on behalf of the community to get on with those types of projects. I do not think it needs to be too prescriptive in the act.

The CHAIRMAN: Thank you for your assistance. We appreciate your having provided us with your submissions and the evidence that you have given. That concludes your evidence.

The Witnesses: Thank you.

Hearing concluded at 1.04 pm