

SHIRE OF KALAMUNDA

**Submission To The Standing Committee On Legislation
Local Government Amendment (Regional Subsidiaries)
Bill 2010 ("Bill")**

1. Practical effect of the Bill if enacted

The Bill in its present form should specify the types of arrangements two or more local governments may perform, and whether it includes arrangements such as joint ventures.

If the Bill is designed to regulate informal arrangements it should specify the type of arrangements and services permitted by charter for regional subsidiaries. Informal arrangements are often short term, designed to provide a common service or share in common resources funded externally or by a regional group of local governments.

Common shared services generally include:

- Medical.
- Engineering.
- Land Care.
- Computer.
- Accounting.
- Plant Hire.
- Other Services normally performed by local governments.

2. Interpretation of the Bill as drafted and any technical issues that arise

The Bill in its present form does not make a clear distinction of services permitted under Section 3.61 of the *Local Government Act 1995* ("the Act") and informal arrangements proposed under Section 3.69 of the Act.

There is reference to a charter in the proposed legislation for regional subsidiaries. The Bill needs to clearly distinguish services and arrangements permitted under an establishment agreement required for a regional local government, and arrangements permitted by charter.

3. Specific regulations that will be required in the event the Bill is enacted

If the Bill is enacted, regulation will need to be implemented for rules, conditions and powers established by charter. Without a copy of the proposed charter it is difficult to establish whether there will be sufficient regulation in place if the Bill is enacted.

If the charter permits arrangement such as joint ventures, then certain conditions needs to be met and included as part of a Joint Venture Agreement. These include the obligations of the parties, length of term of the agreement, management, liability, ownership of property, insurance and the governing law applicable to the agreement.

4. Efficacy of regional subsidiary arrangements in South Australia

The efficacy of service is dictated by scale, nature of service, whether the commercial sector is able to provide similar services and whether the service contravenes National Competition Policy.

5. Differences between the local government and legislative environment in Western Australia and South Australian that may impact on the practical effect of the Bill as distinct from the equivalent South Australian legislation.

There is legislation in place in Western Australia for the establishment of regional councils. The South Australia legislation does not appear to have similar legislation for establishing regional councils, only regional subsidiaries. There is comprehensive legislation in place in South Australia for establishment and operation of these regional subsidiaries.

In Western Australia, regional councils were primarily established to provide waste management for local governments with these councils being autonomous entities established under the *Local Government Act 1995*.

6. Comment on the significance of differences in text between section 43 and Schedule 2 of the Local Government Act (South Australia) and the Bill.

The legislation in South Australia covered by the Local Government Act (South Australia) and Schedule 2 is comprehensive. The proposed Bill does not include similar provisions covered by the South Australian Legislation and Schedule 2, unless the intended and proposed regulations will be designed to cover this.

Without a draft charter and regulations it makes the comparison difficult. However Schedule 2 is very prescriptive and covers a number of important aspects to be included and be addressed by the charter and regulation.