

**Speech to the Australian Public Sector Anti-Corruption Conference 2007
In support of the principle 'That Councillors can represent constituents and
make policy decisions in the public interest'.**

The History of Local Government in NSW

Local government represents the oldest form of democracy in European Australia. Australia's first democratically elected body of any sort was the Adelaide Municipal Council. This was formed in 1840, over half a century before Federation, and fifteen years before the introduction of responsible government in New South Wales.

Given the current focus on the role that local Councils play - or do not play - in the granting of development applications, it's ironic that the main function of most early municipal councils was to facilitate development.

Though this did fulfill an important function in early colonial Australia, it also exposed the great flaw in these early councils - their lack of plurality. Councils comprised almost exclusively of the prosperous and wealthy because only landowners were allowed to vote.

This inequitable systems of voting remained until the introduction of wider franchise in 1906, following prolonged agitation by the Labor Electoral League, which later became the Australian Labor Party.

Given this fact, it was the concerns of the rich - such as property development and urban services - rather than the concerns of the poor - such as sanitation and overcrowding - that generally took precedence.

While some attempts were made to establish social welfare and support programs, they encountered opposition from the same wealthy interests, who were obliged to pay higher rates to fund them.

I have gone into a bit of detail about the history of local government, because I think its evolution demonstrates what is still its central concern.

To have true accountability, to gain credibility and to maintain the confidence of their constituents, Councillors must be truly representative of their local communities. To be distracted by personal interests is to serve a constituency poorly.

In a sense, local councils must reflect a more idealized view of democracy than exists at other levels of government. They must understand their local areas intimately. They must be accessible to all. They must not lose the faith of a grass roots constituency that sometimes attempts to make a virtue of its cynicism about other levels of government.

While the Federal and State Governments are called upon to look at the big picture, Local Government deals with the immediate, local and often minor details of local life. The fact that it does this with some degree of skill is reflected in the high public anxiety about council amalgamations, particularly in rural and regional areas.

One of the great successes of today's Local Government is that the plurality that was missing in its early days - and is arguably still missing at other levels of government - has largely been achieved.

It's extremely encouraging to see the high representation of women on local councils, as well as a greater representation of minorities than in any other level of Australian government.

This variety of vision and experience can only result in better, more accountable, and more representative decision-making.

The Role of Councilors

Local government has long suffered a crisis of identity, especially given the increasing encroachment of other levels of government. Is it a service provider? Should it represent the concerns of its constituents to the State and Federal government?

Most of us would agree that local government is not just about 'rates, roads and rubbish', but if so, what is it?

The Local Government Act of 1993 aims to clarify the specific role of the Councillor in section 232. To quote:

"The role of a Councillor is, as a member of the governing body of the council:

- To direct and control the affairs of the council in accordance with this Act;
- To participate in the optimum allocation of the council's resources for the benefit of the area;

- To play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions;
- To review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.

(2) The role of a Councillor is, as an elected person:

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

This is virtually the only legislative guidance given to an elected Councillor on his or her basic role.

Though it is implied in references to the 'creation and review' of Council's policies it is instructive that there is no explicit reference to Development though it is this issue which dominates Councillors time.

It is clear that there needs to be greater guidance for local Councillors to help them understand their role in serving their local community.

Guidance and Oversight

The NSW Government plans to pursue a policy of introducing Councillor training and development following the local government elections of September 2008.

This will allow for a much clearer and more consistent message to be given to Councillors about precisely what role they should pursue in the discharge of their roles and responsibilities.

The Independent Commission Against Corruption's (ICAC) role in providing oversight for local government is also a crucial one – yet perhaps even more important is its role in educating local Councillors through the provision of advice, resources and training.

The fact that a quarter of all ICAC complaints are made about local government indicates misunderstanding on both sides. It demonstrates that constituents are sometimes unaware of what local government can and cannot, or should and should not, achieve on their behalf.

It also shows a lack of awareness on the part of the Councillor, who may not be aware of issues that appear simple - such as receiving a gift from a grateful constituent.

The problem is there is often an expectation (even if it is a perceived expectation) that the gift will be followed with favourable treatment in the consideration of a matter before Council.

This is certainly not to excuse those councils that have been involved in wide-ranging corruption.

To give you one practical example – you would not be surprised to learn that if I had a dollar for every time a resident/ratepayer/business owner or developer had accused me of accepting of brown paper bags, being a friend of X, doing the bidding of head office or just plain corrupt I would be a very rich man.

Indeed in an effort to confront those accusations – when I became Mayor of South Sydney in 2002 I had a small business card created which had the address and phone number of both ICAC and the Department of Local Government printed on it.

I handed that card to anyone who suggested I was corrupt and suggested this would save them time in lodging their complaint. To the best of my knowledge no one subsequently lodged a complaint.

However, it should be remembered that local government is currently subject to greater scrutiny than any other level of government.

It is the only level of government that can be dismissed for corrupt conduct, and I'm sure you're aware of the high profile recent cases in Rockdale and Strathfield – as well as ongoing investigations into regional Councils where this has taken place.

The long standing pecuniary interest provisions of the Local Government Act 1993 and the Model Code of Conduct for Local Councils in NSW, in place since January 2005, reinforce the need for higher standards of behaviour, and provide mechanisms to deal with inappropriate behaviour.

To the extent that representative responsibilities constitute personal interests, then Councillors must manage these interests in accordance with the model code of conduct.

This means declaring conflicts of interest and, if appropriate, taking further action to resolve the conflict.

Of course, if a matter before council will affect a Councillor's private pecuniary interests in a material way, then Councillors must declare their interests and take no part in the consideration or determination of the matter.

In bringing in stronger measures against local government corruption in 2002, and again in 2005, the NSW State Government implicitly recognised the importance of local government to civic life.

At a Federal level, there have been several attempts to formalise the role of local government. The current leadership of the Federal Australian Labor Party has pledged to explore the option of constitutional recognition of local government, reviving an idea first raised by Gough Whitlam, and pursued in referenda of 1974 and 1988.

While both referenda were ultimately unsuccessful, the Whitlam government still introduced a greater interest in and support for local government at a Commonwealth level.

In fact, it could be argued that Whitlam placed a greater emphasis on the importance of local governments than of state governments,

providing direct Federal grants to drive projects proposed and driven by the local community.

Though it has received increasing recognition by subsequent governments, including its representation on both the Council on Intergovernmental Relations and at the Council of Australian Governments, local government is still non-existent as far as the Australian Constitution is concerned.

A more formal definition of local government and a more defined role within the other levels of government, would, in my opinion, benefit the quality of decision making on all three levels, especially on the concerns of regional areas.

Indeed, at its very best, Local Government can be an important driver of state and national policy.

Local Councillors have a greater direct engagement with their constituents than any other level of government. In a sense, this means that a council is only as good as the people it represents.

In some areas, it allows local councils to become early adopters of significant and innovative policy positions, that are not yet palatable to the wider constituency, but later gain State and Federal currency.

Local councils have led the way on climate change. The Australian Local Government's 'Cities for Climate Protection' program is the largest local government greenhouse program in the world.

The City of Sydney Council has incorporated an environmental leadership strategy into its Corporate Plan. A trial greenhouse gas emissions trading scheme that is being trialed between Randwick, Waverley and Botany Councils demonstrates the way in which good ideas may be networked across councils.

It was also a local Council, the Hume City Council in Victoria, that adopted Australia's first Human Rights Charter, the 2001 Hume Social Justice Charter.

A number of Councils have introduced Ombudsmen to provide an additional avenue of appeal by constituents aggrieved at a decision.

International evidence suggests that it is Local Government, rather than the more centralised bureaucracies of State or Federal governments, which is the ideal custodian of human rights.

Given its responsibility to address basic needs and services, as well as wider issues such as sustainable development and poverty reduction, Local Government is on the coal face of effective human rights protection.

The issue of human rights demonstrates the way in which local councils can make a real difference beyond their traditional role of service provider.

Protecting the rights of citizens is now seen as both a driver and a result of good governance at all levels of government.

Conclusion

Many people with strong political ideals and aspirations enter Local Government. Many become Councillors because they want to give back to the communities that have nurtured them.

It is obviously extremely important that Councillors represent their constituents' concerns.

It is equally important that they not lose sight of their representative role, for example by allowing the council meeting to become a mechanism for inappropriately pursuing esoteric or unrepresentative interests, individual grievances or political rivalries.

Parochialism should not stand in the way of the key role of setting the strategic direction and developing the council's policy framework.

It must be emphasised that the representative role for Councillors applies to the whole community and the whole range of issues that councils face.

Councillors do not represent just the people who elected them.

Councillors do not just represent community views on one or two key issues.

Councillors elected in a ward system do not represent their ward at the expense of the rest of the council area.

To develop and realise a vision for the council area, to develop and realise strategies to bring this vision into being is the most profound role a Councillor can play.

It is incumbent upon all involved in local government to seize the great opportunity the Councillor's role presents to them, and to develop and realise a vision for their area.

If Councillors correctly interpret their representative roles and functions, then there is little reason to consider this will interfere in a Councillor's broader policy and strategic role.

Indeed, a Councillor well in tune with the broader needs and concerns of the community as a whole is ideally placed to develop quality policy and to properly reflect community aspirations in the council strategy.

The quality of local government has been under constant review and reform for many years, and improvements continue to take place.

I am confident that the legislative changes that have occurred in the past few years have both clarified the responsibilities of Councillors, and provided a strong incentive towards best practice governance.

ENDS.