

# **Review of *Landscape South Australia Act 2019***

**Submission**

**November 2023**

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## Summary of recommendations

The Local Government Association of South Australia (LGA) welcomes the opportunity to make a submission to the Independent Review of the *Landscape South Australia Act 2019* (the LSA Act Review).

After consultation with its membership, the LGA makes the following recommendations in relation to the LSA Act Review:

1. Note continued support from across the local government sector in relation to achieving the objectives of the LSA Act and supporting the State Government in its aim to effectively manage the natural resources and landscapes of South Australia.
2. That the State Government review the management and operation of all Regional Landscape Boards (RLBs) constituted under the LSA Act, with a view to providing more transparency and information to the LGA and its membership regarding the collection and use of the Landscape levy.
3. That the State Government improve arrangements for consultation between councils and RLBs on annual business planning processes.
4. Note that the LGA supports a transparent process for nomination and appointment of board members by the Minister for Climate, Environment and Water. The LGA supports changes so that consultation with Peak Bodies occurs at a point in time in the process, such as would enable input from the Peak Body to meaningfully influence the appointment process.
5. That the State Government provide greater transparency and information to the LGA and its membership regarding the operation of the LSA Act scheme more broadly, including financial and operational interactions between the State Landscape Strategy, the statutory funds constituted under the LSA Act and the RLBs.
6. To support increased transparency called for under recommendation 5, that the State Government consider requiring an annual report to be laid before the State Parliament outlining the holistic operational status of the LSA Act scheme over the previous 12 months.
7. That the State Government reconsider the manner which it collects the Landscape levy from local communities. Firstly, the State Government should investigate the costs to Revenue SA, of collecting the Landscapes levy together with other property taxes. The LGA then recommends that Revenue SA collect the levy directly using the same notice used for Land Tax or the Emergency Services levy.
8. Note the examples provided in this submission showing that despite the challenges posed by the current regulatory framework of the LSA Act, there are successful collaborations occurring across the sector, between councils and their respective RLB. These instances could be enhanced by better, more effective engagement and management as outlined under the LGA's other recommendations to the LSA Act Review.

# Introduction

## About the Local Government Association of South Australia

The LGA is the voice of local government in South Australia, representing all 68 councils across the state and the Anangu Pitjantjatjara Yankunytjatjara.

The South Australian *Local Government Act 1999* recognises the LGA as a public authority for the purpose of promoting and advancing the interests of local government. The LGA is also recognised in and has prescribed functions in 29 other South Australian Acts of Parliament. The LGA provides leadership, support, representation and advocacy relevant to the needs of our member councils.

The LGA is a strong advocate for policies that achieve better outcomes for councils and the communities they represent. As such, the LGA welcomes the opportunity to provide a submission to this consultation on the “Independent Review of the *Landscape South Australia Act 2019*” (the LSA Act Review).

This submission has been informed by existing policy positions previously agreed by member councils. The submission has also been informed by consultation undertaken by the LGA with members during the third quarter of 2023, on issues outlined in the LSA Act Review’s discussion paper, along with additional questions posed by the LGA secretariat in respect of specific matters related to the administration and operation of prescribed functions undertaken by councils under the LSA Act.

## Background

At the LGA’s AGM on 28 October 2022, the following resolution was passed:

- *That the LGA request the State Government review the manner which they collect the Landscape levy from local communities. With the desired outcome being one in which Revenue SA collect the levy directly in alignment with the Emergency Services levy.*

This remains the effective current policy position of the LGA.

Supporting the policy position of the LGA and in anticipation of the LSA Act Review, in September 2022 and February 2023, the LGA wrote to the Minister for Climate, Environment and Water (the Minister), and corresponded with the Department of Environment and Water (DEW), seeking information about the holistic operation of the LSA Act scheme.

As a Peak Body, the LGA is expected to have and intends to make informed and constructive input into the operation of the LSA Act scheme. Meaningful input requires a strong understanding of the operation of the LSA Act.

Based on feedback from members, the LGA asked for the following information:

- Where the funds raised by each council are spent.
- What proportion of the funds raised are spent on on-the-ground projects compared with funds spent on administration or remitted to DEW.
- Specific information about the operational and financial relationships between the Landscapes Priorities Fund, the Landscapes Administration Fund and individual RLBs.

- The processes related to consultation and engagement on annual planning and budgeting processes of RLBs and interaction with the state and regional landscapes strategies.

The LGA proposed that, to have meaningful input into the LSA Act Review, the local government sector needed more transparency and greater flow of information from DEW and the RLBs about the current regulatory framework that underpins the LSA Act.

Unfortunately, despite requests from the LGA, this information has not been provided by DEW to date. DEW advised that it either did not hold this information, or information about the operation of individual RLBs was available in their respective annual reports and if the requested information was not shown in these reports, the LGA should approach the relevant RLB directly. Unfortunately, the accounts and business plans of the individual RLBs do not adequately provide an understanding of the operation of the LSA Act scheme, as a whole.

The LGA is also unable to provide an informed view on whether the LSA Act scheme is more, or less, successful in managing the state's natural resources, than under the previous Natural Resource Management legislation.

This lack of information sharing from DEW has inhibited the ability for the LGA and the sector to provide fully informed feedback to the LSA Act Review on the operation of the RLBs and to comment on whether the objects and principles of the LSA Act more broadly are being effectively realised under the current regulatory model.

## Previous submissions

In April 2020, the LGA made a comprehensive submission to the formulation of the Landscape South Australia (General) Regulations 2020 (the LSA Regulations). This submission provided detailed commentary and recommendations in relation to a range of administrative and other matters addressed in the LSA Regulations. The following is a summary of the key matters advocated for in the LGA submission to the LSA Regulations:

- Greater transparency for accounting and reporting of the RLBs and statutory funds through Annual Reports, particularly regarding breakdowns of expenditure for activities such as 'on-the-ground' projects, administration and DEW costings (including staffing of RLBs).
- Greater consultation arrangements with councils on RLB Annual Business Planning processes, particularly where these relate to proposals to increase Landscape levy amounts or council contributions.
- Remove the requirement for councils to make interest payments on outstanding amounts of uncollected funds from ratepayers in relation to the Landscape levy.
- Simplify definitions regarding reimbursement to councils for costs incurred as a result of the requirement to collect the Landscape levy on behalf of the State Government.
- Increase payment flexibility and communications to those experiencing financial hardship. In preference to only having powers for councils to grant rebates on financial hardship grounds, noting that that no provisions are available to correspondingly reduce the contribution amounts required to be paid by councils.
- Add constituent councils to recipient lists in relation to notice of meetings of RLBs.

In the main, the State Government failed to adopt the recommendations proposed by the LGA in its submission to the process of drafting of the LSA Regulations.

However, the LGA continues to advocate for the positions outlined above as it is of the view that these enhancements would simplify the current regulatory framework and improve the operation and achievement of the objectives of the LSA Act.

## LGA Submission

In making a submission to the LSA Act Review, the LGA secretariat has aligned responses to the ‘focus areas for feedback’ as outlined in the discussion paper supporting the LSA Act Review. However, the LGA secretariat did not receive responses to all areas of feedback outlined in the paper. Commentary in this submission has been limited to those areas of feedback that are of most concern to members. These are reflected in the recommendations made by the LGA to the LSA Act Review under each heading, and these appear in summary on page 3 of the submission.

The LGA also notes that some councils provided a submission directly to the LSA Act Review.

## Objects of the LSA Act

Through consultation with members, the LGA secretariat has found that there remains strong desire across the sector to support the objectives of the LSA Act. However, there remains concern that the experiences at local government level show that:

- The funding arrangements for the RLBs and direct oversight and compliance of the activities they are legislated to administer are currently inadequate to realise the objectives of the LSA Act.
- There needs to be improved governance in relation to the management of water resources and stormwater management. For example, feedback from council shows that local government has little influence on natural resource management where there is developer led rezoning within their locality. This can cause downstream stormwater management issues such as arguably inadequate design standards for construction of detention dams or insufficient consideration of climate impacts where undersized systems may impact future generations and place downstream populations at risk.
- In relation to new items that were not captured by the previous *Natural Resources Management Act 2004*:
  - Several members stated that to maximise the impact of the LSA Act in recognising climate change as a significant factor in our environment, there needs to be greater clarity of purpose and focus for RLBs around environmental protection, not just in revegetation actions which has been recognised as a focus item. For example, some members recommend RLBs having a more significant role in planning processes to support the halting of tree loss due to urban infill.
  - A member provided feedback that while Green Adelaide has shown leadership in engaging with First Nation people, guidance on how councils can emulate this engagement would be appreciated.

## Recommendation

The LGA makes the following recommendation in relation to objects of the LSA Act:

- That the State Government notes continued support from across the local government sector in relation to achieving the objectives of the LSA Act and supporting the State Government in its aim to effectively manage the natural resources and landscapes of South Australia.

## Roles and responsibilities

The definition of 'peak body' in the LSA Act itself includes the LGA, and the discussion paper and State Landscape Strategy also acknowledges the role of local government as a key delivery partner in the administration of the LSA Act.

However, the sector remains concerned that the current regulatory framework does not provide adequate transparency and accountability from other strategic partners to support and enable local government to discharge duties as a peak body or key delivery partner in this work.

The following responses from councils illustrate where there are deficiencies in the framework that impede true understanding and engagement with the roles and responsibilities assigned to local government under the LSA Act. Councils lack understanding of:

- How Landscape levies collected by councils are spent by RLBs. Including what proportion of the funds raised by collection of the Landscape levy are spent on on-the-ground projects compared with funds spent on administration or remitted to DEW.
- How funded projects align with the goals and vision of the State Landscape Strategy.
- How RLBs engage with councils on the development of their annual business planning processes, particularly where these relate to proposals to increase Landscape levy amounts or council contributions.

This is exacerbated by the lack of information from DEW about the operational and financial interactions between the Landscapes Priorities Fund, the Landscapes Administration Fund, and the RLBs.

While the aspirations of decentralised decision making and priority setting of the RLBs were intended to simplify the system and make it more easily accessible, as outlined above, feedback from the sector indicates that this has not eventuated in practice. In some ways the decentralisation of planning, accounting and delivery has had the opposite effect. It has increased barriers to council accessing information about the operation of the LSA Act scheme more broadly, and therefore impeded genuine partnership participation from the local government sector. Feedback also suggests that, because of the centralised approach, RLBs may not pursue projects that do not have the support of DEW. Staffing arrangements, for example with direct-line reports back into DEW, appear to inhibit the ability of staff at RLBs to pursue the policy agendas of their RLB, if inconsistent with DEW priorities.

In relation to appointment of Authorised Officers that are also local council employees, it is noted that:

- Where these officers have been appointed, this should be with the consent of the relevant council, and the council should be provided adequate remuneration from the State Government for undertaking Authorised Officer activities.
- Some councils report inadequate funding allocation from the State Government to support the Authorised Officer function where this person is also a council employee. It is understood that, where a council nominates a staff member to undertake the Authorised Officer training, the council is then eligible to receive a funding allocation amount of \$10,000, which can go to on-the-ground weed and pest control actions. It is further advised by the sector that this amount has not been indexed since the commencement of the LSA Act. This amount is not sufficient for large councils.
- While the training to become an Authorised Officer is regarded by the sector as comprehensive, it is noted that the training has not necessarily been tailored to the urban setting. Some councils noted a



shift in the Authorised Officer function since the transition from the previous Natural Resources Management legislation. This shift of functionality could have been better managed if there was more engagement directly with councils on the Authorised Officer functions themselves, and what tasks Authorised Officers in these councils would be expected to undertake once appointed.

- The discussion paper prepared for the LSA Act Review also shows that Authorised Officers may have been appointed with varying powers (e.g. some Authorised Officers can issue expiations while other cannot), however the different 'tiers' of Authorised Officer may not be widely understood across the sector and additional clarity on this would be appreciated.

Separately, the LGA supports a transparent process for nomination and appointment of board members by the Minister. It is noted that nominees from a variety of backgrounds with a strong focus on key knowledge areas should be encouraged. Given the significant number of State Government boards and committees, a state-wide election process for board member election to the various RLBs is considered to be costly and of questionable benefit in delivering on the objectives of the LSA Act.

The LGA notes that, at present, the Minister forwards names, which they propose to appoint, which the LGA can then provide feedback on. The LGA supports changes so that consultation with Peak Bodies occurs at a point in time in the process, such as would enable input from the Peak Body to meaningfully influence the appointment process.

## Recommendations

The LGA makes the following recommendations in relation to roles and responsibilities assigned under the LSA Act:

- That the State Government review the management and operation of all RLBs constituted under the LSA Act, with a view to providing more transparency and information to the LGA and its membership regarding the collection and use of the Landscape levy.
- That the State Government improve arrangements for consultation between councils and RLBs on annual business planning processes. This consultation should make clear:
  - The specific local projects that are proposed.
  - Amounts that will be spent on each project and the location(s) where this will be spent.
  - Amounts that will be spent on staffing of the RLB and the tasks assigned to these staff.
  - Amounts that will be remitted to DEW (including to fund DEW staff).

This could be achieved by strengthening the provisions under Regulation 10 of the LSA Regulations to require meaningful consultation on annual business planning process, in addition to the existing consultation requirements that appear in the LSA Regulations that relate to proposals to increase Landscape levy amounts or council contributions. This would have the effect of providing greater context to local government on the proposed activities of the relevant RLB and work to increase transparency and information sharing at the local level.

- Note that the LGA supports a transparent process for nomination and appointment of board members by the Minister for Climate, Environment and Water. The LGA supports changes so that consultation with Peak Bodies occurs at a point in time in the process, such as would enable input from the Peak Body to meaningfully influence the appointment process.

## Planning framework

The LSA Act states the requirement to develop a clear framework to support the strategic objectives of the LSA Act, and says this will be in the form of the State Landscape Strategy (the Strategy) which is the responsibility of the Minister. It is acknowledged that the Strategy is in place, and the LGA secretariat has recently been invited to continue discussions regarding amendments to the Strategy which are currently being considered by the Landscape Board Chairs and General Managers forums. It is noted that the LSA Act requires the Strategy to be formally reviewed at least every 10 years, but can be done more frequently if desired.

The LGA secretariat notes with regret that some of the activities noted from previous engagement on development of the Strategy did not eventuate. For example, commitments to establish statewide reporting on implementation and outcomes, share learnings, and accountability and lesson learning. These matters could be achieved either through development of a statewide Action Plan (which was proposed but not developed) underpinning the Strategy, or through outlining greater specificity in measurable outcomes articulated through the Strategy itself.

In practice, there remain questions regarding whether the development of this Strategy has provided tangible results in supporting the management of the state's natural resources and landscapes. Member councils report:

- While there are general statements in the Strategy regarding monitoring and evaluation, measurable objectives are not presented. This makes it difficult for local council partners to understand how priorities are set and if outcomes through the delivery of projects are successful.
- There needs to be greater efforts to foster collaboration and integration across sectors and regions, and this needs to include local councils in the conversation.
- A lack of understanding regarding how funded projects align with the goals and vision of the Strategy, as this information is not readily available.
- More information needs to be provided so that local council partners can better understand and judge the overall performance of the LSA Act scheme. This will support long term harmonisation of achieving the objectives of the LSA Act more broadly across the state.

It is noted that there is a need to undertake a re-engagement with local government and other Peak Bodies and delivery partners on matters outlined in the Strategy and across the operation of the LSA Act scheme more broadly. To achieve this, the LGA would support an arrangement where an annual report is presented to State Parliament. This annual report would describe the collective operations and outline income and expenditure across all RLBs over the previous 12 months. The report would then be available to Peak Bodies, delivery partners and the community at large as a simpler access point containing adequate information and provide transparency on the holistic operation of the LSA Act scheme during the relevant period.

## Recommendations

The LGA makes the following recommendation in relation to the planning framework:

- That the State Government provide greater transparency and information to the LGA and its membership regarding the operation of the scheme more broadly, including financial and operational interactions between the Strategy, the statutory funds and the RLBs.

- To support increased transparency called for above, that the State Government consider requiring an annual report to be laid before the State Parliament outlining the holistic operational status of the LSA Act scheme over the previous 12 months.

## Levies and funding equity across landscape regions

As outlined earlier, at the LGA AGM held on 28 October 2022, the following resolution was passed:

- *That the LGA request the State Government review the manner which they collect the Landscape levy from local communities. With the desired outcome being one in which Revenue SA collect the levy directly in alignment with the Emergency Services levy.*

This effectively remains the current policy position of the LGA membership.

The insertion of councils into the role of agents for the collection of the Landscape levy has arguably added to the complexity in administration of the LSA Act scheme. It continues to be problematic for the local government sector to collect the required Landscape levies and specific issues with this approach include:

- Community members mistaking the State Government levy for increased council revenue.
- Where the Landscape levy remains unpaid by the landholder, the financial burden is on the council as they are required to remit the full levy amount assigned to their council by the relevant RLB. Council are unable to 'write off' these unpaid debts for at least two years. Consequently, at any given point in time, councils are considerably out-of-pocket in respect of large amounts of unpaid Landscapes levies.
- Some, though not all, councils report that the reimbursement received from the RLB in collecting the Landscape levy is not adequate to cover the cost of administering the levy. For example, the City of Onkaparinga notes in their submission that they are remunerated only about \$30,000 in administrative costs from the two RLBs that service their council. This contrasts with an estimated administrative cost to them of \$70,000 in collecting the Landscape levy from landholders.

LGA members remain resolute that the collection of a State Government levy should be undertaken by the State Government. Particularly in this case, where there is an existing collection agency, in Revenue SA, for the collection of other property-based taxes.

It is further noted that, the Green Adelaide Annual Business Plan 2023-24 shows Ministerial directives made under Section 14(3) of the LSA Act have been put in place for management of the Patawalonga Lake System and Adelaide's beach and coastal management (under the project 'Adelaide Beach Management').

The local government sector is concerned that this allocation of approximately \$3 million from the Landscape Priorities Fund to this project is not well understood by the community. While permissible under the LSA Act, ongoing reliance on Landscape levy to fund major projects of this nature significantly impacts the RLB from delivering on other landscape management priorities outlined in the LSA Act.

However, the LGA is not supportive of legislative arrangements that may provide mechanisms for the Minister to establish further levy collections for 'special projects or purposes'. This would compound the existing issues, discussed above, for local government in acting as the collection agent for the Landscape levy on behalf of the State Government.

As commented earlier in the submission, the LGA maintains that there is inadequate information sharing about the activities and reporting of the statutory funds under the LSA Act. This lack of information flow has hindered the LGA and members in making a fully informed submission to the LSA Act Review, particularly regarding the questions posed in the LSA Act Review discussion paper as to whether the statutory funds are 'fit-for-purpose' and operating effectively.

## Recommendation

Noting the earlier recommendations made under headings above, the LGA makes the following recommendation in relation to levies and funding equity across landscape regions:

- That the State Government reconsider the manner which it collects the Landscape levy from local communities. Firstly, the State Government should investigate the costs to Revenue SA, of collecting the Landscapes levy together with other property taxes. The LGA then recommends that Revenue SA collect the levy directly using the same notice used for Land Tax or the Emergency Services levy.

## Other feedback

Some member councils provided feedback highlighting positive collaboration between their council and the relevant RLB. Some examples of these projects and programs include:

- The City of West Torrens noted that there were some positive environmental outcomes for the Breakout Creek stage 3 redevelopment and the Urban River Torrens Recovery projects via the working relationship with Green Adelaide.
- The City of Onkaparinga noted that a hosting arrangement of officers from Green Adelaide had been successful in delivering a range of tailored school and community education programs with a focus on biodiversity, climate change, water sensitive design and food issues.
- The City of Tee Tree Gully noted that expertise provided by a specialist Weed Botanist from the State Herbarium had been invaluable to council staff in undertaking weed management and control efforts.

In addition, the LGA secretariat notes the ongoing partnerships between the RLBs, local government and Regional Development Australia in the development of Regional Adaptation Plans and taking collaborative action on climate change, including the establishment of Regional Climate Partnerships (RCP).

Since then, the following RLBs have continued to partner with local government and RCPs, for implementation of on-ground climate action:

- Northern and Yorke LB through the Central Alliance.
- Hills and Fleurieu LB and Kangaroo Island LB through the Resilient Hills and Coasts RCP.
- Green Adelaide through Adapt West, Resilient South, and Resilient East RCPs.
- Green Adelaide's support of the Central Coordinator role for the RCP based at the LGA.

However, key to the success of on-ground climate action and ongoing collaborative partnerships is a more strategic long-term plan for all RLBs and the role of State Government in providing leadership for climate adaptation, and building community and environmental resilience.

## Recommendation

The LGA makes the following additional recommendation in relation to other feedback on the operation of the LSA Act:

- Note the examples provided in this submission showing that despite the challenges posed by the current regulatory framework of the LSA Act, there are successful collaborations occurring across the sector, between councils and their respective RLB. These instances could be enhanced by better, more effective engagement and management as outlined under the LGA's other recommendations to the LSA Act Review.

## Conclusion

The LGA remains committed to supporting the State Government in aspiring to create an operational environment where the objectives of the LSA Act are realised, in effectively managing the natural resources and landscapes of South Australia.

However, there is still some way to go to making improvements to the regulatory framework to achieve this in practice. The recommendations made in this submission aim to address matters falling within the purview of the local government sector.

If adopted, the aim of the LGA recommendations made in relation to the LSA Act Review are to:

- Improve transparency and accountability.
- Increase information sharing and flow to key stakeholders within the delivery partner network established under the LSA Act.
- Ensure that roles and responsibilities required to be discharged under the LSA Act are assigned to the relevant organisation or agency that is most appropriate for the allotted function.

The LGA commends this submission to the Independent Reviewer for consideration.

148 Frome St  
Adelaide SA 5000

GPO Box 2693  
Adelaide SA 5001

T (08) 8224 2000

E [lgasa@lga.sa.gov.au](mailto:lgasa@lga.sa.gov.au)

**[www.lga.sa.gov.au](http://www.lga.sa.gov.au)**