

**CITY OF MARION  
FINANCE AND AUDIT COMMITTEE MEETING  
28 FEBRUARY 2017**

**CONFIDENTIAL REPORT**

**Corporate Manager:** Jaimie Thwaites, Acting Manager Corporate Governance  
**General Manager:** Vincent Mifsud, General Manager Corporate Services  
**Chief Executive Officer:** Adrian Skull, CEO  
**Subject:** Local Government Association Membership  
**Reference No:** FAC280217F7.2

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If the Finance and Audit Committee so determines, this matter may be considered in confidence under Section 90(2) and (3)(b) and (h) of the *Local Government Act 1999* on the grounds that the report contains information relating to commercial information of a confidential nature and legal advice.

Adrian Skull  
Chief Executive Officer

**RECOMMENDATION:**

1. That pursuant to Section 90(2) and (3)(b) and (h) of the *Local Government Act 1999*, the Finance and Audit Committee orders that all persons present, with the exception of the following persons: Adrian Skull, Chief Executive Officer; Tony Lines, General Manager Operations; Vincent Mifsud, General Manager Corporate Services; Abby Dickson, General Manager City Development; Jaimie Thwaites, Acting Manager Corporate Governance, Craig Clarke, Unit Manager Communications, be excluded from the meeting as the Council receives and considers information relating to Local Government Association Membership, upon the basis that the Committee is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial information the disclosure of which could prejudice the commercial position of Council and would on balance be contrary to the public interest and legal advice.

## EXECUTIVE SUMMARY AND REPORT OBJECTIVES:

A comprehensive review of the Local Government Association (LGA) membership and associated services has been undertaken to assist in a cost benefit analysis of the City of Marion's Membership. The following supporting information is provided with this covering report:-

- LGA membership financial analysis and assessment (**Appendix 1**)
- Review of the Local Government Association Membership and Associated Services Report, including a risk assessment of the impact on losing services and any financial considerations (**Appendix 2**)
- CoM's Risk Management Framework – Risk Criteria and Matrix (**Appendix 3**)
- A copy of the letter received from the LGA dated 22 July 2016 regarding the LGA as Council's agent (**Appendix 4**)
- Legal opinion from Phillip Page (Mellor Olsson) regarding contractual requirements for the One Card Network (library system) and the Unity Website Content Management System (**Appendix 5**)

This report and the details contained in the supporting Appendices provides the most up to date advice regarding the impact and risks to Council should it choose to cease its membership with the LGA. The key risks include the loss of the Unity Content Management System which hosts the Council website and My Local Services Application. The average ongoing costs of implementing a new CMS platform are in the order of \$50,000 per year, plus upfront-costs ranging anywhere from \$10,000 to \$170,000 depending on the type and capability of the new CMS platform and the outcome of a formal tender process.

Other medium to high risks include the loss of circulars, impact on various Governance functions such as delegations and legislative amendments, lost opportunity to liaise with the sector and training and development and the Library One Card System (although that appears secure until 2022).

It is conservatively estimated that the total cost to date in reviewing our membership with the LGA is \$33k, including approximately \$15k in legal fees and \$18k (260 hours) in staff time.

The LGA membership invoice for the current 2016/17 financial year was \$94,382 (exclusive of GST).

The purpose of this report is to seek feedback and guidance from the Finance and Audit Committee in relation to the City of Marion's membership with the LGA.

## RECOMMENDATIONS:

## DUE DATES

**That the Finance and Audit Committee:**

- |  |           |
|--|-----------|
| 1. Provide its feedback and guidance in relation to the City of Marion's membership with the Local Government Association.   | 28 Feb 17 |
| 2. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, Local Government Association Membership and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(b) and (h) of the Act, except when required to effect or comply with the Committee's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2017. | 28 Feb 17 |

## BACKGROUND AND DISCUSSION:

Council first commenced discussion regarding its membership with the LGA early in 2015 when it was established that City of Marion had been overcharged its membership fee by the LGA. At the time, the overpayment was raised with the LGA and reimbursement was received shortly thereafter.

During the course of discussions regarding the City of Marion's membership with the LGA, the LGA Board resolved the following on 21 July 2016 (**Appendix 4**):

1. *supports the Secretariat removing services from non-member councils as soon as practicable.*
2. *endorses the Secretariat, seeking confirmation of the City of Marion's continued authority for the LGA to act on the City of Marion's behalf for the provision of the One Card Library System.*

At the Special General Council meeting on 1 August 2016, it was resolved that Council:

6. *Requests a further report be presented to Council in March 2017 to determine its Local Government Association Membership for 2017/18 and beyond.*

To satisfy the above resolution a comprehensive review of the LGA membership has now been undertaken and progressed to understand the impact (including costs) to Council.

In order to make an informed decision regarding the LGA Membership, consideration needs to be given to the potential impact on services and risks to Council.

## FINANCIAL ANALYSIS AND ASSESSMENT

A financial analysis and assessment of the LGA's membership is attached in Appendix 1.

## LGA PERFORMANCE IMPROVEMENT AREAS

The following is a list of performance improvement areas that the City of Marion would like to see the LGA proactively focus on, in order to provide a greater level of service and value to its members:-

1. **LGA Value Proposition** - regular review of the value provided by the member organisation.
2. **Insurance (Mutual) Scheme** – communicate how the Auditor General's concerns are being addressed and release the independent review into the Scheme's operation
3. **Industrial Relations:-**
  - a. provide IR advice to members on issues common to all Councils to obviate the need to go to legal companies and save ratepayer money;
  - b. Work towards one ASU and one AWU cross-sector Enterprise Bargaining agreement.
4. **Annual member subscriptions** – base on (1) the number of ratepayers and (2) Council revenue in bands that are equitable.
5. **Council of the Future** – work with Councils to assist and advise on them working together across boundaries to realise efficiencies.
6. **Benchmarking** – provide benchmarking data to assist in Councils realising efficiencies (provide regular benchmark metrics).
7. **Training** – relevant training, seminars and conferences that are competitively priced

8. **Unity CMS Platform** – more advanced and regular updates/enhancements to deliver higher quality services to the community
9. **LGAP** – higher level of collaboration and consultation with Councils in regards to procurement opportunities (LGAP contracts)

## **CONCLUSION**

This report provides the most up to date data, information and advice, including a detailed risk assessment, regarding the impact to Council of choosing to retain or cease its membership with the LGA.

LGA Membership Assessment \$M's	NPV 10 years \$M's	NPV Benefit against Base \$M's	Risk <sup>1</sup>	Complexity <sup>2</sup>	Key Assumptions	Unquantified risks without mitigation plans
Stay with LGA - Base Case	(\$0.9)	N/A	Low	Low	<ul style="list-style-type: none"> <li>• Fee increases at CPI</li> <li>• No additional service provision over time</li> <li>• Grants contributions \$25K annually accessed through membership</li> </ul>	<ul style="list-style-type: none"> <li>• Exposure to fee increases (see scenario below)</li> </ul>
Leave LGA - Base Case	(\$1.7)	(\$0.8)	Medium	Medium	<p>Access to a number of services is withdrawn resulting in additional costs to Council of \$86K+ in year one with assumptions as follows:</p> <ul style="list-style-type: none"> <li>• State Government Library Funds and One Card System continues without additional cost</li> <li>• Insurance Schemes and LGFA involvement continues</li> <li>• governance services including monitoring, policies and procedures and advice relating to delegations is withdrawn resulting in an additional FTE for Governance</li> <li>• website provision is withdrawn resulting in ongoing additional maintenance costs of \$37K per annum and an implementation cost of \$100K</li> <li>• access to the majority of free training ceases at an additional annual cost of \$25K</li> <li>• projects previously grant funded are funded by CoM at \$25K per annum</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of ability of Elected Members or CoM employees to provide leadership to the LGA through its Board or Committees</li> <li>• Potential loss of Treasurer's indemnity with transition from Insurance Schemes with maximum coverage capped at \$300M</li> <li>• Loss of access to website provision as new CoM website is being built</li> </ul>
Leave LGA - pessimistic case	(\$9.5)	(\$8.6)	Medium	High	<p>As above, and in addition:</p> <ul style="list-style-type: none"> <li>• Access to OCMS and State Library Funds is removed resulting in additional costs to CoM of \$421K per annum and establishment costs of \$405K per annum</li> <li>• State Government Approval is gained to exclude non-members from the schemes resulting in an increase of \$200K per annum in insurance premiums and additional \$50K for 0.5FTE</li> <li>• Non members are excluded from the LGFA and funding costs can not be secured as competitively by CoM on a standalone bases with additional funding costs of \$210K (the average premium against market provided by the LGFA for the past 5 years) and additional \$50K for 0.5FTE to manage more complex treasury arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of ability of Elected Members or CoM employees to provide leadership to the LGA through its Board or Committees</li> <li>• Potential loss of Treasurer's indemnity with transition from Insurance Schemes with maximum coverage capped at \$300M</li> <li>• Loss of access to website while new CoM website is being built</li> </ul>
Stay with LGA - Significant Fee Increases	(\$2.0)	(\$1.1)	Low	Low	<ul style="list-style-type: none"> <li>• Annual fee increases of 20% for the next ten years (which is what would have to occur to make the risk of staying with the LGA equivalent to the likely cost of leaving)</li> </ul>	

Test whether can absorb

Key risks are associated with inclusion in funding authority and schemes - may be upside to this however requires closure to not put CoM and its ratepayers at exposure of financial risk

Note - unsubstantiated potential reduction in funding and insurance costs associated with CoM going it alone are not reflected in any of these scenarios as there is not evidence this is possible or likely. Staying with LGA does not preclude these opportunities and so benefits have been excluded

Report Reference: PAC280217F7.2

LGA Service Group	Description	Cost - stay	Cost implement - stay	Cost - leave base	Cost - implement base	Cost - leave extreme pessimistic	Cost implement - pessimistic	Risks of leaving that are not reflected in costs	Comments / Questions to discuss
<b>General Membership</b>	Base Membership Fees	94,382		-	-	-	-		
<b>Advocacy</b>	LGA Advocacy on behalf of Councils (ie: Rate Capping position)	-	-	-	-	-	-		
<b>Health Plans</b>	Supporting councils to achieve public health outcomes	-		2,600		2,600			Need to confirm how this will really work - would we just absorb it? <b>NO can't be absorbed!</b>
<b>Library Services</b>	Co-ordination of One Card Library Management System	-		-		279,000	25,000	Very low risk the scheme wouldn't continue to be made available to Marion if leave - appears secure until 2022	
	Management and distribution of State Government Public Library funds and services via the Memorandum of Agreement) between the Minister for the Arts and the President of the Local Government Association.	-		-	-	142,000	370,000	Risk of being excluded from SG Public Library Fund is low - appears secure until 2022	
<b>Elections</b>	Managing nominations of local government representatives	-		-	-	-	-	CoM Elected Member opportunities to influence the LGA favourably is removed	
<b>Procurement</b>	Procurement contract savings	-		-	-	-	-		Think we do need to test whether Council Solutions would still have access on behalf of CoM
<b>Website</b>	Unity platform and My Local Services Application	13,100		50,000	100,000	50,000	100,000	Risk if stay don't get additional functionality however the value of that functionality to ratepayers is not able to be quantified	Need to land on what the cost of implementing and maintaining like for like is. Tables don't align with text
<b>SA Tenders online service</b>	SA Tenders	-		-	-	-	-		
<b>Research and Development Fund</b>	Research and Development Fund	-		25,000	-	25,000	-		Check how much of the funds received went to CoM to make sure not just a share - also would have we done it without a grant?
<b>Regulation and Governance</b>	Consultation with councils on proposed Government Legislation	-		20,000	-	20,000	-	CoM s interests are not represented or CoM needs to make it's own representations. Montioring also would need to be found alternatively	
	Circulars	-		20,000	-	20,000	-		
	Delegations	-		5,000	-	10,000	-		
	Developing model policies and templates to assist councils to meet their legislated governance obligations	-		40,000	-	40,000	-		
<b>Media and Comms</b>	Media Monitoring	-		-	-	-			
	Media Response	-		-	-	-		CoM will have to respond in isolation on media issues and will have less opportunity to liaise with other councils	
	LG Communicator network	-		-	-	-		Reduced opportunity for Communcations staff to attend free professional training	
	Election Campaigns	-		5,000	-	5,000		Marion specific materials and advertising to promote the participation and seeking of candidates for local government elections may not occur	Check that this is actually additional and if Electoral Commission would have covered it
	Sector Wide Campaigns	-		-	-	-		Missed opportunity for CoM to have its voice in issues affecting local government	
<b>Human Resources Support</b>	HR/IR Panel advisory service to councils	-		-	-	-	-		
	Industrial representation	-		-	-	-	-		
<b>LGA tailored training</b>	Education and training	11,576		37,000	-	50,000	-		
<b>LGA Code of Conduct Complaints</b>	Managing the Local Government Governance Panel to assist councils with code of conduct complaints	-		-	-	-	-		
<b>Local Government Community</b>	Local Government Showcase, Ordinary General Meeting, Annual General Meeting and Conference, Roads and Works Conference and Networks	-		-	-	-	-	Loss of ability to make a contribution to the Local Government Community, to be recognised by it and to access the large knowledge base that exists in all of the working groups and committees, loss of access to Local Government Innovation	
<b>LG funding</b>	Special local roads program	-		-	-	-	-		
<b>Public Lighting</b>	Public Lighting	-		-	-	-	-		
<b>Kaurna</b>	Impact on Kaurna Native Title Claim Negotiations	-		-	-	-	-		
<b>Insurance</b>	Schemes	-		-	-	250,000	-	Under the Local Government Act 1999 ) the rules of a scheme cannot be altered except after consultation with the Minister. The Treasurers Indemnity would be lost, however there would be minimum \$300M of cover provided under alternative insurances. Risk of needing cover in excess of what can be procured outside of the LG scheme is considered low.	Check fees Could be an opportunity to secure insurance at better rates also - will take effort to maintain - might be best to wait to leave until insurance strategy is locked away and exposure is genuinely understood  Other highly valuable things in here that have not been valued - confirm they would be included in any normal workers compensation scheme?
<b>Funding</b>	LGFA	-		-		260,000		The Local Government Finance Authority is established under the Local Government Finance Authority Act 1983. Under this Act every council is a member of the Authority.	Opportunity to bundle total funding requirements and secure more favourable overall funding that spot comparisons might compensate for the current differential under LGFA
<b>TOTAL</b>		<b>119,058</b>	<b>-</b>	<b>204,600</b>	<b>100,000</b>	<b>1,153,600</b>	<b>495,000</b>		

Report Reference: FAC280217F7.2

**Scenario Assumptions:**

Leave - Base - includes everything that is highly likely to happen - with major assumption financing cost risks and insurance fee risks will largely be able to be mitigated

Leave - Pessimistic - includes everything that may or may not be able to be mitigated



# ***Review for the Local Government Association Membership and Associated Services Report***

Version:

Date:

Prepared by:

*draft*

17 February 2017

Kate McKenzie, Manager  
Corporate Governance

Jaimie Thwaites, Acting Manager  
Corporate Governance

DRAFT



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## **Executive Summary**

A comprehensive review of the Local Government Association (LGA) membership and associated services has been undertaken to assist in a cost benefit analysis of the City of Marion's Membership.

This report and the details contained in the supporting Appendices provides the most up to date advice regarding the impact and risks to Council should it choose to cease its membership with the LGA. The key risks include the loss of the Unity Content Management System which hosts the Council website and My Local Services Application. The average estimated ongoing costs are approximately \$50,000 per year, plus upfront-costs ranging anywhere from \$10,000 to \$170,000 depending on the type and capability of the new CMS platform and the outcome of a formal tender process.

Other medium to high risks include the loss of circulars, impact on various Governance functions such as delegations and legislative amendments, lost opportunity to liaise with the sector and training and development and the Library One Card System (although that appears secure until 2022).

A comprehensive review of the Insurance schemes has also been undertaken. The detailed results of this review are contained in a separate report.

## Background

### 1 Membership Review

The purpose of this review is to understand the current and likely future membership of the Local Government Association (LGA) and associated Services. This report provides an analysis of the impact and risks to Council associated with the decision to retain or cease its membership with the LGA

#### 1.1 LGA Membership review objectives

At the Special General Council meeting on 1 August 2016, it was resolved that Council:

6. *Requests a further report be presented to Council in March 2017 to determine its Local Government Association Membership for 2017/18 and beyond.*

The objective of the review is to address this resolution. An extract from the minutes of each meeting where discussions on the LGA have taken place is attached as **Attachment 1**.

#### 1.2 Service history

The LGA operates under a Constitution, and is directed by its members at General and Annual General Meetings, at which all LGA member Councils have the right to vote.

The LGA is managed during the year by a Board Committee and an Executive Committee. The Board Committee comprises 8 metropolitan representatives (and 4 deputy members), 8 country representatives (and 6 deputy members) and 2 observers (namely Convenor of the Metropolitan CEOs Committee and the President of the Local Government Professionals(SA)). The Executive Committee is comprised of the Association's President, Immediate Past President, four Vice Presidents and the Chief Executive Officer (ex officio).

Two additional committees are established under the LGA Constitution - the Metropolitan Local Government Group (MLGG), and the South Australian Regional Organisations of Councils (SAROC). These committees provide advice to the Board Committee on matters affecting Local Government from a metropolitan Adelaide, or country regional perspective. They also provide a forum for discussion of issues that are of common interest to their members.

The LGA provides direct services to Councils in a number of areas and has established enterprises either separately or within its own structure to provide other services. Separate enterprises established by the LGA include: Local Government Corporate Services, Local Government Risk Services, LGA Workers Compensation Scheme, and LGA Mutual Liability Scheme. The LGA also manages the statutory Local Government Research and Development Scheme, subject to a Memorandum of Understanding with the Minister for Finance.

The LGA is a body corporate defined within Schedule 1, Part 1 the *Local Government Act 1999 (The Act)* as follows:

- (1) *The Local Government Association of South Australia continues in existence.*
- (2) *The LGA—*
  - (a) *continues to be a body corporate with perpetual succession and a common seal; and*
  - (b) *is capable in its corporate name of acquiring, holding, dealing with and disposing of real and personal property; and*
  - (c) *is capable of acquiring or incurring any other rights or liabilities and of suing and being sued in its corporate name.*
- (3) *The LGA is constituted as a public authority for the purpose of promoting and advancing the interests of local government and has the objects prescribed by its constitution.*

- (4) *The constitution and rules of the LGA cannot be altered or revoked without the approval of the Minister.*
- (5) *The Subordinate Legislation Act 1978 does not apply to the constitution or rules of the LGA.*

The objectives of the LGA are defined in clause 8 of its constitution and states:

1. *Provide leadership and encourage and promote an efficient and effective autonomous, democratic system of local government*
2. *Promote and protect the interests of local government and constituents*
3. *Encourage and help local government to determine and respond to the needs of the community*
4. *Develop and maintain consultation and co-operations between local government and between all spheres of governments and their agencies*
5. *Develop and maintain the financial and economic well-being and advancement of local government and to undertake any business such as schemes of indemnity of self-insurance and other schemes or the like that may be established which the LGA consider necessary*
6. *Act as an advocate for Constituents and local government generally*
7. *Facilitate consultations by and between Constituents as to their common interests*
8. *Encourage, assist, promote and foster the achievement and maintenance of the highest levels of integrity, justice, competence, effectiveness and efficiency of local government*
9. *Undertake or promote any activity which the Board determines to be for the benefit and/or interest of Constituents and local government in South Australia*

### **1.3 Membership with the LGA (including subscription fees)**

The LGA offers two classes of memberships within its constitution (Part 3 – section 1.1):

1. Ordinary Member – full membership rights
2. Associate Member – same rights as ordinary member with the following conditions:
  - a. Excluded from nominating for a Board member or Deputy Board member
  - b. May attend but not vote at an LGA Annual General Meeting and/or General Meeting
  - c. Services used by an associate member may incur liability to pay to the LGA an amount exceeding the amount (if any) charged by the LGA to Ordinary Members for that service as determined by the Board.

Note: We have received verbal advice from the LGA that they will be recommending to the Board to amend the constitution to remove Associate membership – change to constitution will be put to the April LGA General Meeting. However, this has not been confirmed in writing

The Constitution defines that any new member must make written application to the LGA and the decision will be made by the Board. The Constitution is silent regarding if a new membership fee would apply. It is therefore unknown what the situation would be if the City of Marion resigns from the LGA, and at a later date determines to re-join, whether or not a new member fee will be charged. It has been advised verbally by the LGA that this would be a Board decision.

The LGA completed a review of membership subscription fees in 2016. This was undertaken in consultation with the sector. The Board considered a report at its 19<sup>th</sup> May 2016 meeting which was considered in confidence as the Board determined that the release of this

information could prejudice the LGA's strategic or negotiation position. The Board then resolved to keep the report confidential until a communication plan is developed and the outcomes of the review are advised to member councils within the next 4 weeks. It was subsequently released via a circular 9<sup>th</sup> June 2017.

The methodology for calculating membership subscriptions that was reviewed included:

- a flat component which varied relative to the voting capacity of members with the base flat amount set at \$2,500 for councils less than 10,000 population, increasing to \$5,000 for those 10,000 to 50,000 and to \$7,500 for those greater than 50,000;
- the balance of subscriptions is then calculated on the basis of population share (40% weighting) and operating revenue (60% weighting); and
- a subscription cap of 3 times the average subscription with no council receiving an increase greater than 5% in a year.

Four (4) options were put to the sector for consultation and 20 out of 68 Councils provided written responses. The Board considered the feedback and resolved the following approach to reform the LGA subscription formula:

- an increase in the flat amount to collect 20% of subscriptions using the three tiers;
- maintaining the 40% population and 60% revenue weighting for the balance of subscriptions;
- using three-year average revenue; and
- maintaining the three times average cap;
- endorses the introduction of the above approach being deferred until the 2017/2018 financial year to allow councils sufficient time to plan;
- requests that prior to the introduction of the above approach, further research and modelling be done on using alternative population bands for the tiering of the flat component of the subscription fee including the bands used by the Remuneration Tribunal; and
- requests that the LGA Governance Review take into account the feedback provided as part of this review concerning:
  - the population bands and their application to voting rights; and
  - the review of service delivery and value for money (efficient use of LGA subscriptions) of LGA operations.

These last two points above are currently in progress and outcomes are expected in March / April 2017 from the LGA.

The table below outlines the membership fees paid to the LGA (excluding GST). Please note that the overpayment was determined early in 2015. The overpayment was analysed by the LGA auditors who determined Marion was first overcharged by \$358 in 2010/11 financial year due to a mis-calculation in a spreadsheet. This then caused a compounding effect. The City of Marion was reimbursed \$18,841 (+ gst) which was received on the 26 June 2015.

Membership Fees paid by City of Marion

2017/18	TBA
2016/17	\$94,382
2015/16	\$92,080
2014/15	\$96,614
2013/14	\$92,013

## 1.4 Services Provided by the LGA

The services provided by the LGA are for all member councils in South Australia being both metropolitan and regional Councils.

A list of the services provided by the LGA to the CoM, including a risk assessment of the impact of potentially losing the services is attached as **Attachment 2**.

A more detailed explanation and assessment of particular services provided by the LGA is outlined below.

### Website

The LGA provides a content management system (CMS) called Unity to all Council's for a fee for service. Unity is a customised system created and owned by Deloitte Digital (who own the intellectual property) and the product is purchased by the LGA via a contract. Unity is a shared services model and only available to LGA Members.

The City of Marion corporate website is currently managed via Unity. The annual cost of using Unity is outlined below:

#### Membership Fees paid by City of Marion

2017/18	TBA
2016/17	\$13,084 (including \$1,500 for My Services Application)
2015/16	\$10,699 (including \$1,500 for My Services Application)
2014/15	\$11,415 (including \$1,500 for My Services Application)
2013/14	\$8,304

Approximately 18 Councils in South Australia currently use Unity which is managed by a team of two staff at the LGA who liaise with Council staff for training and support. Unity is provided as a hosted website system in Internode's data centre in Adelaide's CBD on hardware and software that is effectively a 'private cloud' for local government websites.

In 2012 Unity underwent a major upgrade from Unity 3 to Unity 6. This included a redesigned interface to make it quicker and easier for staff to work in the back-end of the system. Unity has received two more updates each year since then which includes functionality improvements based on feedback from the Councils who use the system. New functionality included improvements such as the events calendar including an online form for the community to submit events, social media sharing of content from Facebook and twitter and improved functionality for forms to be displayed on mobile devices.

The website content is managed by approximately 70 trained staff across City of Marion who have responsibility for updating webpages relevant to their work areas. The current website consists of a three-tiered, drop-down menu structure. Users can select from eight menus and drop down into further webpages that provide further details.

The homepage has:

- a rolling banner with images of the latest information,
- a set of links for popular pages including online payments, council meetings, etc,
- three lists showing latest news, up-coming events and current consultations.



- Six links to common services, including visiting Marion, forms, etc
- A footer displaying contract information.

The website links to various external websites, allowing people to conduct online transactions including making payments, submitting a service request and checking the status of a development application.

These websites are maintained using different CMS products to Unity, however, some are branded to ensure consistency with the City of Marion style. Current annual costs for each site are included below.

External websites include:

- |                                    |  |
|------------------------------------|--|
| • Online payments system.)         | \$30,000 (estimation using new system.)    |
| • Customer request system          | \$8,592                                    |
| • Hard rubbish bookings            | \$570                                      |
| • Community grants                 | \$12,500                                   |
| • Development application tracking | \$12,500                                   |
| • Live chat tool                   | \$458                                      |
| • Community consultations          | \$26,000                                   |
| • Demographics                     | \$13,900                                   |
| • Electronic newsletter            | \$1,440                                    |
| • Library online databases         | \$13,800                                   |
| • Library catalogue                | Part of the library management system.     |
| • Library computer reservations    | Part of the library management system.     |
| • Event booking sites              | Free to use non-council external websites. |
| • SA Community                     | Free to link to non-council website.       |

These external websites are used due to Unity not offering appropriate functionality to achieve each specific service.

If City of Marion LGA membership is retained:

- we can continue to use Unity as the CMS platform
- can continue to investigate improvements / enhancements to the website

If City of Marion LGA membership is not retained:

- advice has been received that access to the Unity platform will be removed as soon as practicable after 1 July 2017.
- we will need to procure and implement a new CMS platform as a priority.
- an interim website can be utilised (with reduced functionality) if the new platform is not fully complete by 1 July 2017
- a snapshot of files from the existing website can be “captured” and transferred to new hosts on a temporary basis guaranteeing the public continued access to our website.
- A cost will be associated with this service and will depend on the complexity of the work.

### Financial Impact:

Other CMS products have been investigated and the options are listed below.

The below indicative costs have been provided by the vendors as an estimation of migrating Council's existing website to their CMS product. They do not include costs to upgrade Council's website to feature all ideal functionality. They also do not include costs to replace external websites, even though some products may provide solutions 'out of the box'. Further comprehensive investigations would be required to determine the full product offering of each CMS, including if external websites could be replaced. The average estimated ongoing costs are approximately \$50,000 per year, plus upfront-costs ranging anywhere from \$10,000 to \$170,000 depending on the type and capability of the new CMS platform and the outcome of a formal tender process.

<b>CMS product</b>	<b>Design, Build and Implementation Upfront Costs (Once off)</b>	<b>Ongoing annual costs</b>
Unity		<b>\$13,100*</b>
Seamless OpenCities	<b>\$10,000 - \$15,000</b>	<b>\$95,000</b>
SeamlessCMS	<b>\$138,010 - \$163,010</b>	<b>\$55,375</b>
govCMS	<b>\$77,500 - \$102,500</b>	<b>\$35,000</b>
aGov	<b>\$75,000 - \$100,000</b>	<b>\$43,720</b>
SquizPlus	<b>\$170,000</b>	<b>\$49,900</b>

\*Please note: Costs for external websites are in addition to the above CMS costs.

### Governance

The LGA provide a number of governance related services to the sector including matters such as legislative updates and interpretation, legal updates, delegation templates, policy templates and tools for various good governance practices.

The LGA has already moved to a secure website. Non-members are excluded from this section of the LGA website which includes research, policy, legislation, manuals, codes and guidelines. This section of the website includes items such as the LGA Circulars, delegation templates and legislative updates.

Where that is a significant change in governance requirement, (e.g. implementation of new and/or large changes to legislation) affecting the sector the LGA may provide additional support and resources to assist Councils deal with the change. This assistance can be in the form training, information sessions, guidance documents or alerts. Examples of where the LGA provided additional assistance recently include changes to Conflict of Interest requirements under the *Local Government Act 1999* and the introduction of the *Local Nuisance and Public Litter Act 2016*. Additional assistance may be required from other external agencies (e.g. law firms) if the CoM does not have access to the LGA resources. The cost of this would be dependent on the complexity of the specific matters and the level of assistance required.

Currently the LGA circulars are provided to CoM on a weekly basis. The types of matters included within circulars include:

- notification of various grants programs



- notification of events (such as Nature Play Festival)
- notification of new or changing legislation
- information on various local government activities
- notification of upcoming award nominations
- reminder of legislative due dates and requirements (i.e. Annual Report requirements)
- nominations and vacancies on board and committees
- up-coming training and development
- sector report such as the rate capping enquiry.

An additional resource will be required to pick up the work required to monitor this

If City of Marion LGA membership is retained:

- we can continue to access the secured sections of the website
- template documents relating to items such as delegations, authorisations, policies etc will be able to be utilised.
- would retain access to LGA circulars and therefore alerts

If City of Marion LGA membership is not retained:

- we will need to seek additional support (e.g. legal advice regarding delegation templates).
- reduced consistency for council documents across boundaries particularly if LGA templates are copyrighted and for members use only.
- Additional resources would be required to seek out and monitor relevant notifications
- Additional support / assistance would be required to effectively manage legislative changes (understanding, preparation for and implementation).

Financial Impact:

There would be increase in legal expenses for advice on legislative matters including the schedule of delegations. Increase in cost of updating and maintaining Council's schedule of delegations. This has been estimated at approximately \$6-8K annually (for reviews) and an additional \$5k if any new legislation or significant changes are required.

Additional resources would also be required to monitor legislative amendments and plan implementation. The cost of this would be dependent on the complexity and level of assistance required.

**Advocacy**

A large portion of the work completed by the LGA is advocacy work. A number of advocacy matters have progressed recently which include matters such as:

- Rate Capping – The LGA provided the submission on behalf of the sector opposing the rate capping Bill. The Government supports Councils in voting the oppositions rate capping bill down but the Liberal party has committed to taking the policy to the next election in 2018.

- Planning Reforms - Concerns were raised by Councils as discussions were progressed by the Government regarding local decision making around development issues to be removed from Councils. The LGA provided advocacy in this space resulting in a number of changes to the governments Planning Bill including retaining a role for elected members on development assessment panels and mandating consulting with local government on plans and policies.
- Community Housing – renewal SA - don't need the LGA but strength in number on this one.

If City of Marion LGA membership is retained, we will:

- Continue to have a voice at the table regarding advocacy matters
- Continue to work in partnership with other Councils through the LGA
- Maintain strong regional relationships

If City of Marion LGA membership is not retained:

- This advocacy work will be undertaken on behalf of the sector regardless if the City of Marion continues its membership with the LGA.
- The City of Marion will not be included as part of the consultation group and would need to provide any submissions or advocacy work on its own.

Financial Impact

It is unlikely that there will be any direct costs to the City of Marion if it determines not to remain a member. Any decision to provide submission or advocacy would be determined on a case by case basis (including what could be done within or outside of existing Council resources).

*Emergency services*

The LGA works with Councils and Regional LGAs to continue the implementation of the Local Government Functional Support Group (LGFSG). The LGFSG was created in December 2016 through changes implemented under the State Emergency Management Plan (SEMP). The LGA is assigned through the SEMP as the 'lead agency' with the LGA CEO taking on the role of Function Support Group State Manager.

The LGFSG comprises the LGA, 68 Councils, and six Regional LGAs. The LGA, as lead agency, is responsible for ensuring the LGFSG fulfills its roles and responsibilities under the SEMP. The LGFSG's role is to coordinate the response from Local Government during emergencies (e.g. through Councils assisting CFS with water cartage or SES with flood/storm operations such as tree crews).

The impact of a Council not being a member of the LGA was discussed by the Southern Adelaide Zone Emergency Management Committee. It was noted that each Council has a right to be part of the LGFSG. The LGA passes information on to Councils that may need to participate in emergency action, and it is expected that this would be done regardless of a Council's membership of the LGA.

The City of Marion currently assists neighbouring Councils during emergency events, and receives reciprocal treatment. This is envisaged to continue regardless of LGA membership.

### *Positions of Board/Committees*

The LGA has advised it is reviewing the process of managing nominations of local government representatives as part of the Governance review. This review is due to be presented to the LGA Board meeting scheduled for 16 March 2017.

Options being considered as part of the review include not accepting non-member nominations for future appointments and requesting the State Government to un-appoint non LGA members of boards/committees.

This would limit Elected Members professional development opportunities and involvement in sector wide boards and committees.

Each individual board/committee would need decide and advise whether or not they would accept nominations directly from councils.

### *Research and Development Fund*

The Local Government Development (TER) Fund was created by an amendment to the Local Government Finance Authority Act 1983 as a result of an agreement between the State Government, the LGA and the Local Government Finance Authority (LGFA) on the application of the National Competition Policy in the Local Government sector in South Australia.

As a result the LGFA pays a 'Tax Equivalent Regime' (commonly known as a 'TER') on the business activities of the LGFA, to offset any competitive advantage enjoyed by the LGFA as a tax exempt body. In effect the TER represents the equivalent of company tax that would have been payable by the LGFA if it was a private corporation.

Through negotiation with the State Government, a special fund was created to receive the TER funds from the LGFA. It was initially referred to as the 'Local Government (TER) Development Program' but in 1999 the name was changed to the 'Local Government Research and Development Scheme'.

The Scheme is to be used "for Local Government development purposes" agreed between the Minister and the LGA in accordance with agreed principles and purposes. The legal arrangements for the imposition and broad purpose of the Scheme are set out in Section 31A(4) of the Local Government Finance Authority Act 1983 and in the Memorandum of Understanding.

The LGA Board established the Local Government Research and Development Scheme Advisory Committee to provide advice, consult with Councils and manage the activities and projects supported by the Research and Development Scheme, under the guidance of the LGA Board.

The composition of the Advisory Committee, approved by the LGA Board, is as follows:

- Three members of the LGA Board (comprising at least one Vice President);
- One metropolitan CEO nominated by the Metropolitan CEO's Group;
- One country/regional CEO nominated by Local Government Professionals Australia (SA);
- One representative recommended by the relevant Trade Unions (or nominee);
- One representative recommended by SA Universities (or nominee);
- Manager of the Office of Local Government (or nominee); and
- Chief Executive Officer of the LGA (or nominee).

In previous years CoM has received the following grants from the program:

- Evaluating the business case for urban trees (joint grant for Cities of Charles Sturt, Pt Adelaide, Marion, Campbelltown and Port Pine Regional Council (Grant of \$29.4 k)
- Railway Terrace Solar Innovation Fund (Grants of \$22 k and \$11 k)
- Cultural Indicators Grant / Pilot project (Grants of \$66 k and \$16.5 k)
- Sustainable Management of Community Recreation Facilities (Grants of \$66 k and \$30.8 k)
- SA regional level recreation and sport facilities planning framework (\$55 k grant)
- Transition to safe and Sustainable Lighting in South Australia (\$27.5 k grant)

The LGA has advised that it is not required to offer grants to any external organisation and this means CoM could miss out on future grants from this fund.

#### *Local Government Contracts (negotiated by LGA on behalf of sector)*

The LGA has provided verbal advice that existing LGA contracts that are in place will be honoured for the term of the current contract. However, any renewals or new arrangements will not be available to non-members.

#### *Co-ordination of one Card Library Management System*

CoM entered into a service agreement with LGCS in March 2012. This agreement is governed by a 10 year Head Agreement ending in 2022, between LGCS and the software provider Sirsi Dynix.

Council's review of the LGCS/CoM Service Agreement has identified:

- there appears no contractual basis for termination of the agreement by LGCS, unless the Head Agreement (between LGCS/Sirsidynix) is varied or terminated (which is considered unlikely)
- Council's review of the LGCS/ Sirsidynix Head Agreement has identified Sirsidynix may be unable to offer their system to council direct until 08/2017 (being 5 years from the "Date of Acceptance of the System")
- The Library Board of SA appears to have authority over decision making with respect to the public library network, not the LGA
- The Libraries Act 1982 requires the Libraries Board to support collaboration across the public library network and this is not dependent on LGA membership
- Legal advice obtained regarding this matter indicates that should Council choose to cease being a member of the LGA; would not in itself terminate the Service agreement with the LGCS.
- The LGA have advised via correspondence 22 July 2016 that the LGA board has resolved "*that the LGA Board endorse the Secretariat, seeking confirmation of the City of Marion's continued authority for the LGA to act on the City of Marion's behalf for the provision of the One Card Library System*".

In the unlikely event that the One Card System contract was terminated the potential impact would be significant and includes:

- Costs of a library management system being provided through a Software as a Service agreement is estimated in the order of \$118,000 per annum
- Significant changes to library workflows, systems and processes would be required
- Major data migration and extraction work would be required
- Significant impact to customer service where the number of library items customers have access to will reduce from 3.7 million to 112,000
- Longer turnaround time of materials made available to customers. Sourcing items through an antiquated inter library loan system instead of searchable online catalogue.
- Access to state-wide procurement and processing of library materials no longer available
- An estimated 40% increase in material costs due to loss of state-wide purchasing equating to approximately \$75,000 pa
- Staffing efficiencies will be lost in collection management, equating to \$86,000 per annum

*Management and distribution of State Government Public Library funds and services via the Memorandum of Agreement) between the Minister for the Arts and the President of the Local Government Association.*

A Memorandum of Agreement (MOA) exists between the Minister for the Arts and the President of the Local Government Association regarding the funding of Public Libraries. The MOA provides the basis for the funding that the State Government makes available to support the operations of public libraries. The grant is administered via Public Library Services (PLS) which is a unit of the Libraries Board.

Legal advice has been sought on this matter and concludes that CoM's departure from the LGA should not directly affect Council's access to services through Public Library Services or to state government funding.

In the unlikely event that Council was unable to access services through Public Library Services the potential impact would be significant and would include:

- Wi-Fi and Internet for the Public would no longer be sourced via Public Library Services, and an additional \$96,000 would be required to provide customers free access to services.
- Currently Marion Library Service via state government funding contributes \$34,000 for access to Online Databases and eBooks. To subscribe independently through individual online providers, the Cost will be an additional \$18,000 pa
- Community Languages material (Languages other than English) (2700 items at Marion) are selected, catalogued and supplied centrally by PLS. These items would have to be returned as these are the property of PLS. These items would have to be locally purchased and processed which could be up to an additional \$100 per item.
- CoM currently receiving 50,000 barcodes from PLS at no cost however if grants are no longer available this would result in an additional \$3,000 in costs
- Currently PLS offers the network Professional Development Opportunities, which is estimated by PLS at \$25,000 per annum
- Significant changes to library workflows, systems and processes would be required



- Service levels may reduce through reduced collaboration within the SA Public Library network

### **Relationship with State Government Departments**

The LGA maintains that it secures higher levels of access for local government to other governments in various ways. Some are legislative, with more than 40 Acts or Regulations setting out a specific requirement for consultation with the LGA. The State/Local Relations Agreement provides for specific roles for the LGA as does the associated legislative protocol and the Premier's State/Local Government Forum. This may not translate to "not dealing" with non-member Councils but time restrictions and these long standing arrangements may mean the LGA will have higher levels of access on sector-wide issues than individual councils.

There are a number of State Government departments that the CoM engages with on a regular and adhoc basis. The effect on every single one of these interactions has not been established at this point in time. However, details regarding relationships with some State Government departments that Council has regularly engages with is provided below:

#### *Office of Local Government*

Contact has been made with the Office of Local Government and the following points were verbally discussed:

- The Minister has made no public statement regarding the City of Marion leaving the LGA but considers the LGA to be a member based organisation, meaning it is up to the members to decide if the organisation provides value for money.
- The CoM can liaise direct with the Office of Local Government on legislative amendments that are produced through them. This can occur via their website or the 'your say' State Government consultation website.
- The Office will be consulting only with the LGA in the early draft/initiative phases of new legislation and hence CoM will lose the opportunity to influence the early stages of legislative development, but CoM will still be consulted once bills are in draft.

The LGA is the link for the various legislative teams within all state government agencies and CoM would need to liaise with other agencies to establish and determine relationships and consultation requirements moving forward.

#### *Consultation on Legislative Change*

The LGA has advised that they will not consult with non-members on changes to legislation affecting local government.

#### **If City of Marion LGA membership is retained, we will:**

- Continue to have access to LGA circulars advising of legislative changes
- Continue to have the opportunity to contribute during drafting stages of legislation

#### **If City of Marion LGA membership is not retained:**

- This consultation work will be undertaken on behalf of the sector regardless if the City of Marion continues its membership with the LGA.
- The City of Marion will not be included as part of the consultation group in drafting phases

- would need to provide submissions on its own during the general consultation phase
- would be more reliant on 'value-adds' provided by legal firms (e.g. notifications of upcoming legislative change and newsletters explaining potential impacts of change etc)
- require additional resources to monitor requests for feedback and consultations being undertaken.

### Financial Impact

Additional resources would be required to monitor requests for feedback and consultations. Additional resources and / or legal advice may also be required to understand the legislation being proposed and / or the impact on council of it being implemented. It is difficult to give this a definite figure.

### *EPA*

The EPA has appointed a Coordinator – Local Government Services to assist Council's in the implementation of the new legislation '*Local Nuisance and Litter Control Act 2016*'. This person has been appointed for at least an 18 month time period and have confirmed that they are happy to liaise with Council's directly.

A question has been raised about the procedures, forms and guides developed by the EPA to assist Council's in the operation of the Act as these are available via the LGA secure website. Advice is still to be received as to who owns these documents and if they will be available to Marion if they are not a Member of the LGA.

### *Department of Planning, Transport and Infrastructure*

Currently contact is made directly with the Department of Planning, Transport and Infrastructure in a number of circumstances and it is anticipated that these processes we will remain unchanged.

CoM may lose the opportunity to influence the early stages of legislative development relevant to the department, but would still have opportunity to participate in general community consultation. A system of monitoring community consultation opportunities would need to be implemented that replaces the LGA Circular notifications.

### *State Government Infrastructure Partnership*

Under the State Government Infrastructure Partnership program, State funding will contribute up to 20% of the Council cost of eligible projects, brought forward to create construction jobs. All Councils will be eligible to apply and successful projects will be determined by the Treasurer, the Minister for Local Government, the Hon Geoff Brock, and the President of the LGA.

Whether or not Council is a member of the LGA will not affect it's eligibility to apply for the program.

### *Electoral Commission SA*

Under the Local Government Elections Act 'a Council is responsible for the provision of information, education and publicity designed to promote public participation'.

In 2014 a funding allocation was made through the Local Government Research & Development scheme to produce campaign material for the Local Government election. Marion was provided (for no additional cost) with a range of guides, advertising and templates that were consistent across Councils.

Resources would be required to develop and implement a promotional campaign if the LGA promotional material is not available. However, there may be a cost in future years even if the materials are sourced from the LGA as it is not certain that promotional material would be provided without additional cost from the LGA during future election periods.

### **Relationship with Professional Bodies**

There are a number of professional bodies relevant to the Local Government sector. A relationship with the following professional bodies is not dependant on being a member of the LGA:

- LG Professionals Australia (SA)
- LG Professionals SA Networks
- Australian LG Women's Association (SA) (ALGWA SA)
- Governance & Policy Officers Network
- Institute of Public Administration Australia (SA) (IPAA SA)
- Connecting Up Australia
- Community Centres SA
- LG Professionals SA Community Managers Network
- LG Youth Services Forum
- Economic Development Australia (SA)
- Mainstreet SA
- Environmental Health Australia (SA) (EHA SA)
- Immunisation Provider Network
- Environmental Sustainability Network
- LG Biodiversity Network
- Landscape Architecture in LG Forum
- LG Professionals SA Human Resources Network
- LGIT SA Inc. (Local Government Information Technology South Australia Incorporated)
- Institute of Public Works Engineering Australasia (SA) (IPWEA SA)
- SA LG Supervisory Officers' Association
- Engineers Australia
- LG Property and Asset Managers Group
- Public Libraries SA
- Stormwater South Australia
- Parks & Leisure Australia (SA & NT)
- Waste Management Association of Australia (SA Branch)
- Australian Institute of Traffic Planning and Management (AITPM)
- Australian Institute of Building Surveyors (SA) (AIBS SA)
- Australian Local Government Mapinfo User Group (ALGMUG)
- Surveying and Spatial Sciences Institute (SA) (SSSI SA LG Commission)
- Urban Development Institute of Australia (SA) (UDIA SA)
- Planning Institute of Australia (SA) (PIA SA)
- LG Authorised Persons Association
- CFS/Local Government Fire Prevention Officers Reference Group



- LG Recreation Forum
- Parks & Leisure Australia (SA & NT)
- Revenue Professionals SA (formerly known as the SA Institute of Rate Administrators, SAIRA)
- SA LG Financial Management Group (FMG)
- CPA Australia (SA)

## 1.5 The LGA Values Proposition

In August 2016 distributed 'The Value Proposition from Membership of the LGA of SA' to all Member Councils.

The report identifies the following three high level roles that state local government associations perform for their member councils:

- **Advocacy:** Influencing state and federal government policy, legislation and funding.
- **Aggregation:** Bringing councils together to pursue worthwhile opportunities.
- **Advancement:** Assisting with the business of council, its operations and efficiency.

The Value Proposition of Membership of the LGA of SA aimed to map identifiable saving or cost offset to councils and non-cash benefits across nine areas of activity namely: insurance, LGFA, procurement, governance, workforce, online services, research and development scheme, advocacy, and support for councillors.

In the report, the value of services provided by the LGA to its member councils was quantified as being worth \$52 million a year. By including grants secured or maintained through LGA and ALGA advocacy during 2016/17 another \$138 million would be to this figure, resulting in a total benefit to councils of around \$190 million.

A full copy of the report, which includes methodology for the value calculations, is available in the LGA website ([www.lga.sa.gov.au](http://www.lga.sa.gov.au)).

The LGA has advised that further work on the value of membership and services review has been undertaken since the report was released and an update is due to be provided to the March LGA Board meeting (scheduled for 16 March 2017).

## 2 Key findings

### 2.1 Benchmarking

#### Victoria

Victoria has two organisations representing local government. The first is the Municipal Association of Victoria (MAV). Formed in 1879, it is the legislated peak body for local government in Victoria. Its role is to advocate local government interests, build the capacity of Victorian councils, initiate policy development and advice, and promote the role of local government. It does this through specialist advice and information, insurance protection including risk, legal and claims advice, governance support, and group procurement.

The Victorian Auditor-General released a damning report in 2015 accusing the MAV of lacking proper accountability and being unable to show it makes a difference. Frankston Council recently suspended its membership amid governance concerns,

and two other Councils (Melbourne and Boroondara) considered withdrawing before warning that significant progress and reforms must be made. 78 of the 79 councils are currently members.

The second organisation is the Victorian Local Governance Association (VLGA). The VLGA is unique in Australia, being a peak body that has local government, community organisations and individuals making up its membership. It was established in 1994 as a community and local government response to forced amalgamations by the Kennett State Government. 43 of the 79 Victorian councils are members.

#### New South Wales

Local Government NSW (LGNSW) is the peak industry association that represents the interests of NSW general purpose councils, 12 special purpose councils and the NSW Aboriginal Land Council.

LGNSW's objective is to strengthen and protect an effective, democratic system of Local Government across NSW by supporting and advocating on behalf of member councils and delivering a range of relevant, quality services.

The association was formed in 1819, and up till 2016 every local council in NSW was a member. Following amalgamations in May 2016, 19 amalgamated councils are now run by administrators to manage the Councils until local elections are held in September 2017. Of these, two councils are considering their future with the association.

#### Queensland

The Local Government Association of Queensland (LGAQ) was formed in 1896 to give local government a united voice. It is the peak body representing local government in its dealings with other governments, unions, business and the community.

Its objectives are to promote the interests, rights and entitlements of Members; improve the efficient performance of local government in Queensland; advise and Council Members in matters of doubt or difficulty; monitor and take action in relation to any legislation affecting Members; and undertake and promote actions which are in the interest of local government in Queensland.

Membership is voluntary. All 77 Councils in QLD are members, although with varying degrees of service. Fees are paid based on population and services.

#### Western Australia

As the peak industry body, Western Australian Local Government Association (WALGA) was formed in 2001 and advocates on behalf of 139 WA Local Governments and negotiates service agreements for the sector. Prior to 2001 a number of membership-based representative structures existed to represent Local Government in WA.

138 of the 139 local councils are members. The City of Nedlands (population 21,000, situated 7 km from Perth CBD) pulled out of the WALGA in 2013 citing council amalgamation concerns.

### **3 Membership options**

The LGA Membership options are detailed further below;

Options

1. Maintain membership
2. Reduced membership to basic option (may not be an option if LGA Board changes its constitution)
3. Resign from LGA (seek fee for services on certain matters) (Board would need to determine what the fee-for-service options would be and may resolve none. This option is unknown and unquantifiable)
4. Resign from LGA and have no association with them moving forward.

### **Option 1: Maintain Membership**

This option would see the City of Marion retaining membership with the LGA. Under this option the City of Marion would still be able to look for cost savings and services improvements regarding particular services provided by the LGA (e.g. website enhancements).

It is recommended that if this option is the preferred option assurances should be sought that the LGA will continue to follow through and implement its committed governance reforms relevant to its organisation.

### **Option 2: Reduced membership to basic option**

An Associate Member under the current LGA Constitution has same rights as ordinary member with the following conditions:

- a. Excluded from nominating for a board member or deputy board member
- b. May attend but not vote at an LGA Annual General Meeting and/or General Meeting
- c. Services used by an associate member may incur liability to pay to the LGA an amount exceeding the amount (if any) charged by the LGA to Ordinary Members for that service as determined by the Board.

Note: We have received verbal advice the LGA will be recommending to the Board to amend the constitution to remove Associate membership – change to constitution will be put to the April 2017 LGA General Meeting

### **Option 3: Resign from LGA (seek fee for services on certain matters)**

In his letter to Council on 11 July 2016, Matt Pinnegar, LGA Chief Executive Officer noted that the services the LGA would be willing to provide to non-members for a fee will be a decision of the Board. The correspondence went on to say however, the recommendation will be to quarantine all services for members and not provide fee-for-service options to non-member councils.

Without further details on the services that may be available and the cost of each unknown, it is not currently possible to properly assess this option.

#### Option 4: Resign from LGA and have no association with them

Section 13 of the LGA Constitution (Operational 6 December 2015) states that:

*A Constituent may resign from the LGA upon giving written notice to the LGA. A resignation may be stated to be effective immediately or at a later date. A resignation takes effect subject to clause 132.2.*

Section 132.2 states that:

*Any person who during a financial year for any reason ceases to be a Constituent remains liable to pay:*

- 132.2.1 the full annual subscription and any annual special purpose levy for that financial year and unpaid by them; and*
- 132.2.2 any service charges payable for a service provided by the LGA to them and unpaid.*

It is assumed if this was the preferred option the resignation would be effective from 30 June 2017. This date aligns with end of the current subscription fee term (which council has already paid). This would give the City of Marion approximately 3 months to source and have in place alternate arrangements wherever possible to minimise the impact on services once the membership ceases.

## Attachment 1

### LGA – Summary of items at Council and Elected Member Forums.

1. **28 April 2015 – motion on notice from Councillor Hull after overpayment issue**

Council Resolved

That Council:

1. Advises the Local Government Association of South Australia (LGA) that the annual membership fee of \$96 000 is excessive, that the City of Marion is only prepared to pay a reduced / revised membership fee for the 2015/2016 financial year. If this revised membership fee is not acceptable to Council, the City of Marion will consider terminating its membership of the LGA.
2. Request a refund for the previous years over payment

2. **11 August 2015 – Motion on Notice from Councillor Hull to discuss payment of the LGA membership fees for 2015/16.**

Council Resolved

That the City of Marion suspends its membership until a report is received from the new CEO of the Local Government Association regarding the value provided by the LGA to member Councils as well as the mathematical formula by which membership fees are calculated.

3. **13 October 2015 – Management Report to Council regarding LGA Membership fees - LGA CEO in attendance**

#### Extract from 13 October 2015 minutes

The Mayor sought leave and the meeting agreed that the key points raised by the Local Government Association CEO, Mr Pinnegar be recorded in the minutes. The following is a summary of the key points raised:

- Since recently joining the Local Government Association (LGA) as CEO, Mr Pinnegar has been reviewing of the organisation as a whole, looking at a structured business case for change and adopting a genuine approach to implement efficiencies and better service / advocacy for members.
- The LGA welcomes the City of Marion's approach and has responded by providing the Council with a refund for miscalculated subscription fees with interest.
- It is currently undertaking a review of subscriptions and looks to have a legitimate discussion with all members of the LGA regarding the services and benefits as members, at the same time, Mr Pinnegar did not want to pre-empt any outcomes regarding the current review of subscriptions nor the LGA

Board's response in implementing various changes or budgetary implications. The timetable for the subscription review was immediate, with the view to the new formula being implemented for the 2016/17 year.

- Wished to reiterate the LGA's focus of 'value proposition' and advocacy across the sector highlighting the importance of various reforms such as procurement and regional approaches.
- Mr Pinnegar noted that he would be available to return to the City of Marion in April 2016 to assist Council in the reassessment of its LGA membership by providing an update on the outcomes of the governance and formula reviews undertaken.

### **Council Resolved**

That Council

1. Notes the correspondence received from the Local Government Association highlighting the governance/structure review and the formula review with any changes intended to apply from 2016/17 financial year.
2. Confirm its membership with the LGA for 2015/16 financial year and pay the current invoice.
3. Re-assess its position in April 2016 with the expectation that the LGA has completed the governance and formula reviews.
4. Authorise the Mayor to have discussions with other councils about setting up an alternative association.

### **4. 12 April 2016 – Management report to Council regarding LGA membership fee for 2016/17**

#### **Extract from 12 April 2016 minutes**

Mr Matt Pinnegar, Chief Executive Officer of the Local Government Association (LGA) provided an update regarding the progress of the LGA.

### **Council Resolved**

That Council

1. Note the progress report from Mr Matt Pinnegar, Chief Executive Officer of the Local Government Association.
  2. Confirm its membership with the Local Government Association.
- 
5. **28 June 2016 – motion without notice – put by Councillor Hull at the meeting. (no council report as motion without notice)**

### **Council resolved**

That:



1. The City of Marion withdraws from membership with the Local Government Association (LGA) for the 2016/17 period.
2. A report be presented to Council in March 2017 as to any progress of negotiating a more acceptable membership fee.

**6. 12 July 2016 - Elected Member Forum to receive legal advice**

No decision making. Copy of report to forum.

**7. 26 July 2015 – Confidential Management report to Council regarding Local Government Association Membership**

Item adjourned to a special meeting of Council.

**8. 1 August 2016 - Special Council Meeting - Local Government Association Membership (Report is confidential but resolution is not)**

**Council resolved:**

That Council:

1. Notes the report and the information contained therein.
2. Pursuant to Regulation 21 of the *Local Government (Procedures at Meeting) Regulations*, revokes the decision from the 28 June 2016 General Council Meeting stating: *"The City of Marion withdraws from membership with the Local Government Association (LGA) for the 2016/17 period. A report be presented to Council in March 2017 as to any progress of negotiating a more acceptable membership fee."*
3. Notes the City of Marion (via the Chief Executive Officer) gave formal notice to the Local Government Association on 29 June 2016 to resign its membership, but that the Local Government Association has disputed that the notice was effective to cause the City of Marion to resign from the Local Government Association.
4. Wishes to revoke its resignation and remain an ordinary member of the Local Government Association for the period of 2016/17.
5. Authorises the Mayor to write to the Local Government Association advising that Council:
  - a. has revoked its previous decision of 28 June 2016 and wishes to revoke its resignation and remain a member of the Local Government Association.
  - b. is seeking assurance that the Local Government Association will accept that the City of Marion remains a member of the Local Government Association and that an application for membership pursuant to clause 12 of the Constitution of the Local Government Association is not required.
  - c. wishes to work with the Local Government Association to seek better outcomes for the City of Marion residents and expects to be notified of changes to the subscription formula based on Council population by March 2017.

- d. is disappointed with the level of membership fee being charged to the City of Marion.
- 6. Requests a further report be presented to Council in March 2017 to determine its Local Government Association Membership for 2017/18 and beyond.
- 7. Authorises the Mayor to write to the Minister of Local Government requesting a review of the role and purpose of the Local Government Association.
- 8. In accordance with s 91(7) and (9) of the *Local Government Act 1999*, orders that this report and Appendix 1 (*Local Government Association Membership GC260716F02*) to this report, having been considered in confidence under s 90(2) and (3)(g) and (h) of the Act, be kept confidential and not made available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2016.

DRAFT



## Attachment 2

### Risk Assessment of Withdrawal of LGA Services

	LGA Service	LGA Considerations	Consequence	Likelihood	Risk Rating	Comments / assessment
1.	Supporting councils to develop public health plans	Via an agreement with SA Health, LGA members are provided with training, resources and support to meet their obligations under the Public Health Act.	Minor (Business Continuity / Organisational)	Likely	Medium	<p>Council will no longer have access to the following:</p> <ul style="list-style-type: none"> <li>• Participation in LGA training forums and workshops through the development of Public Health Plans.</li> <li>• Provision of public health data by Adelaide University and Department of Health - which has been coordinated by LGA</li> <li>• Participation on working groups which are jointly auspiced by the Department of Health and LGA.</li> <li>• Support from a public health officer in LGA who provides support to the sector in relation to policies, strategies, guidelines, programs and planning regarding public health.</li> </ul> <p><b>Estimated annual financial impact:</b>            Training - \$500-\$1,000            Public Health Data updates - \$700            Access to public health advice - \$1,400</p>
2.	Co-ordination of One Card Library Management System	<p>The SIRsi Dynix contract is held by LGCS/LGAP. This is the platform on which the entire one card system operates.</p> <p>The LGA is reviewing the contractual arrangements for access to this system.</p>	Major (Business Continuity / Organisational) (Reputation)	Unlikely	Medium	<p>CoM entered into a service agreement with LGCS in March 2012. This agreement is governed by a 10 year Head Agreement between LGCS and the software provider Sirsi Dynix.</p> <p><b>In the unlikely event that the One Card System contract was terminated the potential impact would be significant and includes:</b></p> <ul style="list-style-type: none"> <li>• Costs of a library management system being provided through a Software as a Service</li> </ul>

						<p>agreement is estimated in the order of \$118,000 per annum</p> <ul style="list-style-type: none"> <li>• Significant changes to library workflows, systems and processes would be required</li> <li>• Major data migration and extraction work would be required</li> <li>• Significant impact to customer service where the number of library items customers have access to will reduce from 3.7 million to 112,000</li> <li>• Longer turnaround time of materials made available to customers. Sourcing items through an antiquated inter library loan system instead of searchable online catalogue.</li> <li>• Access to state-wide procurement and processing of library materials no longer available</li> <li>• An estimated 40% increase in material costs due to loss of state-wide purchasing equating to approximately \$75,000 pa</li> <li>• Staffing efficiencies will be lost in collection management, equating to \$86,000 per annum</li> </ul>
2a	Management and distribution of State Government Public Library funds and services via the Memorandum of Agreement) between the Minister for the Arts and the President of the Local Government Association.		Major (Business Continuity / Organisational) (Reputation)	Unlikely	Medium	<p><b>Legal advice has been sought on this matter and concludes that CoM's departure from the LGA should not directly affect Council's access to services through Public Library Services or to state government funding.</b></p> <p><b>In the unlikely event that Council was unable to access services through Public Library Services the potential impact would be significant and would include:</b></p> <ul style="list-style-type: none"> <li>• Wi-Fi and Internet for the Public would no longer be sourced via Public Library Services, and an additional \$96,000 would be required to provide customers free access to services.</li> </ul>

						<ul style="list-style-type: none"> <li>Currently Marion Library Service via state government funding contributes \$34,000 for access to Online Databases and eBooks. To subscribe independently through individual online providers, the Cost will be an additional \$18,000 pa</li> <li>Community Languages material (Languages other than English) (2700 items at Marion) are selected, catalogued and supplied centrally by PLS. These items would have to be returned as these are the property of PLS. These items would have to be locally purchased and processed which could be up to an additional \$100 per item.</li> <li>CoM currently receiving 50,000 barcodes from PLS at no cost however if grants are no longer available this would result in an additional \$3,000 in costs</li> <li>Currently PLS offers the network Professional Development Opportunities, which is estimated by PLS at \$25,000 per annum</li> <li>Significant changes to library workflows, systems and processes would be required</li> <li>Service levels may reduce through reduced collaboration within the SA Public Library network</li> </ul>
3.	Managing nominations of local government representatives	<p>This process is under review as part of the LGA Governance Review.</p> <p>The LGA may choose not to accept nominations from the CoM for future appointments.</p>	Minor (Reputation and Public Administration)	Likely	Medium	<p>Will limit Elected Member professional development opportunities and involvement in sector wide boards and committees.</p> <p>It is possible that an Elected Member who is an LGA appointed representative to a state government board could be "unappointed" if the LGA progress with this statement. The ultimate decision would rest with the board/committee (particularly if it is operated by the state government).</p>

		The LGA may ask the State Government to un-appoint CoM members of boards/committees.				
4.	Procurement contract savings	<p>The LGA will review current / pending contracts in terms of non-member participation.</p> <p>LGAP (LGA Procurement) model documents will be moved to a secure site for members only and the LGA could invoke copyright on any breaches.</p>	Minor (Financial)	Almost Certain	High	<p>Council contracting is predominantly undertaken in its own right or via Council Solutions (G6) arrangements. We anticipate this would continue.</p> <p>There are 24 LGA Procurement contracts in place that can be accessed by SA Councils. CoM currently access 7 of these contracts, with purchasing for the remaining 17 being conducted via either Council Solutions (G6) arrangements or direct CoM contracts.</p> <p>The seven LGA procurement contracts used by CoM include Electricity (x3), Telecommunications, After Hours Emergency Telephone Response, Microsoft licensing and Dog Registration Disks. CoM has also negotiated directly with Optus re our Telecommunications contract and in so doing has negotiated more favourable rates in regards to calls from/to mobiles within CoM mobile fleet, as well as voicemail deposits and retrievals.</p> <p>Exposure exists in council's ability to participate in future electricity contracts led by LGA procurement (all existing contracts expire in Dec 2017, and there has been significant volatility in electricity pricing in recent months), however options may exist to participate in other joint procurement arrangements (e.g. Procurement Australia, Council Solutions) in the future.</p>
5.	Unity platform and My Local Services Application	<p>Unity is the content management system underpinning the CoM website and associated MyLocalServices app.</p> <p>The LGA is reviewing the contractual arrangements for access to this platform</p>	Minor (Financial) (Business Continuity / Organisational)	Almost Certain	High	<p>It is almost certain that CoM will be excluded from the Unity Content Management System (CMS). The LGA have advised that the LGA Board resolved to support the Secretariat removing services from non-member councils as soon as practicable.</p> <p>Legal advice has been sought that states if CoM leaves the LGA, and Council website is currently hosted and maintained through the LGA, it is inevitable that Council</p>

						<p>will need to enter into new, separate website hosting and maintenance arrangements with another provider.</p> <p>The current annual fee for Unity and its components is approximately \$13 k. The average estimated ongoing costs to replace the platform is approximately \$50,000 per year, plus upfront-costs ranging anywhere from \$10,000 to \$170,000 depending on the type and capability of the new CMS platform and the outcome of a formal tender process.</p>
6.	SA Tenders	The LGA will disable access for non-LGA members to SA Tenders service.	Insignificant (Financial)	Unlikely	Low	<p>Verbal advice from an SA Tenders representative suggests CoM would be able to deal direct with SA Tenders to continue to use this service.</p> <p>While the figures vary, we would average close to 30 online tenders per annum. This is likely to increase slightly with the use of the electronic receipt of tenders now also being used for vehicle/fleet acquisition.</p>
7.	Research and Development Fund	There is no requirement for the LGA Board to offer grants to any external organisation	Minor (Reputation and Public Administration)	Almost Certain	High	<p>In 2015/16 CoM was a party to one Research and Development Grant for Evaluating Urban Trees. This was a joint application by Cities of Charles Sturt, Pt Adelaide, Marion, Campbelltown &amp; Pt Pine Regional Council for \$29,400.</p> <p>In past years Council has also received and been a part of the following grants:</p> <ul style="list-style-type: none"> <li>• Railway Terrace Solar Innovation Fund (Grants of \$22 k and \$11 k)</li> <li>• Cultural Indicators Grant / Pilot project (Grants of \$66 k and \$16.5 k)</li> <li>• Sustainable Management of Community Recreation Facilities (Grants of \$66 k and \$30.8 k)</li> <li>• SA regional level recreation and sport facilities planning framework (\$55 k grant)</li> <li>• Transition to safe and Sustainable Lighting in South Australia (\$27.5 k grant)</li> </ul>

						CoM may no longer be eligible to receive a grant of this nature. A conservative estimate of grant funding that would be lost is \$25k.
8.	Consultation with councils on proposed Government Legislation	The LGA will inform Ministers and agencies that we will not be consulting with CoM. The LGA circular alerts will be moved to a secure website	Moderate (Business Continuity / Organisational) (Reputation)	Possible	Medium	<p>There is a risk that CoM's opportunity to influence legislative change will reduce, particularly in the drafting stages.</p> <p>CoM has previously relied on this service being monitored by the LGA and hence there will be a resource impact with staff needing to monitor requests for feedback from State/Federal Government as a separate task. A recent example includes the LGA coordination of the sector response to State Government Boundary reforms.</p> <p>CoM would not have access to explanation / discussion papers produced by the LGA with the assistance of Legal firms and provided for no additional cost. CoM may need to seek its own legal advice to understand the implication of proposed legislative changes.</p> <p>A recent example includes the Conflict of Interest Guidelines. The cost would be dependent on the level of complexity and degree of assistance required.</p> <p>An estimated conservative cost would be \$20k based on 0.2 FTE plus associated legal advice.</p>
8a.	Circulars	<p>Circulars (or data links contained within) will be moved to a secure site.</p> <p>The LGA will delete all CoM subscriptions to Circulars.</p> <p>The LGA will exercise its copyright</p>	Moderate (Business Continuity / Organisational) (Reputation)	Almost Certain	High	<p>The circulars are provided to CoM on a weekly basis. The types of matters included within circulars include:</p> <ul style="list-style-type: none"> <li>• notification of various grants programs</li> <li>• notification of events (such as Nature Play Festival)</li> <li>• notification of new or changing legislation</li> <li>• information on various local government activities</li> <li>• notification of upcoming award nominations</li> <li>• reminder of legislative due dates and requirements (i.e. Annual Report requirements)</li> </ul>



						<ul style="list-style-type: none"> <li>• nominations and vacancies on board and committees</li> <li>• up-coming training and development</li> <li>• sector report such as the rate capping enquiry.</li> </ul> <p>An additional resource will be required to pick up the work required to monitor this. It cannot be absorbed within the current governance FTE. It is estimated at a 0.2 FTE at an approximate cost of \$20 - \$25 k per annum.</p>
9.	HR/IR Panel advisory service to councils	The LGA may request the provider of services to remove access to all non-members and monitor future access requests.	Insignificant (Business Continuity / Organisational)	Possible	Low	CoM has not accessed this service.
10.	Industrial representation	This relates to the SA Industrial Commission – State Wage Cases and Awards. Non-member councils will need to represent themselves if they wish.	Insignificant (Business Continuity / Organisational)	Possible	Low	CoM has not accessed this service.
11.	Education and training	<p>The LGA runs a wide range of training courses for both council members and LG employees including on-line programs.</p> <p>CoM is due to receive an invoice for online training site license for 2016/17. Access to the online training site</p>	Minor (Business Continuity / Organisational) (Financial)	Almost Certain	High	<p>In 2015/16 a total of 134 staff attended various training through the LGA. This was a total cost of \$11,576 over and above our membership subscription.</p> <p>Some training was provided for free. For example, 65 staff attended Injury Management Training through the LGA at no cost to Council.</p> <p>Often it is either 2 or 3 staff that may require training. If this was to be procured/source from alternative providers, the costs are likely to be more.</p> <p>Efficiencies will be lost in having to source training from other sources and this will have a resource impact.</p>

		license is now being reviewed.				<p>Council may be disadvantage in not being able to access training tailored to SA Local Government.</p> <p>Convenience of online training lost.</p> <p>It is estimated if training provided by the LGA is lost, Council may incur an additional \$25 k pa</p>
12.	Media monitoring and response on issues which affect the local government sector, as well as provision of support for council media, events, communications and online staff	Non-members will be denied access to media monitoring and media co-ordination from the LGA as well as access to the LG Communicators, Events & Online Networks and sector wide campaigns.	Minor (Business Continuity / Organisational) (Financial)	Almost Certain	High	<p><b>Media monitoring</b></p> <p>Nil impact. CoM deals directly with iSentia and undertakes its own monitoring of print, online and broadcast.</p> <p><b>Media coordination</b></p> <p>Minimal impact. CoM occasionally feeds comments into a centrally coordinated media response on a particular issue. The advantage is knowing and hearing what other councils are saying on a particular matter. The changes will mean that CoM will have to respond itself in isolation from the sector.</p> <p><b>Access to LG Communicators, events and online networks</b></p> <p>These supplement the professional training and development of the communications team as well as building relationships with counterparts at other Councils. The Communicators network is free training. Without access, it will mean that alternative training will need to be sought and opportunities to identify best practice local government communications could be lost.</p> <p><b>Sector wide campaigns</b></p> <p>An example of a sector wide campaign that CoM may be excluded from is the Local Government elections. As a large metro Council, CoM directly received free of charge, access to 2014 LG election campaign material. If CoM had to produce that itself, the estimated cost is \$8,160 (provided the design was completed in-house). CoM may benefit from any LGA general advertising in print/radio/TV to promote voting as it would be statewide and not council specific. However, Council may wish to allocate money for print advertising to encourage people</p>



						<p>to vote and to register to vote. A 1/2 page in Messenger is \$2,200 while a 1/4 page is \$1,108. It would be prudent to consider another \$4,500 for advertising.</p> <p><b>Other campaigns</b></p> <p>From time to time, the LGA runs campaign over sector wide issues e.g. rate capping or federal roads funding. We have received shell media releases, fact sheets and social media posts and banners. The cost of reproducing that is staff time, the cost of which depends on the complexity of the issue.</p> <p>Staff will no longer take part in the LGA PR working group.</p>
13.	Developing model policies and templates to assist councils to meet their legislated governance obligations	Policies and templates will be transferred to a secure site with the LGA invoking copyright for any breaches.	Insignificant (Business Continuity / Organisational) (Financial)	Almost Certain	Medium	<p>CoM will need to develop its own templates. In some instances, this will be able to be done within existing resources but when there is significant change to legislation additional resources would be required in order to get an understanding of the requirements and implications of implementation.</p> <p>An estimated conservative cost would be \$40k based on 0.4 FTE plus associated legal advice.</p>
14.	Managing the Local Government Governance Panel to assist councils with code of conduct complaints	The LGA will no longer facilitate any approach by non-members to access the LGGP.	Insignificant (Business Continuity / Organisational)	Almost Certain	Medium	<p>CoM has never accessed the LGA Governance Panel to deal with Code of Conduct complaints.</p>
15.	Local Government Showcase Ordinary General Meeting Annual General Meeting and Conference	Non-Council members will be excluded from attending.	Moderate (Reputation and Public Administration)	Almost Certain	High	<p>Loss of opportunity to have input into sector and liaise with other Councils.</p> <p>AGMs and OGM are opportunities for CoM to express views and request reforms e.g. bikes on footpaths.</p> <p>Staff attend Roads and Works Conferences.</p>

	Roads and Works conference					CoM will be excluded from the Local Government showcase where different Councils promote/showcase their best practice models.
16.	Delegations	These will be placed on secure site with the LGA invoking copyright for any breaches	Minor (Business Continuity / Organisational) (Financial)	Almost Certain	High	<p>The delegations schedule must be reviewed annually under the Local Government Act. Our process currently relies on the template documents (includes all new legislation and legislative amendments) that are provide by the LGA. The LGA procures these on behalf of the sector from a legal firm. Without access to these documents, CoM would be required to prepare our own templates. It is highly recommended that this be outsourced. An informal quote has been requested from a law firm and it is estimated that an annual review would cost between \$6 - \$8 k (depending on the level of work required).</p> <p>It should be noted there will be additional costs for new / significant amendments to Acts. For example, to produce new Local Nuisance &amp; Litter Control Act and Dog and Cat Management Act delegations, informally quoted this at \$5 k.</p> <p>Once off impact: Approximately \$5 k (but if other new legislation is enacted, other once off fees could occur). Annual impact: \$6 - \$8 k.</p>
17.	Special local roads program	Continued access by a non-member council is currently under review.	Insignificant (Financial)	Almost Certain	Medium	<p>The Special Local Roads Program (SLRP) facilitates funding of significant and strategic works throughout the State. Applications are assessed on Influencing Factors (Regional Significance - Economic) and Fit for Purpose (Freight, Tourism and Social). It appears to favour lengths of road in rural areas - undertaking shoulder sealing and / or road reconstructions. In 2015/16 a total of 38 projects received funding. Of these 30 were in rural / rural-type councils (e.g. Adelaide Hills) with 8 in Metro councils.</p> <p>CoM made one funding application in around 2009/10 for the Young Street upgrade, but was not successful. In 2014 CoM considered applying for funding for</p>

						construction of Ragamuffin Drive, however the road did not align with the funding guidelines.
18.	Public Lighting	Non-members would be required to undertake own negotiations with SAPN	Minor (Financial)	Almost Certain	High	<p>While CoM would theoretically lose the sector-wide bargaining position, it has a cooperative relationship with SAPN and is already working with other Councils on the changeover to LED lighting and the associated tariffs.</p> <p>The LGA has been dealing with SAPN maintenance issues and is in negotiations and presenting agreements on behalf of councils to the Australian Energy Regulator. CoM would still receive any resultant benefit as accounts are with SAPN and not the LGA.</p>
19.	Schemes	The impact of non-member council(s) remaining a member of the schemes on other councils is currently being reviewed	Moderate (Business Continuity / Organisational) (Financial)	Possible	Medium	<p>Currently all Councils are eligible to be members under the Scheme rules. In accordance with Schedule 1 of the Local Government Act 1999 the rules of a scheme cannot be altered except after consultation with the Minister.</p> <p>The insurance renewal period commenced in April 2016 and all invoices for 2016/17 have now been received (but not yet paid).</p> <p>The list below provides an overview of the insurances. If CoM was required to tender for these services, it is highly likely that the insurance costs for the organisation would significantly increase if like-for-like cover was obtained. Also an additional 0.5 FTE would be required if Council was to no longer have access to discretionary funds to administer the insurance accordingly.</p> <p><b>Local Government Association Mutual Liability Scheme</b> provides the most extensive civil liability protection in Australia, backed by the Treasurers Indemnity. Council is provided with unlimited protection without exclusions, despite the changing nature and demands on Council risk profiles. As a discretionary scheme, unlike commercial providers, CoM is not required to list all ad-hoc services, activities and events individually which provides peace of mind as a large Council that CoM will receive comprehensive coverage</p>

					<p>with the only exception being if we prejudice our position in relation to a claim.</p> <p><b>Local Government Association Workers Compensation Scheme</b> provides Councils with a self-insurance system and claims management program. The program includes funding for the provision of WHS Programs such as annual systems audits, tailored implementation plans and hazard management programs (such as skin screening and health assessment programs) with the aim to reduce harm to workers and to assist Council meet compliance with its WHS legislation obligations.</p> <p><b>Local Government Association Asset Mutual Fund</b> provides a unique, tailored protection program for Council assets including buildings, site improvements, infrastructure, computers, machinery, motor vehicles in addition to cyber/data security and business interruption protection. It also provides subsidised business continuity programs as well as Council property surveys and thermo-scanning programs designed to reduce the risk profile of Council assets.</p> <p><b>Local Government Income Protection Fund</b> offers discretionary indemnity and claims management services to its members for employees in respect of loss to income resulting from a non-work related injury or illness. The protection and benefits provided to Council employees are beyond other commercial alternatives including 100% actual gross weekly wages and 104-week benefit period with low waiting periods and no age restrictions. This is not a Council expense as it is on-charged to employees who choose to take up coverage. AWU workers access this coverage at a rate of 1.7888% of their annual income and ASU workers access this coverage at a rate of 1.2312% of their annual income.</p> <p><b>Employee Journey Insurance</b> provides Council with Journey insurance, underwritten by QBE, which</p>
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						<p>covers employees from any accident during a private journey. The gross contribution for 2016/17 is \$15,040 and is calculated based on numbers of employees with and without Income Protection insurance.</p> <p><b>Personal Accident Insurance</b> provides Council with Personal Accident insurance, underwritten by QBE, which covers specific people including (but not exhaustive) the Mayor, Elected Members, Committee Members and Volunteers The gross contribution for 2016/17 is \$5,400 and provides benefits including (but not exhaustive) capital, modification, rehabilitation, weekly, temporary partial disablement, injury assistance and non-Medicare out of pocket expenses.</p>
20.	LGFA	<p>LGFA board policy determines special distributions.</p> <p>The LGA Board may consider requesting that LGFA special distributions by non-member councils be reviewed.</p> <p>CoM bonuses for the past 5 years are:</p> <p>2014/15 \$108,783.03</p> <p>2013/14 \$85,917.78</p> <p>2012/13 \$87,219.38</p> <p>2011/12 \$62,800.75</p> <p>2010/11 \$44,712.47</p>	Minor (Financial)	Possible	Medium	<p>The LGFA is a body corporate that was established in January 1984 under the Local Government Finance Authority Act, 1983 and is administered by a Board of Trustees. In accordance with Section 5 of the <i>Local Government Finance Authority Act 1983</i> every council is a member of the Authority.</p> <p>The 2015 LGFA Annual Report disclosed that the annual bonus distributed to SA councils was \$2 million. When the LGFA distributes the annual bonus, allocations to councils are calculated in relation to the average individual deposit and loan levels held with the Authority during the course of the previous financial year.</p>
21.	Impact on Kurna Native Title Claim Negotiations	No comment received from the LGA regarding this service	Minor (Financial)	Possible	Medium	<p>The LGA co-ordinate the approach for the Indigenous Land Use Agreement as the method to resolve the Native Title Claim with Kurna.</p> <p>Council resolved to be a party to the agreement 26 June 2013</p>

			(Business Continuity / Organisational)			<p>The agreement is between Kaurna and individual Councils The LGA are to play a coordinating role when the agreement is executed and will perform the following functions:</p> <ul style="list-style-type: none"> <li>• Establishing a Liaison Committee Secretariat to administer the funding in accordance with the ILUA Liaison Committee's determinations</li> <li>• LGA to manage ILUA funds paid by Councils and acts as a "broker" with no funds will be provided directly to Kaurna.</li> </ul> <p>The agreement to date has not been executed as Kaurna have not signed and are still in negotiations The LGA have in part played a coordinating role in negotiations which are ongoing</p> <p>Benefits/Objective of ILUA: A key objective of the agreement is to mitigate the risk to Councils of failing to meet their legal responsibilities under the Federal Native Title Act and South Australian Heritage Act.</p> <p>Risks if CoM Is not part of the agreement:</p> <ol style="list-style-type: none"> <li>1. there would be a fragmentation of dealings between the Kaurna and Councils in relation to the future act process of the NTA and Aboriginal heritage agreements, with mixed levels of compliance and greater disparity in the quality of the agreements/arrangements and relationships;</li> <li>2. potential increased costs to individual Councils created by having to deal one on one with Kaurna on native title, heritage and planning issues;</li> <li>3. the opportunity to conclude a successful ILUA over a major area of the State would be lost, and all funds expended to date on the project would be wasted. This would represent a severe reduction in the LGA's ability to completely meet the legitimate needs of its membership.</li> </ol>
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						<ol style="list-style-type: none"> <li>4. continuation of the "ad hoc" approach to native title and Aboriginal heritage negotiations;</li> <li>5. individual Councils to continue to be involved as respondent parties to native title litigation;</li> <li>6. a missed opportunity to effectively and positively engage with and understand Indigenous groups.</li> </ol>
22.	Local Government Elections	No comment received from the LGA regarding this service	Minor (Financial) (Business Continuity / Organisational)	Possible	Medium	<p>Under the Local Government Elections Act 'a Council is responsible for the provision of information, education and publicity designed to promote public participation'.</p> <p>In 2014 a funding allocation was made through the Local Government Research &amp; Development scheme to produce campaign material for the Local Govt election. Marion was provided (for no additional cost) with a range of guides, advertising and templates that were consistent across Councils.</p> <p>Resources would be required to develop and implement a promotional campaign if the LGA promotional material is not available.</p> <p>It is estimated that the cost of producing CoM specific materials and promoting the election is conservatively estimated at between \$5k and \$10k (over and above normal costs)</p>
23.	Local Nuisance and Litter Control Act 2016 Implementation	No comment received from the LGA regarding this service	Minor (Financial) (Business Continuity / Organisational)	Possible	Medium	<p>The EPA has appointed a Coordinator – Local Government Services to assist Council's in the implementation of the new legislation. This person has been appointed for at least an 18 month time period and is happy to liaise to Council's direct.</p> <p>A question has been raised about the procedures, forms and guides developed by the EPA to assist Council's in the operation of the Act as these are available via the LGA secure website. Waiting on advice back as to who owns these documents and if they will be available to Marion if they are not a Member of the LGA.</p>

24.	Relationship with other Councils	No comment received from the LGA regarding this service	Minor (Financial) (Business Continuity / Organisational)	Possible	Medium	It is unknown how relationships with other councils may be affected if com was not a member of the LGA.
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Provided below is a high level list of the services provided by the LGA to the City of Marion and the base cost to replace this service like for like (ie no increase in service provision). It is noted that some services may not be replaced and therefore there is no cost.

<b>LGA service</b>	<b>Comment</b>	<b>Service replacement cost (Additional)</b>
General Membership	Base Membership Fees	Nil
Advocacy	LGA Advocacy on behalf of Councils (ie: Rate Capping position)	Unknown
Health Plans	Supporting councils to develop public health plans	\$2,600
Library Services	Co-ordination of One Card Library Management System Management and distribution of State Government Public Library funds and services via the Memorandum of Agreement) between the Minister for the Arts and the President of the Local Government Association.	
Elections	Managing nominations of local government representatives	
Procurement	Procurement contract savings	
Website	Unity platform and My Local Services Application	\$36,900  Plus upfront-costs ranging anywhere from \$10,000 to \$170,000 depending on the type and capability of the new CMS platform and the outcome of a formal tender process.
SA Tenders online service	SA Tenders	
Research and Development Fund	Research and Development Fund	\$25,000
Regulation and Governance	Consultation with councils on proposed Government Legislation Circulars Delegations Developing model policies and templates to assist councils to meet their legislated governance obligations	\$85,000
Media and Comms	Media Monitoring Media Response LG Communicator network Election Campaigns Sector Campaigns	\$5,000
Human Resources Support	HR/IR Panel advisory service to councils Industrial representation	Nil
LGA tailored training	Education and training	\$25,000

LGA Code of Conduct Complaints	Managing the Local Government Governance Panel to assist councils with code of conduct complaints	Nil
Networking	Local Government Showcase, Ordinary General Meeting, Annual General Meeting and Conference, Roads and Works Conference	
LG funding	Special local roads program	
Public Lighting	Public Lighting	
Insurance	Schemes	
Funding	LGFA	
Kaurua Native Title Claim Negotiations	Impact on Kaurua Native Title Claim Negotiations	
Local Government Elections		\$5,000 - \$10,000
Local Nuisance and Litter Control Act 2016 Implementation		
Relationship with other Councils		

# Risk Criteria & Matrix



## Consequence Criteria

	People / WHS	Social/Cultural	Financial*	Environmental	Business Continuity / Organisational	Reputation & Public Administration
<b>Insignificant</b>	Physical or other injury requiring First Aid. No impact on wellbeing*. Minor local workforce disruption. Loss of continuity of staff knowledge.	Resident (household) experiences minor wellbeing* impact, disempowered, inconvenience or disadvantage.  Household impact <\$50.	CoM – Financial impact, loss and/or penalty up to \$10,000.  Project – up to 5% of original project budget.*	Minor adverse environmental impacts that are short term and/or reversible.	Insignificant impact on Council's ability to achieve strategic outcomes. Minor impact on local Business Unit plan.  Project – Nil impact on achievement of key project objectives or project duration extended up to 10% of original project timeframe.	A slight but manageable increase in the number of adverse resident/ stakeholder complaints. No media enquiry.
<b>Minor</b>	Physical or other injury resulting in time lost (1 day) or requiring medical attention. Minor temporary impact on wellbeing*. Local and temporary poor morale. Temporary loss of some staff of an individual Unit's workforce. Loss of staff continuity requiring recruitment.	A group of residents within a suburb or identified cultural or community group experiences ongoing minor wellbeing* impact or are disempowered, inconvenienced or disadvantaged.  Household financial impact <\$200.	CoM – Financial impact, loss and/or penalty between \$10,000 - \$100,000  Project – between 5-10% of original project budget.*	Isolated instances of environmental damage requiring minor effort to reverse / remediate.	Minor impact on a small number of Business Unit plans. Some impact on strategic initiatives but only minor aspects impacted. Overall strategic intent still achievable.  Project – Some impact on isolated key project objectives. Additional minor effort required to ensure all objectives are met. Project duration extended by 10-20% of original project timeframe.	An increase in the number of resident/stakeholder complaints requiring direct effort to resolve / attend to.  Media enquiry, isolated media mention (social or mainstream media).  Elected Member dissatisfied, complaint.
<b>Moderate</b>	Physical or other injury resulting in brief hospitalization / medical treatment (1 day). Significant/medium term wellbeing* impact or a whole CoM worksite affected. Widespread morale issues. Temporary loss of staff across a number of Units. Loss of key staff with specific knowledge and skills. Impact on recruitment capacity as an Employer of Choice.	A number of neighbourhoods (up to 25% of residents) or cultural groups experience wellbeing* impact, are disempowered, inconvenienced or disadvantaged.  Household financial impact <\$1,000.	CoM – Financial impact, loss and/or penalty between \$100,001 - \$1M.  Project – between 10-20% of original project budget.*	Isolated but significant instances of environmental damage / implications requiring concentrated effort to reverse / remediate.	Some key components of the strategic plan could not be achieved as a result of risk event. Additional funding / resources required to rectify.  Project – Impacts numerous key project objectives. Considerable effort required including some change in project scope to achieve required outcomes. Project duration extended by 21-35% of original project timeframe.	Campaign of adverse social media coverage supported by Local mainstream media agency for a period up to 3 days. A high volume of resident / stakeholder complaints. Majority of Elected Members dissatisfied, Council motion affecting CEO/Administration. CoM under severe pressure on numerous fronts. Ombudsman or Office of Public Integrity involvement. Complaint from partner organization resolved within portfolio.
<b>Major</b>	Serious injury requiring hospitalisation (2 days or more or re-admission)/ extensive rehabilitation. Long term wellbeing* impact or more than one CoM worksite affected. Entrenched severe morale problems. Inability to recruit with necessary skills. High employee turnover.	Up to 50% of residents are disadvantaged, inconvenienced, disempowered or may experience wellbeing* harm.  Cultural group or community offended, unable to practice recognised traditions.  Household financial impact <\$10,000.	CoM – Financial impact, loss and/or penalty between \$1M and \$4M.  Project – between 20-35% of original project budget.*	Severe and/or widespread environmental damage and / or loss of environmental aspect. Extensive effort and support required to reverse / remediate. Danger of continuing environmental damage / losses.	Council unable to deliver on numerous key strategic initiatives without additional funding / resources. Major review of strategic plan required.  Project – Significant portion of key project objectives impacted. Major changes to project scope and work necessary to achieve required outcomes. Project duration extended by 36-50% of original project timeframe.	Campaign of adverse social and mainstream media coverage at State and Local level for a period of up to one week. Publicised adverse resident comments and/or complaints. Forced resignation of General Manager/s. Ombudsman or Office of Public Integrity involvement. Relationship with partner organization harmed, requiring CEO involvement.
<b>Severe</b>	Death or critical injury. Wellbeing* of majority of workforce affected. Loss of a majority of the workforce. Inability to replace critical services.	Majority of CoM residents are disadvantaged, inconvenienced, disempowered or may experience wellbeing* harm.  Household financial impact >\$10,000.	CoM – Financial impact, loss and / or penalty in excess of \$4M or higher impact on sustainability.  Project - >35% of original project budget.*	Major widespread loss of environmental aspect and progressive irrecoverable environmental damage.	Majority of initiatives and / or key initiative within the Council's strategic plan unattainable.  Project – Failure of project to meet all required objectives. Project duration extended by >50% of original project timeframe.	National / State campaign of adverse media coverage for a period greater than 1 week. Widely publicized adverse resident / stakeholder comments and / or complaints. Forced resignation of CEO / Mayor. Council stood down. Minister intervention required.

\*Wellbeing – defined here as physical, mental and spiritual health and wellbeing

\* Projects will adopt the higher of the CoM or Project ratings

## Likelihood Criteria

Rating	Likelihood of Occurrence *For Projects – Likelihood of occurrence during the Project period only
<b>Rare</b>	The event will only occur in exceptional circumstances. (Probability close to 0)
<b>Unlikely</b>	The event is unlikely to occur. (Probability 1 - < 25%)
<b>Possible</b>	The event may possibly occur. (Probability 25 - < 50%)
<b>Likely</b>	The event is likely to occur. (Probability 50- <75%)
<b>Almost Certain</b>	The event is occurring now or is almost certain to occur. (Probability >75%)

## Risk Assessment Matrix

LIKELIHOOD RATING	CONSEQUENCE RATING				
	Insignificant	Minor	Moderate	Major	Severe
<b>Almost Certain</b>	MEDIUM	HIGH	HIGH	EXTREME	EXTREME
<b>Likely</b>	LOW	MEDIUM	HIGH	HIGH	EXTREME
<b>Possible</b>	LOW	MEDIUM	MEDIUM	HIGH	HIGH
<b>Unlikely</b>	LOW	LOW	MEDIUM	MEDIUM	HIGH
<b>Rare</b>	LOW	LOW	LOW	MEDIUM	MEDIUM

Risk Tolerance

## Control Effectiveness

<b>Ineffective</b>	Absence of existing controls to address the risk cause/source or to reduce the impact of the risk if it occurred. No reliable controls are in place or available.
<b>Undecided</b>	The controls have been subject to major change or are in the process of being implemented and effectiveness cannot be confirmed.
<b>Requires Improvement</b>	The controls work in most instances with regard to managing the risk, however additional improvements are required to improve the effectiveness. Some controls are not well designed, as they do not treat the risk cause/source or there is too great a reliance on reactive (Detective/Corrective) controls.
<b>Good</b>	The control works well. Some improvement opportunities have been identified but not yet actioned.
<b>Effective</b>	Risk is being managed effectively. The controls are well designed and address the risk cause/source. The controls are regularly monitored and reviewed to verify their effectiveness.

## Risk Evaluation – Required Actions based on Level of Risk Rating

<b>Extreme Risk</b>	Detailed risk treatment plan to be implemented and risk ownership to be assigned to Senior Leadership Team (SLT) member to monitor progress in consultation with the Risk Unit and relevant Senior Leader. Reported to Finance & Audit Committee and Risk Working Group. Control effectiveness to be closely monitored at work area level on an ongoing basis, in consultation with the Risk Unit.
<b>High Risk</b>	Risk treatment to be implemented by risk owner in consultation with Risk Unit. Relevant General Manager to determine appropriate risk owner and report risk to the Risk Working Group. Reported to Finance & Audit Committee. Control effectiveness to be closely monitored at work area level on an ongoing basis.
<b>Medium Risk</b>	Risk treatment to be assigned if controls are not 'Effective'. Risk owner assigned at Unit Manager or Senior Leader level. Risk reviewed quarterly by risk owner and reported to relevant General Manager.
<b>Low Risk</b>	Managed by Unit Manager at work area level via standard operating procedures and reviewed on an annual basis and reported to relevant General Manager.

In reply please quote our reference: ECM 640944 MP:JK

22 July 2016

Mr Tony Lines  
Acting Chief Executive Officer  
City of Marion  
PO Box 21  
OAKLANDS PARK SA 5046

via email: [tony.lines@marion.sa.gov.au](mailto:tony.lines@marion.sa.gov.au)

Dear Tony

Thank you for meeting with Mayor Dave Burgess (LGA President), Chris Russell (Strategic Adviser) and me along with Mayor Hanna today. I committed during the meeting to convey the formal decision of the LGA Board at its meeting yesterday.

The formal resolution of the Board was as follows:

*"that the LGA Board:*

- 1. supports the Secretariat removing services from non-member councils as soon as practicable;*
- 2. endorses the Secretariat, seeking confirmation of the City of Marion's continued authority for the LGA to act on the City of Marion's behalf for the provision of the One Card Library System, the Unity System for the next 12 months, and negotiations with SA Power Networks; and*
- 3. endorses the distribution to all councils a copy of the LGA SA member value calculations as provided at Appendix 1 (ECM 640879) to the report 'LGA Membership – City of Marion Resolution'."*

The Board holds a strong view that the sector is strongest with 100% membership and its objective is to continue to promote and advance the interests of local government. Your re-commitment to the LGA would be greatly valued by the LGA and the sector.

Your Council's resolution seeking to revoke membership of the LGA calls into question the LGA's authority to act as the Council's agent. I seek written confirmation from your Council that the LGA is currently authorised to act as the Council's agent in relation to the One Card Network (library system), the Unity website content management system, and negotiations with SA Power Networks, and in any other identified area.

Should your Council wish to proceed to withdraw from the LGA I would ask you to confirm in writing whether or not you wish the LGA to continue to act as the Council's agent in respect of the arrangements described above. The LGA will consider this request, but reserves its ability to cease acting as an agent of the Council (either in relation to specific arrangements or generally) by providing written notice of this to the Council. The LGA reserves the right to identify and alert you to other areas in which we may be agent on your behalf.

.../2



- 2 -

I appreciate your initial comments on our value document and attach an amended copy for your information. I understand that Council is keen to understand the implications and costs of a withdrawal from the LGA and the range of services we provide in various ways to the City of Marion and I appreciate your commitment to forward this to all council members.

As mentioned in previous correspondence the Board has resolved to adopt a new subscriptions formula for the 2017/18 year. Before application however, the Board has requested further research on the population bands to ensure an appropriate differentiation between councils of varying sizes. This was a direct result of concerns raised by Councils including yours. It will be completed and consulted upon well before the next financial year.

I would be delighted to present to all council members on our value proposition and to answer further questions. I or Mr Russell will separately respond to your specific questions regarding the road funding and Special Local Roads Program arrangements and with a full list of LGAP contracts noting those which the City of Marion currently uses.

If you have any further questions do not hesitate to contact the LGA.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matt Pinnegar', with a stylized flourish at the end.

**Matt Pinnegar**  
**Chief Executive Officer**

*Telephone: 8224 2022*

*Email: [matt.pinnegar@lga.sa.gov.au](mailto:matt.pinnegar@lga.sa.gov.au)*

Attach: The value proposition from membership of the LGA of SA

Our Ref: PP:M161781

25 July 2016

Ms Kate McKenzie  
 Manager Corporate Governance  
 City of Marion  
 PO Box 21  
 OAKLANDS PARK SA 5047

Dear Kate

## LGA ISSUES – THE “ONE CARD” LIBRARY NETWORK

### Background

I refer to your e-mails of 21 and 23 July 2016 and the documents attached to those e-mails. You have asked me to provide preliminary advice in relation to several issues relating to Council's potential withdrawal from the Local Government Association (“LGA”).

You have provided me with the following:

1. the *Libraries Act 1982* (SA) (“the Act”);
2. an undated, unsigned copy of a Memorandum of Agreement between the Minister Assisting the Premier in the Arts and the President of the LGA (“the MOA”);
3. a copy of the South Australian One Library Management System Service Agreement between LGCS Pty Ltd and The Corporation of the City of Marion, executed on behalf of Council on 16 March 2012 and on behalf of LGCS Pty Ltd on 16 April 2012 (“the Service Agreement”);
4. an undated, unsigned copy of a Software Licence, Support and Hosting Services Agreement between SirsiDynix Pty Ltd and LGCS Pty Ltd (“the Head Agreement”); and
5. a copy of a letter dated 22 July 2016 from the CEO of the LGA to the Acting CEO of Council (“the LGA Letter”).

I will assume that the MOA and the Head Agreement were executed by the parties in the form of the documents I have received and that they are currently in operation.

### The Act

I note that the objectives of the Act, as set out in Section 7 (1), include:

- “(a) to achieve and maintain a co-ordinated system of libraries and library services that adequately meets the needs of the whole community;” and
- “(b) to promote and facilitate the establishment and maintenance of libraries and library services by councils and other appropriate bodies”.

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The Libraries Board of South Australia ("the Board") is established under the Act and is to comprise not more than 8 members, 3 of whom are to be nominated by the LGA.

Under Section 14 of the Act, the functions of the Board include:

- "(d) to establish and maintain such other public libraries [other than the State Library] and public library services as may best conduce to the public interest; and
- (e) to promote, encourage and assist in the establishment, operation and expansion of public libraries and public library services by councils and others".

Under Section 21 (1) of the Act:

"the Minister may, on the recommendation of the Board, pay such subsidies, or grant such other assistance, as the Minister thinks fit for the establishment, maintenance, and extension of public libraries, public library services and community information services"

### **The MOA**

Against the legislative background set out in the Act, the Minister entered into the MOA with the President of the LGA.

Whilst Clause 1 of the MOA states that the Agreement "is not intended to create legally binding relations between the parties or between the State Government and local Councils", it also states that the MOA "sets out a framework for the allocation of State Government funding to support the [public library] network and public libraries, complementing the funding allocated by individual Councils to public library services".

Under Clause 3.2, one of the intended outcomes of the MOA is expressed to be:

"access to public library services across Council boundaries".

Under Clause 4.2:

"The total amount of the funds provided under this Agreement will be provided to the Libraries Board for allocation to PLS [Public Library Services] and public libraries consistent with this Agreement and the *Libraries Act 1982*. The Board will ensure the efficient and effective use of the funds."

The MOA specifically requires consultation and liaison with the LGA in relation to matters relating to public libraries. Under Clause 4.7:

"The Local Government Association will apply its best endeavours to ensure all local councils participate in the achievement of the outcomes outlined in this Agreement ..."

### **The Service Agreement**

The Service Agreement was entered into by Council with LGCS Pty Ltd ("LGCS") as representative of the LGA. The purpose of the Service Agreement was to give Council access to an integrated library management system ("the System") supplied by SirsiDynix Pty Ltd ("the Supplier") as part of a project for implementing the system for use by libraries and councils throughout the state.

Under the Service Agreement, Council appointed LGCS as its agent to enter into an agreement with the Supplier to purchase the System and associated software and to manage the ongoing relationship between councils and the Supplier.

Importantly, under Clause 3.2 of the Service Agreement, Council agreed not to enter into any agreements directly with the Supplier in relation to purchase or management of the System during the "Term" of the Service Agreement, "unless directed otherwise by LGCS".



Under Clause 4.1 of the Service Agreement, Council agreed to “make every effort” to facilitate use of the System to enable library customers to use a single library patron card to access services of other participating libraries and councils.

Under Clause 2, the “Term” of the Service Agreement is to continue until terminated in accordance with the Agreement. Under Clause 10.1.1, Council can terminate the Service Agreement “by giving at least six months written notice prior to the anniversary of the commencement date of the Head Agreement”.

There are two particular difficulties in relation to this right to terminate the Service Agreement, namely:

1. the uncertainty as to what is the “commencement date” of the Head Agreement (although it may be possible to ascertain that date); and
2. the uncertainty as to the meaning of the words “prior to the anniversary” of that date. Does it mean prior to the **first** anniversary, or prior to **any** anniversary of that date?

LGCS has no equivalent right to terminate the Service Agreement “without cause”. Any termination of the Service Agreement by LGCS would have to be based upon an “Event of Default” on the part of Council. The expression “Event of Default” is defined in Clause 1.1.

### **The Head Agreement**

The Head Agreement deals with the supply of the One Library Management System by the Supplier to LGCS, on behalf of the LGA. The main points to note about the Head Agreement are:

1. Council is not a party to the Head Agreement and has no direct contractual relationship with the Supplier. Council’s dealings with the Supplier are through LGCS under the Service Agreement.
2. There is some uncertainty regarding the commencement date of the Head Agreement (as mentioned above).

### **The LGA Letter**

The LGA Letter informs Council of the terms of a formal resolution of the Board of the LGA on 21 July 2016. The meaning of that resolution is not entirely clear. At the outset, the Board:

“supports the Secretariat removing services from non-member councils as soon as practicable”.

However, in addition, the Board:

“endorses the Secretariat, seeking confirmation of the City of Marion’s continued authority for the LGA to act on the City of Marion’s behalf for the provision of the One Card Library System, the Unity System for the next 12 months, and negotiations with SA Power Networks ...”

Aspects of the resolution that are unclear include the following:

1. It appears that the fundamental principle of the resolution is that LGA services should be removed from non-member councils as soon as possible. Why, then, does the LGA seek Council’s authority to continue to act on Council’s behalf? Is that authority to continue if Council becomes a “non-member”?
2. The inclusion in the resolution of the words “for the next 12 months” is ambiguous in the following ways:
  - a) Does that period of 12 months continue to apply if Council ceases to be a member of the LGA?



- b) Does the period of 12 months relate only to the Unity System and not to the One Card Library System or to the negotiations with SA Power Networks?
- c) How is the reference to a period of 12 months to be reconciled with the passage later in the LGA Letter in which the LGA “reserves its ability to cease acting as an agent of the Council (either in relation to specific arrangements or generally)” should Council proceed to withdraw from the LGA?

#### **Preliminary Advice**

1. Council ceasing to be a member of the LGA would not, of itself, terminate the Service Agreement with LGCS. Council may have the right to terminate that agreement “without cause” by giving written notice to LGCS. It is, however, arguable that Council’s right to terminate “without cause” was only available during the first 6 months after the commencement of the Head Agreement and has now expired. LGCS has no equivalent right to terminate “without cause”.
2. Departure from the LGA should not directly affect Council’s access to services though Public Library Services or to state government funding. Despite that, the LGA is in a strong position of control by virtue of its representation on the Libraries Board and its MOA with the Minister. Council could, therefore, be disadvantaged if it is excluded from submissions made by the LGA on behalf of council libraries.
3. The Libraries Board and Public Library Services would still have an obligation under the Act to deliver services and funding to Council despite Council’s departure from the LGA. However, as indicated above, Council’s position may be weakened by lack of representation through the LGA and Council may need to take steps to formulate its own independent submissions for funding and services.
4. Clarification is required in relation to the LGA Letter, particularly as to the following:
  - a) Why is the LGA requesting authority to act on Council’s behalf in relation to the One Card Library System when Council’s Service Agreement is with LGCS, not the LGA, and Council may choose not to terminate the Service Agreement (or may be unable to do so) even if Council leaves the LGA?
  - b) Is the LGA proposing to act as Council’s “agent” in relation to the One Card Library System:
    - i. only until Council’s exit from the LGA takes effect?; or
    - ii. for a fixed period of 12 months?; or
    - iii. until the LGA decides to cease acting as Council’s agent?
5. Termination of the Service Agreement, whether by Council or by LGCS, would appear to disadvantage residents of the City of Marion by excluding them from the benefits of the state-wide One Card Library System, unless Council was able to negotiate a separate agreement directly with the Supplier, SirsiDynix Pty Ltd.

Please do not hesitate to contact me if you have any further questions at this stage.



25 July 2016

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Yours faithfully  
MELLOR OLSSON



PHILIP H PAGE  
Partner

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