LGA Submission to the Australian Energy Regulator's Preliminary Determination 2015-2020: SA Power Networks Regulatory Price Reset Process

July 2015

Local Government Association of SA (LGA)

The LGA is a membership organisation for all Councils in South Australia, representing over 1.6 million community residents, and is the voice of Local Government in this State. The LGA is created by Councils and endorsed by the South Australian Parliament, through the South Australian *Local Government Act 1999*, and is recognised in 29 other South Australian Acts.

All 68 Councils in the state (19 metropolitan and 49 rural or regional) are members of the Association, as is Anangu Pitjantjatjara Yankunytjatjara. A large land area of the State is not incorporated under the Local Government Act but for the purposes of the Commonwealth Local Government (Financial Assistance) Act comprises five Aboriginal communities and the Outback Communities Authority.

The *Constitution Act 1934* (SA), *the Local Government Act 1999* (SA), and the *Local Government (Elections) Act 1999* (SA) and the *City of Adelaide Act 1997* (SA), create the primary legal framework within which Local Government operates and the four-yearly election process which underpins the representative nature of Councils in this State.

The Local Government system in SA is integral to the democratic system of government in Australia which provides vital economic, social and environmental support for communities. SA Councils manage about $21 billion of infrastructure and operating expenditures of about $1.7 billion a year.

The greatest strength of Local Government is its closeness to communities and its ability to identify community needs and find appropriate local solutions. Elected Members and Council staff, who often live in the communities they serve, make decisions from a local perspective and they are often the closest point of contact between people and any sphere of government. It is through this ongoing connection that Councils are inherently aware of the community concern surrounding vegetation management around powerlines by SA Power Networks and the need to improve these outcomes.

The LGA welcomes the opportunity to provide comment to the Australian Energy Regulator (AER) on their preliminary determination on the price reset for SA Power Networks.

Australian Energy Regulator Preliminary Determination

Under the *Electricity Act 1996 and the Electricity (Principles of Vegetation Clearance) Regulations 2010*, SA Power Networks has a statutory requirement to undertake clearance of vegetation surrounding powerlines. While the importance of tree pruning around powerlines is acknowledged, the visual outcome and structural stability of trees following pruning has raised some concern amongst Councils and the constituents they represent.

Any amendments made to the current vegetation management practices will require appropriate funding. Currently the program is funded by the Australian Energy Regulator (AER) through the five yearly Regulatory Price Reset process. As part of 2015-2020 Regulatory Reset, SA Power Networks developed a discussion paper in consultation with Councils, arborists, electricity consumers and the working group outlining the proposed long-term vegetation management directions for the next 10-15 years. The overall aim being development of a long-term plan for vegetation management that creates a sustainable environment and reduces the need for tree trimming over time.

SA Power Networks submitted its regulatory proposal for 2015-20 to the AER on 30 October 2014 which amongst other matters included request for funding of a long-term plan for

vegetation management. The LGA indicated its support for the vegetation management aspect of the regulatory proposal to the AER.

In May 2015, the Australian Energy Regulator released their Preliminary Determination in relation to SA Power Networks. This Preliminary Determination stated the following in relation to vegetation management:

> *Several of these programs are aimed at addressing community concerns about the amenity of SA Power Networks' tree trimming practices. We determine the required funding for SA Power Networks to achieve its regulatory obligations. Where there are no regulatory obligations, we determine funding that that would maintain the reliability, safety and quality of supply. Improved amenity is not an objective we are directed to consider when determining SA Power Networks' funding requirements.*

> *The amenity of SA Power Networks' tree trimming practices is a broader policy issue that goes beyond our remit. If legislation no longer reflects community expectations in respect to amenity then we would consider that this is for relevant policy makers to consider. In our role we do not consider we should determine what these changes should be.*

The AER also noted:

> *On balance, we see SA Power Networks' consumer engagement as a work in progress. While we have taken into account the consumer engagement results reported by SA Power Networks, we have given these less weight than if the consumer engagement approach had been broadly supported in submissions to SA Power Network's regulatory proposal. We expect SA Power Networks will evolve its consumer engagement methods over time.*

The LGA contends that an extensive consumer engagement has been undertaken with Local Government, as the major customer most impacted by tree management service outcomes.

It is also the LGA's view this determination fails to recognise that community expectations do not work within the confines of legislation and result in direct cost implications on both Councils and SA Power Networks. These costs include:

- handling constituent/consumer complaints;
- legal fees; and
- Council employees overseeing street tree maintenance programs.

The overall aim of SA Power Networks' proposal is to develop a long-term plan for vegetation management that creates a sustainable environment and reduces the need for management over time. This objective and process to achieve it has been developed and supported through extensive consultation with Councils.

The AER also noted that there are other sources of funding than regulated electricity revenues and Councils can potentially fund changes through Vegetation Clearance Agreements. Local Government have limited resources and manage a significant number of street trees and Council reserves. Councils have undertaken several trials with SA Power Networks as a partnership to deliver better outcomes for the community. It is inappropriate for the AER to expect that Councils be solely responsible financially for improved vegetation management.

The LGA and its membership strongly support the allocation of appropriate funding to improve vegetation management outcomes around SA Power Networks powerlines and are disappointed with the AER's Preliminary Determination to not provide this funding. The following submission highlights the collaborative work which has been undertaken between the LGA, Councils and SA Power Networks with the shared view that appropriate funding is required to improve vegetation management outcomes in South Australia.

Consultation Process

Background

Councils throughout South Australia have expressed ongoing concern regarding vegetation management by SA Power Networks. This concern was once again raised at the 7 November 2012 Metropolitan Local Government Group (MLGG) meeting by the City of Norwood, Payneham and St Peters. The MLGG subsequently resolved the following:

> *The MLGG requests the LGA as a matter of urgency, to prepare a strategy for approaching the Premier of South Australia and the relevant Minister, with a view to ensuring that the State Government has both a clear understanding and appreciation of the issues and concerns associated with the pruning methods used by SA Power Networks and the need for urgent legislation required to address these concerns.*

In addressing objectives of the resolution and to gain an understanding of some of the issues experienced by Councils, the LGA sought feedback from all Councils via a short questionnaire.

The responses provided consistent views on issues experienced with Councils indicating that they were dissatisfied with the quality of pruning being undertaken. Issues experienced include:

- concerns with the quality of pruning undertaken;
- that trees had become structurally unsound, pruning wounds have caused branch failures, extensive epicormic growth, severe damage to limbs and in extreme cases, loss of the tree; and
- concern regarding the aesthetic appearance of the tree with trees being left untidy, having little to no shape.

As part of the questionnaire Councils were also asked to provide details on what outcomes they would like to see in this process. The outcomes sought by Councils included the requirement for:

- improvement of the vegetation management quality undertaken by contractors;
- improved coordination with SA Power Networks to achieve greater mutual goals;
- pruning to be undertaken to Australian Standards;
- qualified arborists undertaking proper pruning methods;
- consideration to be given to the health and visual amenity of the trees such as through shaping and directional pruning;
- development of guidelines as to how pruning will be undertaken; and
- consideration given to the species of tree prior to cutting.

LGA Working Group

As a result of this feedback a working group consisting of the LGA, SA Power Networks and five representative Councils (metropolitan and regional) – City of Norwood, Payneham and

St Peters, City of West Torrens, City of Burnside, Rural City of Murray Bridge and Clare and Gilbert Valleys Council – a was established in November 2013 to develop a strategy for vegetation management around powerlines which best addresses community and aesthetic expectations of Councils, while allowing SA Power Networks to meet its legislative and liability obligations and at a cost customers consider acceptable.

Since its inception the group has implemented a number of key projects or initiatives. Additionally, the program of the working group included the development of a protocol for vegetation management near powerlines. However, it is clear that without specific funding for the vegetation management initiatives it will be difficult to achieve improved outcomes regarding visual outcomes, tree health and quality of pruning. As a result, the LGA and Councils have been actively involved in the Regulatory Price Reset process with SA Power Networks in relation to their proposed vegetation management program.

It is also important to note that both SA Power Networks and the LGA are working to lobby the Office of the Technical Regulator to amend explore opportunities for appropriate changes to the legislation and other formal regimes to better balance risk and aesthetic considerations and to develop strategies to seek stakeholder endorsement of those changes. Additionally, through this work we are also examining an amendment to the bushfire area boundaries in the Regulations to review the existing classifications and expand the risk-based approach to non-bushfire risk areas and rural townships.

Arborist Reference Group

An independent Arborist Reference Group was established by SA Power Networks in February 2014. The group was developed to:

- To provide expert advice as required on the development of a long-term vegetation management strategy.
- To provide expert arboriculture and horticultural input into initiatives to improve vegetation management near powerlines.
- To discuss current issues associated with vegetation management and opportunities for partnerships in programs or initiatives.

The group meet bi-monthly to progress strategic initiatives and has representatives from the Botanic Gardens of SA, TreeNet, Trees for Life, Arboriculture Australia, SA Society of Arboriculture, Local Government, SA Tree Advisory Board, and specialist community and industry representatives.

Again this group has played a key role in developing and implementing strategic initiatives and provides significant horticultural and arboricultural expertise to managing vegetation near powerlines.

Targeted Strategic Workshops

As part of the preparation of its Revenue submission, SA Power Networks ran a series of stakeholder and industry workshops in April 2013 to understand the views of electricity customers and a targeted workshop for vegetation management was held in October 2013 to discuss specific issues and opportunities for vegetation management.

The LGA participated in this consultation and the development of specific initiatives and opportunities for vegetation management. The outcomes and findings from this consultation was fundamental to the development of the discussion paper and draft protocol for vegetation management near powerlines and reflects the views of customers, Local Government, business and industry that participated in these discussions.

Discussion Paper

SA Power Networks in consultation with the LGA and key stakeholders prepared a discussion paper outlining its proposed long-term vegetation management directions over the next 10-15 years. The '*Directions for Vegetation Management - SA Power Networks long-term plan for managing trees near powerlines*' discussion paper outlines a range of initiatives and strategies to manage trees and vegetation near powerlines which recognise the value and amenity of trees, whilst managing risk. This includes tree removal, more frequent tree trimming and improved pruning techniques.

Council feedback on the draft discussion paper was sought from 26 March until 7 May 2014, via three LGA Circulars and targeted emails. Written submissions were received from thirteen Councils including four regional and nine metropolitan Councils.

Following Council feedback and consideration on the draft discussion paper, the LGA Board endorsed the strategy as a local government endorsed strategy going forward and to support SA Power Networks to seek funding through the AER Regulatory Reset process.

Local Government Forum

The LGA and SA Power Networks have run two Local Government forums as an opportunity to engage with Local Government on vegetation management.

The first forum was held in December 2013 to bring Councils together to discuss issues associated with vegetation management and explore opportunities for partnerships in programs or initiatives.

Twenty-five Council officers from 16 Councils attended (see appendix 1 for list of Council attendees). Feedback highlighted that the majority of participants felt the forum was of benefit and supported the Local Government Forum being held on an annual basis.

As a result, the second forum was held in September 2014 and 40 Council officers from 25 Councils (see appendix 2 for list of Council attendees) across the state attended and provided valuable local/ regional input into the discussion. The focus of this forum was the proposed tree removal and replacement program and the proposed protocol for vegetation management near powerlines. Again feedback highlighted the value in running this event on an annual basis.

It is proposed to continue to hold the forum on an annual basis, with the next forum to be held in late 2015 or early 2016.

Draft protocol for vegetation management near powerlines

SA Power Networks worked with the LGA on the development of a protocol for vegetation management near powerlines. The protocol outlines the current and proposed approach for vegetation management that applies to the bushfire and non-bushfire risk areas.

The LGA and SA Power Networks sought feedback from Local Government and key stakeholders via the following:

- LGA Working Group and Arborist Reference Group review and endorsement of draft protocol.
- Eleven week consultation period from 12 January to 27 March.
- Circulation to all Councils via LGA Circulars.
- Seven Information and Feedback sessions held across the state.
- Draft protocol available on LGA and Talking Power websites.

Fifty-eight Council officers and Elected Members from 35 Councils (see appendix 3 for list of Council attendees) attended one of the information and feedback sessions. In addition, representatives from both the LGA and SA Power Networks attended these sessions. There was overwhelming support for consultation with Local Government and the desire to shift to a vegetation management strategy that recognises regional differences.

Four submissions were received from Councils – City of Charles Sturt, City of Mitcham, District Council of Mount Barker and Wudinna District Council. During the sessions a number of Councils commented that they felt they had the opportunity to make comments, supported the approach being taken and did not feel the need to formally lodge a submission.

The draft protocol was presented to the Local Government Association Ordinary General Meeting of Councils for consideration on 1 May 2015. At this meeting, 65 of the 68 Councils in the state supported the protocol and the approach being taken by the LGA and SA Power Networks.

Conclusions

The concerns of Councils, and the communities they represent, in relation to vegetation management around powerlines has been a long standing and costly issue for both Councils and SA Power Networks. Vegetation management practices in the past have resulted in conflict and in some instances legal action, costing both Councils and SA Power Networks.

However, the development of a protocol has been undertaken through extensive, thought out and collaborative consultation between SA Power Networks and Local Government across South Australia. The appropriate funding for these programs is crucial to improving vegetation management and to enable positive outcomes for all stakeholders.

The LGA strongly encourages the AER to reconsider their position on funding this vital part of SA Power Networks submission. This will allow the LGA and SA Power Networks to continue to work with Local Government and the community to deliver improved vegetation management outcomes and address the issues raised during consultation over the last 2 years.

Appendix 1 – Local Government Forum Attendees December 2013

At this Forum there were 25 Council officers, representing 16 Councils, in attendance.

- Central Region of Councils – Executive Officer
- City of Burnside – Technical Officer Arboriculture
- City of Unley - Technical Officer Arboriculture
- City of Unley – Sustainable Landscape Specialist
- Clare & Gilbert Valleys Council – Manager Development, Infrastructure & Environment
- City of Norwood, Payneham & St Peters – Coordinator, Horticultural & Arboricultural Services
- City of Onkaparinga – Senior Urban Forest Officer
- City of Onkaparinga – Team Leader Parks & Natural Resources
- City of Onkaparinga – City Arborist
- City of Tea Tree Gully – Supervisor Arboriculture & Biodiversity
- City of Tee Tree Gully
- City of West Torrens – Technical Officer Amenity
- Rural City of Murray Bridge
- Goyder Regional Council – CEO
- City of Campbelltown
- Mount Barker District Council
- Mount Barker District Council
- Adelaide Hills Council - Natural Resources Officer
- Adelaide Hills Council
- City of Charles Sturt – Strategic Planner
- City of Charles Sturt – Technical Officer – Arboriculture
- City of Playford – Tree Coordinator
- City of Playford
- City of Mitcham - Arboricultural Officer
- City of Mitcham - Arboricultural Officer

Appendix 2 – Local Government Forum Attendees September 2014

At this Forum there were 40 Council officers, representing 25 Councils, in attendance.

- City of Campbelltown – Manager Street Trees
- City of Campbelltwon – City Scape Coordinator
- City of Campbelltown
- City of Mitcham - Arboricultural Officer – Natural Environments
- City of Mitcham
- City of Tea Tree Gully – Supervisor Arboriculture & Biodiversity
- City of Tea Tree Gully – City Arborist
- City of Charles Sturt – Strategic Planner
- City of Charles Sturt – Technical Officer – Arboriculture
- City of Charles Sturt – Arboriculture
- City of West Torrens – Technical Officer Arboriculture
- City of West Torrens – Manager City Works
- City of Playford – Biodiversity Officer
- City of Playford – Quality Coordinator
- City of Burnside – Technical Officer Arboriculture
- City of Salisbury
- City of Unley - Technical Officer Arboriculture
- City of Unley – Sustainable Landscape Specialist
- Rural City of Murray Bridge – Senior Environment Officer
- City of Port Adelaide Enfield – Field Team Coordinator (Tree Maintenance)
- City of Marion – Coordinator Arboriculture
- Adelaide Hills Council - Natural Resources Officer
- Adelaide Hills Council
- Mount Barker District Council – Urban Forest Officer
- City of Onkaparinga – Senior Urban Forest Officer
- City of Onkaparinga – Team Leader Parks & Natural Resources
- City of Onkaparinga – City Arborist
- Clare & Gilbert Valleys Council – Manager Development, Infrastructure & Environment
- Barossa Council
- Barossa Council
- City of Port Augusta – Parks Manager
- City of Port Augusta – Parks Supervisor
- City of Port Augusta
- City of Port Augusta
- District Council of Cleve – Works Manager
- District Council of Ceduna – Manager Technical Services & Works
- Wakefield Regional Council – Infrastructure Services Manager
- South East LGA – Executive Officer
- District Council of Robe – CEO
- Southern Hills and Fleurieu LGA – Executive Officer
- Alexandrina Council – Environmental Project Officer

Appendix 3 – Protocol and Information Feedback Session Attendees

Date and location of session	Attendees
Wednesday 11 February 2015 South East Region Room, LGA House, Adelaide	• City of Port Adelaide-Enfield (x2) • Adelaide City Council (x2) • Barossa Council • Light Regional Council • City of West Torrens • City of Onkaparinga (x2) • City of Tea Tree Gully (x2) • City of Mitcham
Thursday 12 February 2015 Clare Town Hall Function Room, Clare	• Wakefield Regional Council • District Council of Mallala • District Council of Goyder (x2) • Port Augusta City Council (x2) • Whyalla City Council (x2)
Wednesday 18 February 2015 Council offices, District Council of Karoonda East Murray, Karoonda	• District Council of Karoonda East Murray • Rural City of Murray Bridge (x2) • Mid Murray Council • Berri Barmera Council • Renmark Paringa Council • Loxton Council
Thursday 19 February 2015 Council offices, District Council of Yankalilla	• City of Marion • Alexandrina Council • Mount Barker Council • District Council of Yankalilla • City of Victor Harbor (x3)
Wednesday 25 February 2015 Library, Community Centre, Elliston	• District Council of Ceduna • Cleve District Council • Eyre Peninsula LGA • District Council of Elliston • City of Port Lincoln • District Council of Franklin Harbour • LGA Mutual Liability & Workers Compensation Scheme
Thursday 26 February 2015 Council offices, Port Pirie Council	• Flinders Ranges Council • District Council of Peterborough • Port Pirie Regional Council (x2) • District Council of Barunga West • Port Pirie Regional Council • District Council of Copper Coast • Yorke Peninsula Council • Clare and Gilbert Valleys Council • Provincial Cities Assocciation • Port Pirie Regional Council
Thursday 5 March 2015 Naracoorte Town Hall, Naracoorte	• South East LGA • Tatiara District Council (x2) • District Council of Grant • Naracoorte Lucindale Council