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KPMG have indicated within this report the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted within the report.

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The findings in this report have been formed on the above basis.

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1 Executive summary

The Local Government Grants Commission (the Commission) is responsible for the distribution of Commonwealth Financial Assistance Grants (FAGs) to local governing authorities in South Australia. The Commission has developed a methodology for the distribution of grants in accordance with a set of National Principles as outlined in the *Local Government (Financial Assistance) Act 1995 (Cth)*.

The approach followed by the Commission for the distribution of FAGs to the Outback Communities Authority (OCA) and five Aboriginal Communities is different to the general approach followed for distribution to other councils. This is essentially due to a lack of comparable and reliable data required for the general approach. This report specifically deals with the distribution of grants to these two groups in the context of the overall approach. A separate report is being prepared on the Commission's overall approach to the distribution of FAGs.

South Australia has an indigenous population of approximately 30,400 with that population concentrated in a relatively small number of councils and areas which are administered by the OCA and the five Indigenous Communities. The Indigenous Communities are:

- Anangu Pitjantjatjara;
- Gerard Community Council Inc;
- Maralinga Tjarutja Inc;
- Nipapanha Community Council Inc; and
- Yalata Community Council Inc.

The method for allocation of grants to the five indigenous communities presents challenges given the limited availability of reliable data to estimate the number of residents supported by indigenous corporations or the like, the level of service provision in individual communities not being well understood and the fact that alternative revenue sources are generally not considered in the allocation process.

The Indigenous communities have indicated that they have limited understanding of the formula which is used as the basis for calculating the grant allocation, and that the transient population is not adequately considered in the allocation process. In addition, there is often inadequate consideration of the increase in cost of provision of services in indigenous communities and the growing expectations of the community for services to be in line with those delivered by similar size metropolitan councils.

This report explores in detail some of the key challenges that have been identified as a result of consultation and document analysis. The report seeks to provide the Commission and Government with some key focus areas which need to be addressed before further consideration can be given to changing the existing allocation formula.

While the ultimate long term objective of the Commission should be to seek to have the OCA and the five Aboriginal communities covered within the overall methodology the conclusion of this report is that based on the information currently available there is no reasonable basis upon which the Commission could move away from the current allocation methodology and in the absence of any further or more detailed information it would therefore be recommended to continue with the current practice in the short term. Many of the obstacles that currently prohibit these groups from being under the general methodological approach are outside the general remit of the Commission. As such the Commission is reliant on others if it were to transition to any other arrangement. In respect to the OCA developments; the raising of voluntary levy funds and expectations of service standards will be key determinants in any longer term movement to alternate arrangements.

At a high-level some of the key areas which KPMG has identified as requiring the attention of the Commission and/or the Government (State and Federal) in the near future include:

- Confirming the status of FaHCSIA's¹ funding of municipal services in Aboriginal communities and the relationship that this has to the funding provided by the Commission;
- Working with both State and Federal Government agencies to establish a clear understanding of the level of grant funding communities currently receive, for whom it is received and for what purposes;
- Developing a detailed understanding of the nature and standard of municipal services delivered to indigenous communities; and
- Maintaining a close watch on developments in respect of the OCA raising levy funds and confirming the role of the OCA as a provider of municipal services.

¹ Australian Government - Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

2 Project approach

This section of the report outlines the objectives, scope and methodology of the project with specific reference to item 6 in the Terms of Reference relating to the review of the SA Local Government Grants Commission allocation methodology (see below).

2.1 Scope, Objective and purpose

The South Australian Local Government Grants Commission ('the Commission') regularly reviews the methodology it uses to determine its recommendations for the distribution of Commonwealth Financial Assistance Grants (FAGs) to local governing authorities in South Australia.

The annual report of the Commission provides a summary of the ongoing refinement to the Methodology². Recent reviews have focused on smaller individual parts of the methodology. KPMG has been engaged to undertake a review of the entire methodology and this review³ is the first major review of the entire methodology undertaken since 1996-97.

The fundamental objective and purpose of this engagement was to assess whether the methodology used by the Commission accurately captures the appropriate revenue and cost drivers and enables the Commission to achieve a distribution of grants in accordance with the principles contained in the *Local Government (Financial Assistance) Act 1995 (Cth)*. A copy of the Terms of Reference (ToR) is provided in Appendix A.

The Commission requested that a separate report be prepared in respect to item 6 in the ToR (ie "Review funding provided to the Aboriginal Communities and the Outback Communities Authority"). The content of this report specifically addresses this aspect of the ToR. The broader aspect of the review of the entire methodology will be subject to a separate report.

It is noted that this review has been undertaken separately from the Commonwealth's Review on Improving the Impact of the Financial Assistance Grants on Local Government Financial Sustainability.

2.2 Approach

The specific aspects of the approach KPMG undertook in addressing item 6 in the ToR are listed in summary form below.

- Document analysis and research;
- Inter-jurisdiction comparison;
- A survey/call for submissions;
- Consultation with key stakeholders; and
- Preparation of a report.

A list of stakeholders consulted including those who provided responses to the survey/call for submissions is shown in Appendix B.

A list of documents reviewed is shown in Appendix C.

² Local Government Grants Commission Annual report 2010-11 page 4-6.

³ Reference to the word "Review" throughout this report has not been used in the context of a review in accordance with assurance standards issued by the Australian Auditing and Assurance Standards Board.

3 Current Arrangements for Financial Assistance Grants (FAGs)

This section provides an overview of the distribution of FAGs and the specific manner in which grants are provided to the OCA, the five Aboriginal Communities and to Indigenous people within Councils. The latter group are dealt with under the general methodology for which a separate report is being prepared. References to the specific provision of funding under the general methodology are included within this report for completeness.

3.1 National Principles and the Commission

The Commission is an independent statutory authority established under the *South Australian Local Government Grants Commission Act 1992*. The Commission makes recommendations to the Minister for State/Local Government Relations for the distribution of FAGs. The Minister then recommends a distribution to the Commonwealth Minister who must approve that the proposed distribution is in accordance with the National Principles set out in the *Local Government (Financial Assistance) Act 1995 (Cth)*.

While the allocation of funding is required to reflect these principles there is no activity undertaken to specifically audit the services delivered by a council to ensure that there is an average level of services available, and that where there is a greater concentration of a particular need within the population of a particular council, that there are services being provided to this segment of the population to meet their particular needs. That is, funding is provided on the basis of assessed need, not whether that need is being delivered. This allows the recipient organisation flexibility to deliver services and programs in accordance with long-term strategies. The national principles are shown below.

Horizontal equalisation

General-purpose grants will be allocated to local government bodies, as far as practicable, on a full horizontal equalisation basis as defined by the Act. This is a basis that ensures each local governing body in the State or Territory is able to function, by reasonable effort, at a standard not lower than the average standard of other local governing bodies in the State or Territory. It takes account of differences in the expenditure required by those local governing bodies in the performance of their functions and in the capacity of those local governing bodies to raise revenue.

Effort neutrality

An effort or policy neutral approach will be used in assessing the expenditure requirements and revenue-raising capacities of each local governing body. This means, as far as practicable, that policies of individual local governing bodies in terms of expenditure and revenue effort will not affect grant determination.

Minimum grant

The minimum general purpose grant allocation for a local governing body in a year will be not less than the amount to which the local governing body would be entitled if 30 per cent of the total amount of general purpose grants to which the State or Territory is entitled under section 9 of the Act in respect of the year were allocated among local governing bodies in the State or Territory on a per capita basis.

Other grant support

Other relevant grant support provided to local governing bodies to meet any of the expenditure needs assessed should be taken into account using an inclusion approach.

Aboriginal peoples and Torres Strait Islanders

Financial assistance should be allocated to councils in a way which recognises the needs of Aboriginal peoples and Torres Strait Islanders within their boundaries.

Compliance Amalgamation

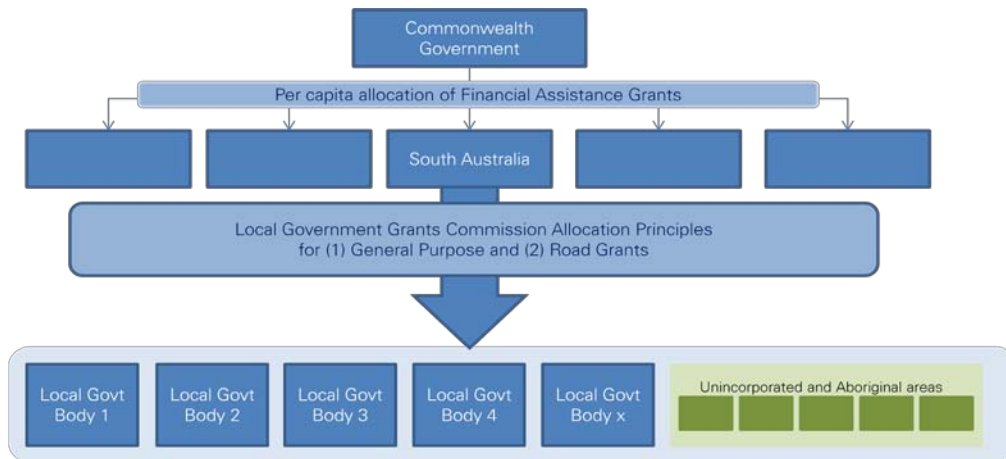
Where two or more local governing bodies are amalgamated into a single body, the general purpose grant provided to the new body for each of the four years following amalgamation should be the total of the amounts that would have been provided to the former bodies in each of those years if they had remained separate entities.

Source: *Local Government (Financial Assistance) Act 1995*

In 2012-13, there were 68 councils, plus the OCA and five Aboriginal communities eligible for FAGs in South Australia.

The following figure (figure 1) illustrates the broad allocation process. As highlighted in figure 1, grants provided to the OCA and the five Aboriginal Communities are determined in a different manner to the allocation of the remainder of the grant pool. The per capita grant provided to these groups is taken from the overall pool of available funds and this determines the size of the remaining pool. Section 3.2 and 3.3 provide further detail on this approach.

Figure 1: Allocation process of Financial Assistance Grant funding



3.2 The Outback Communities Authority

The OCA is prescribed as a local government body for the purpose of the Commission’s recommendations. The OCA provides support for outback communities that do not fall within a specific local government area. Historically, due to a lack of comparable data the Commission has not been able to calculate the grant for the OCA in the same manner as grants to other local government bodies. The OCA receives a per capita general purpose grant which for 2011-12 was \$372.20.⁴

3.3 Aboriginal Communities

Since 1994-95 the Commission has allocated grants to five Aboriginal Communities recognised as local governing authorities for the purpose of the Commonwealth Local Government (Financial Assistance) Act 1995. Again due to the unavailability of data, grants to the five Aboriginal Communities are not calculated in the same manner as grants to other local governing bodies. The per capita amounts provided were initially based on work undertaken by Alan Morton of Morton Consulting Services. The grants have been gradually increased since the initial study.⁵

⁴ 2010-11 Local Government Grants Commission Annual Report Page 18.

⁵ 2010-11 Local Government Grants Commission Annual Report Page 18.

3.4 Location of indigenous people in South Australia

The indigenous population of South Australia is concentrated in a relatively small number of councils and in areas covered by OCA and the five indigenous communities. Within SA, there are 30,400 indigenous people, or 1.9% of the State's population. Approximately 79% of indigenous people live within;

- 15 local government areas,
- the area covered by OCA; and
- the five indigenous communities.

4 The Commission’s methodology

The framework applied by the Commonwealth places little constraint on State and Territory jurisdictions in the distribution of FAGs to local Governments. The SA approach has been developed in response to the needs of SA, and reflects principles determined by the Commission over time. As indicated above, the Indigenous element of FAGs is distributed applying two separate approaches:

- one applying to the general methodology; and
- the other to the OCA and the five indigenous communities.

This report is primarily focused on the grants provided to the OCA and the five Aboriginal communities but the distribution to indigenous people through the general methodology is included for completeness.

4.1 Distribution via general methodology

Within the over-all funding methodology, specific funding for indigenous people, is allocated through a process defined by the Commission as ‘Function 50’. The specific issues associated with Function 50 will be addressed in the report looking at the overall methodology.

On the basis that councils with a greater number of indigenous people resident within the boundaries of that council jurisdiction (based on the most recent ABS data) require greater funding to meet indigenous services it is assumed by the Commission that this need will be recognised through the Function 50 allocation methodology. In accordance with the National Principles there is no specific requirement for actual services to be provided.

The current formula calculates the number of indigenous residents as a percentage of the total population in that Council. This is compared to the State percentage, and where it exceeds the State percentage funding will be provided on a sliding scale as shown in the following table.

Table 1: Function 50 provision for indigenous population (% of population)

% of population (low – high)		Allocation to Council
From 1.62%	To 9.99%	\$35,000
From 10.00%	To 19.99%	\$70,000
Greater than 20%		\$140,000

The proportional approach to determining relative needs means that in councils where the number of indigenous people is relatively large when compared with other councils in absolute terms, no funding is provided. The current funding allocation does not allocate any grants to five councils who fall below the threshold being the average in the state. There are two councils, with approximately 10% of the States indigenous population that do not receive any specific funding. The Function 50 provision is relatively small and in total results in around \$1 million feeding into the raw grant calculation. For the majority of those councils with an indigenous population the Function 50 provision results in a less than 1 percent variation in their estimated grant outcome.

It is important to understanding in this allocation; that it is one component of the overall funding allocated to councils. Provision is made within the broader formula for the nature and extent of municipal services provided, roads and bridges maintained, and community support, public order and safety provided offset by the capacity of each council to generate own source revenues. This is consistent with the principles articulated within the Commonwealth legislation, particularly that of horizontal equalisation and effort neutrality. Therefore, the current formula providing funding to meet the needs of indigenous people assumes that most of their costs will be met from within the normal funding areas available to councils, including the Commonwealth FAGs.

4.2 Indigenous Corporations

While the *South Australian Local Government Grants Commission Act 1992* requires that allocations of the FAGs be made to councils, the Act also allows funding to be made to bodies prescribed under the Act. There are six such bodies as shown in the following table.

Table 2: Prescribed bodies under the SA Local Government Grants Commission Act

Name	Purpose
Anangu Pitjantjatjara	Land Council representing the needs of traditional owners in the APY with respect to ALT lands.
Gerard Community Council Inc	Housing; Land Management; Municipal Services;
Maralinga Tjarutja Inc	Land Council representing the needs of traditional owners in the APY with respect to ALT lands.
Nipapanha Community Council Inc	Housing; Land Management; Municipal Services;
Yalata Community Council Inc	Housing; Land Management; Municipal Services;
Outback Areas Community Development Trust (now called Outback Communities Authority)	To manage the provision of public services and facilities to outback communities; and To promote improvements in the provision of public services and facilities to outback communities; and To articulate the views, interests and aspirations of outback communities.

These six bodies cover areas outside any of the mainstream council boundaries. In terms of responsibilities, and in terms of area, mainstream councils cover approximately 15% of the State; the Indigenous Corporations represent approximately 20%, with OCA covering the remaining 65%. The low population density, varying state of infrastructure and communications, and the inability to charge rates to constituents⁶, are challenges to the efficient delivery of services.

Currently, allocations are made to each of these six bodies on a per capita basis. In a 1994 Report to the Commission entitled *Review of Eligibility of Aboriginal Organisations for Commonwealth Financial Assistance Grants*, the needs of the five Indigenous Corporations were assessed. This assessment considered the level of other Commonwealth grants provided to these communities under a range of social welfare programs, potential inaccuracy in the ABS Census information about the number of people in each location, and the services that the FAGs would be required to fund. This report concluded that an amount between \$100-\$200 per capita would be comparable with amounts paid in both Queensland and the Northern Territory.

The data provided to KPMG dates back to the 1997-98 financial year. This data suggests that the value of the assistance provided to the 5 communities increased from \$100 per capita after the Commission accepted the 1994 report, to \$200 per capita in 1998-99. A further review was conducted in 2005, which recommended that some adjustments be made to the level of funding provided, by reference to the amount paid relative to mainstream councils. It does not appear from the data available, that these recommendations were implemented, however, some adjustments to the per capita rate paid to communities have been made to ensure equity in funding.

⁶ Recent legislative powers allow OCA to levy voluntary rates, where the majority of people within a town support the charge. Payment is voluntary and cannot be enforced. The Office for State Local Government Relations has indicated that the legislative provision is yet to be tested and any such change is 12-18 months away.

Because of the fixed nature of the amount allocated, there have been large variations in the per capita rate due to major changes in the population of each community. The following table shows how the grant to the OCA and the five communities has changed over time and the relative size of the per-capita grant allocation. The grants have increased over time in line with the percentage increase in the total FAG funding pool and further adjustments made over time at the Commissions discretion.

Table 3: Per Capita Grant to the OCA and the five Aboriginal communities

	1998-99		2003-04		2008-09		2012-13	
	Pop	Per Capita	Pop	Per Capita	Pop	Per Capita	Pop	Per Capita
Outback Areas Cdt	5,587	102.92	5,931	151.40	3,568	338.83	3542	405.88
Anangu Pitjantjatjara	2,330	200.00	2,252	348.60	2,199	434.47	2493	437.89
Gerard Cty Council	124	200.00	98	312.64	83	449.23	81	525.98
Maralinga Tjarutja	190	200.00	137	467.28	105	741.98	110	809.26
Nepabunna Cty Council	70	200.00	73	269.23	66	362.38	69	396.07
Yalata Cty Council	272	200.00	241	323.51	103	1,302.98	102	1503.43

5 Themes/feedback from key stakeholders

As part of the review of the methodology, KPMG interviewed officers in various communities from contact details provided by the Commission. The process of the overall review also sought feedback through a survey process.

This section of the report provides a summary of the feedback provided by the stakeholders who submitted responses through the consultation process, or who participated in interviews with KPMG during the course of this review. Some consistent themes emerged through the process.

Stakeholders who presented feedback include:

- Yalata Community Inc;
- Outback Communities Authority;
- Anangu Pitjantjatjara Yankunytjatjara Inc;
- Nipapanha Community Inc;
- Gerard Community Council Inc;
- Maralinga Tjarutja Inc;
- Commissioner Gascoigne; and
- Various SA Government Officials.

5.1 Yalata Community Inc

The number of residents within the community varies considerably during the year (movements of 100+ people in and out of the community is normal). According to stakeholder consultation, the current population estimate of 102, based on published ABS data, is significantly understated. Based on the most recent audit of people occupied by SA housing houses in the community, there are 265 people within the Community.

Yalata Community Inc, is not a formal land council as is the case in Maralinga and APY, however, it does perform a number of functions that an Indigenous Land Council may otherwise perform. This is reflected in the way in which economic development occurs in the region. Where it is common for Councils to promote and foster investment in business development, Yalata manage a number of commercial enterprises to reach the economic development outcomes sought.

Yalata provide the following council services:

- Rubbish collection;
- Power generation;
- Maintenance of water basin infrastructure;
- Recreational programs;
- Community services;
- Internet hub;
- Employment & training;
- Facilities – Airstrip;
- Land management (of Indigenous Protected Area); and

- Community Store.

Revenues are obtained from the Community Store (approximately \$1.4 million turnover with minimal profit, however a management option is being explored to improve this), together with other minor business activities.

While grants received through the FAGs and the Local Roads Grants were approximately \$93,400 in 2011-12, Yalata reported grant income of almost \$3.1 million. In part this amount represents grants funding provided by FaHCSIA for the provision of municipal services and funding from other Commonwealth sources to maintain the local airport.

While the FAGs funding only represents a small percentage of the funding received by the community, the fact that it is untied makes the funding important as most other grants are tied to the delivery of a particular outcome.

Yalata's financial statements report accounting deficits for the past two financial years and the community reports that they have incurred accounting losses for the past 4 years.

The basis of the funding formula was not understood by the Community and there was some concern that they were unable to understand whether the allocation basis reflected the level of actual need in the community. Further, there are some special projects that the Community needs to undertake, but no level of government currently manages a grants program that provides funding for these activities. It was suggested that it would be beneficial for the Commission to consider a special projects fund to bridge this perceived gap. It is noted that this is outside the remit of the Commission.

5.2 Outback Communities Authority

The Outback Communities Authority (OCA) has been established under SA legislation with the objectives:

- a. to manage the provision of public services and facilities to outback communities;
- b. to promote improvements in the provision of public services and facilities to outback communities; and
- c. to articulate the views, interests and aspirations of outback communities.⁷

OCA has a unique role in the State and there is no other entity with a similar role in other jurisdictions. It is responsible for the unincorporated areas in the State. Responsibility for roads in areas covered by the OCA belongs to the State, reflecting the large area covered and the relatively low population density. OCA provides services to around 65% of the state in terms of area, with approximately 4,104 people (this number is higher than the ABS Census number with the difference expected to be due to the presence of mining personnel who frequently travel in and out of the area, and who may not have been represented in ABS data at the census time).

While none of the communities within the OCA 'boundaries' are formal indigenous communities (as per the Commonwealth definition) there is a relatively large proportion of indigenous people in the OCA.

The OCA provides municipal services to the major communities in the area, delivered through a series of contracts with commercial providers.

A major factor influencing the delivery of services (and the perception of average incomes) in the area is the presence of a number of large mines. In particular, Oodnadatta is affected by the cost of housing due to a shortage caused by local mines needing to house staff, and the impact of the

⁷ Section 6 *Outback Communities (Administration and Management) Act 2009*, downloaded from [http://www.legislation.sa.gov.au/LZ/C/A/OUTBACK%20COMMUNITIES%20\(ADMINISTRATION%20AND%20MANAGEMENT\)%20ACT%202009.aspx](http://www.legislation.sa.gov.au/LZ/C/A/OUTBACK%20COMMUNITIES%20(ADMINISTRATION%20AND%20MANAGEMENT)%20ACT%202009.aspx) on 15 March 2013

number of people trying to access local services without contributing to the cost of these services through rates or other charges.

OCA receives grant funding from FaHCSIA for the delivery of municipal services in Oodnadatta due to the high proportion of indigenous people in that town. It also receives an annual appropriation that covers the majority of its staffing costs, leaving the FAGs to fund the delivery of services to communities. It also has the capacity to levy voluntary rates (where a community has elected to pay these rates) but has no capacity to enforce collection (non-collection currently sits at approximately 40%).

The OCA has expressed concern that there is no visibility into the way their allocation of the FAGs pool is calculated. This is particularly important as OCA believe that the current level of funding does not reflect the increased role it now has in the provision of services within its boundary.

OCA believes that as it provides the services of a council, that the level of funding should be commensurate with that provided to mainstream councils and in the written submission to this review, the OCA has provided a comparison with a number of councils which it believes have similar demographic characteristics. This comparison indicates that the OCA is the lowest paid body, but in making that comparison, it assumes that it also provides the same level of services as these councils, and that the level of assistance from FaHCSIA does in part compensate for that difference.

5.3 Anangu Pitjantjatjara Yankunytjatjara Inc

Anangu Pitjantjatjara Yankunytjatjara Inc (APY) is an Indigenous Land Council established under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*. Its primary function is to ascertain and represent the interest of traditional owners with respect to lands held by the APY people.

The APY do not provide municipal services to residents and have no rateable base within the population. There are a number of business ventures owned and managed by the APY but this reflects the APY's land council function more than it does an economic development function performed by local government.

In the APY lands, the Regional Anangu Services Aboriginal Corporation (RASAC) provide municipal services and this is funded by FaHCSIA. Stakeholder consultation indicated that this model has made engagement with local residents difficult as they are not considered to be part of the community, rather they are seen as a service provider.

The FAG funding provided to APY is used for the running of the board, and the provision of some corporate services, e.g. issuing permits, and implementing board decisions, making representations to government, and land tenure development.

The FAGs represents approximately 16% of the grants revenue recognised by the APY in 2011-12 financial year, and 11% of the total income. The Commonwealth government provide grants to fund environmental management functions relating to land management in the area.

The population in the area is very transient. The ability of the ABS to reliably estimate the population base is believed to be an issue, and it was suggested that an alternative measure such as the number of houses in the area may be more reliable. APY believe that the understatement of the population may be as high as 30%.

The APY were concerned that the level of funding received through the full range of grants provided by all levels of government needs to be considered, to determine whether the current approach to the APY lands is actually delivering on the strategic outcomes sought.

5.4 Nipapanha Community Inc

Nipapanha community Inc provides the full range of municipal services to the local community. The cost of these services is met through grants provided by FaHCSIA. While most services are provided by the Community, there are some that it outsources from a nearby council.

Because the FAGs are untied, these funds are the only source of funds available to meet unexpected needs of the community.

Nipapanha expressed concern about the population recorded for the community. There is significant population transience in the community with people moving between Nipapanha, Port Augusta and the APY lands regularly. The CEO of Nipapanha suggested that given the high degree of variability in resident numbers that more reliable estimate of need might be better served by a measure of the number of houses in the community.

Nipapanha has investigated the option of seeking funding for roads in the area through the Roads to Recovery program, but because the community is so remote it doesn't feature in any of the ABS categories, and therefore is not eligible to apply. Further, these grants require the grant recipient to match the funding on a dollar for dollar basis. This matched funding basis is a barrier to a successful application because the Community does not have a source of funding large enough to meet 50% of the cost of the project. As the Roads to Recovery Program sits as part of the range of programs designed to meet the costs of service delivery from councils, the level of funding provided through the other grants assume that Nipapanha can access these other programs when in fact it cannot due to the financial capacity of the Community.

Nipapanha had no insight into how its allocation was calculated, and didn't understand why the FAGs were provided. Turnover of people in the CEO position has been problematic in recent times and a significant amount of corporate knowledge has been lost in that process.

5.5 Gerard Community Council Inc

The CEO of the Gerard Community responded to KPMG's attempts to arrange an interview after the consultation period concluded. Given the nature of the feedback from the other stakeholders and the recommended way forward; a specific consultation was not undertaken so as to not unduly hold up the report. Should the Commission seek to obtain further information from the Communities then all stakeholders would again be provided the opportunity to respond.

5.6 Maralinga Tjarutja Inc

The CEO of the Maralinga Tjarutja Community advised that he had been out of the office during the period that KPMG sought to interview him and was to continue to be unavailable for an unknown period. In addition he advised that he did not believe that relief staff had the ability to assist with the review.

5.7 Commissioner Gascoigne

A current member of the Commission (Commissioner Gascoigne) was specifically consulted on the current funding arrangements for the Aboriginal Communities and the OCA as she was involved when the current arrangements were developed. Her feedback is summarised below.

The history of the FAGs allocation since 1994-95 was discussed to identify the formula being applied to determine the level of funding being provided.

There is concern that the level of grant funding received by indigenous communities from other sources is not well known and publically available information does not readily support this type of analysis.

There is also a perception that the level of funding being provided is not sufficient to meet the requirements of the indigenous bodies, but there is no evidence readily available to support that conclusion in the allocation process.

It was observed that the APY funding may be meeting administrative needs in the area, with FaHCSIA meeting the cost of municipal services. FaHCSIA have traditionally not funded administrative costs hence the reliance on the FAGs from the Commission to meet these costs in the provision of services in the community.

Within the broader methodology, it is not possible to identify the level of expenditure being directed toward the provision of specific indigenous services. The allocation process within 'Function 50' therefore determines allocations relative to the proportion of indigenous people resident in each council district.

5.8 SA Government Officials

KPMG met with representatives from the Department of the Premier and Cabinet, and the Executive Officer of the Commission to seek their views on the current allocation process.

The primary benefit of the FAGs is that it is currently an untied grant, giving recipients ability to respond to needs within their communities in the most appropriate manner. The longer term continuation of the nature of these untied arrangements has not been resolved.

Officials are aware that some communities are unable to meet the full costs of providing services, however, there is no evidence base on which to determine the level of un-met need and therefore no basis for altering the current allocation process.

Within mainstream councils, the Commission would appreciate visibility of the level of expenditure being directed toward specific indigenous needs, however, because of the limitations on the reporting and acquittal requirements of the FAGs there is no current way of obtaining that information.

There is an awareness that the ABS population estimates for the Aboriginal Communities may not provide an accurate basis on which to make allocations due to the level of transience. However, there is no other more reliable basis available to the Commission to make the allocation, but consideration can be given to using the number of houses or bedrooms given that SA Housing conduct regular audits in these communities.

The difficulties associated with understanding the other grants (Commonwealth and special grants for example) available to communities has been a problem. This affects not only the allocation of FAGs but negotiations with the Commonwealth on other partnership agreements. While there has been attempts made to try to calculate the level of funding made available to communities by FaHCSIA, the publically available information is not sufficient to complete the work. There is a suggestion that the municipal funding currently provided by FaHCSIA may become a State responsibility in future funding agreements.

Officials believe that the only way to determine the level of funding provided by the Commonwealth Government to communities will be via correspondence at a senior official or ministerial level.

It is noted that many of the issues raised by the SA Government officials are well outside the specific remit of the Commission.

5.9 Summary

The themes consistently expressed by the stakeholders consulted during this review can be summarised as:

- The ABS data does not provide a reliable estimate of the number of residents supported by a provider of local government services, and this issue has the greatest impact in Indigenous Communities in the State;
- To achieve the principle of horizontal equalisation in the allocation of grants there is a need for the Commission to take into account alternative sources of revenue available to the community, but there is no robust way of estimating the level of cost being met by FaHCSIA in communities;
- The level of service provision in communities has not been assessed to determine if it reaches an 'average level' and therefore there is no way of knowing whether the level of funding provided is adequate to provide the services required in each community; and
- The current formula for allocating the FAGs in the 5 Indigenous Corporations and the OCA is not understood by any of the recipients, and is not well understood by other stakeholders.

6 Assessment of the Commission’s Current Methodology

The Commission’s allocation methodology is required to meet the national principles. The section discusses the current methodology in more detail.

6.1 The general methodology

The principle of Horizontal Equalisation requires that the FAGs:

- fund the provision of local government services at a standard not lower than the average standard;
- takes account of differences in the expenditure required by those local governing bodies; and
- takes account of the capacity of those local governing bodies to raise revenue.

Within those councils covered by the general methodological approach, there is insufficient information about the services specifically required by larger indigenous populations and the cost of these services. The allocation of the available pool of funding available to special needs, on the basis of a greater than average proportion of Indigenous people in a council area assumes that these councils will make decisions and plan community services in a way that reflects the demographic needs of their residents, and that to not consider the needs of indigenous people in that process will make service delivery inappropriate or ineffective.

This approach does result in some councils with relatively large Indigenous populations not receiving specific indigenous related funding under the current allocation approach. The following table shows the number and percentage of the Aboriginal and Torres Straight Islanders (ATSIC) population within each Council area where the population is significant.

Table 4 – Councils with largest ATSIC populations

	% ATSIC Pop	ATSIC Pop
Port Adelaide Enfield	2.38	2,689
Port Augusta	17.77	2,617
Salisbury	1.84	2,436
Playford	2.81	2,242
Onkaparinga	1.13	1,844
Charles Sturt	1.29	1,398
Ceduna	25.48	973
Whyalla	3.82	884
Murray Bridge	4.47	875
Port Lincoln	5.49	806
Tea Tree Gully	0.74	746
Marion	0.87	744
West Torrens	0.92	514
Port Pirie	2.43	442
Mount Gambier	1.65	426

Councils not specifically funded
shaded blue

Source: SA Local Government Commission General Purpose Grant Worksheet

In the absence of data to suggest that there is a specific cost to meeting needs of indigenous people in mainstream councils it is not possible to ascertain whether the fact that these councils do not

receive funding results in a failure to meet the horizontal equalisation principle and therefore requires some change to the current approach. The overall methodology will be addressed in a separate report.

6.2 Indigenous Corporations and OCA

KPMG has been advised that the change to the *Outback Communities (Administration and Management) Act 2009* places the obligation on the OCA to provide local government services to communities within its area of responsibility. The arguments advanced by OCA state that because of this increased level of obligation it should be funded on the same basis as all other councils, rather than the historic block funding amount it continues to receive under the current formula.

The *Outback Communities (Administration and Management) Act 2009* requires under section 6:

- (2) *In performing its functions, the Authority is—*
- (a) *primarily to foster and support the provision of public services and facilities to outback communities by community organisations, including by making grants and loans to such organisations; and*
 - (b) *to consider long-term requirements for maintenance, replacement and development of infrastructure for public services and facilities for outback communities; and*
 - (c) *to consider State and national objectives and strategies that are relevant to outback communities; and*
 - (d) *to seek ongoing collaboration with local, State and national governments in the planning and delivery of public services and facilities to outback communities; and*
 - (e) *to ensure that there are systems in place to further its understanding of the views, interests and aspirations of outback communities; and*
 - (f) *to facilitate decision making by others on a basis that is well informed in relation to the views, interests and aspirations of outback communities, including by participating in appropriate local, State and national forums; and*
 - (g) *to provide services with a high level of efficiency and effectiveness, manage resources effectively, prudently and in a fully accountable manner and maintain and enhance the value of public assets.⁸*

While it appears that s6(2)(a) of its enabling legislation places an obligation to foster and support the provision of services, OCA advise that it is in fact providing the services through the engagement of appropriate contractors in the relevant communities. If this is the case then the horizontal equity principle may require the OCA to be funded on the same basis as other councils because it now has a cost base on a par with other councils to provide similar services with the exception of roads that are maintained by the State. However, it is questionable as to whether the general methodology could manage with the unique characteristics of the OCA particularly in relation to their capacity to raise revenue. While a longer term objective should be to explore moving the OCA to the general approach there is not a compelling case or information base to move from the current arrangements until such time as the rate revenue arrangements become clearer. It is noted that any additional funding that would be directed towards the OCA (assuming higher needs were assessed) would result in a decrease in the funding provided to other regional council areas.

The Indigenous Communities are different in that:

- Not all corporations provide municipal services (the APY funding is used for administration and running of land council activities and not local government services);
- All receive relatively large amounts of grant funding from sources other than the Commission;

⁸ Section 6 *Outback Communities (Administration and Management) Act 2009*

- Most municipal services in these communities have been funded to date by grants received from FaHCSIA;
- There is no evidence of the standard at which these services are being provided, or whether there are gaps in the services being offered to their local communities; and
- The cost of the services provided is not visible to the Commission.

To continue to meet the Commission's obligation to meet the horizontal equalisation principle, it is not appropriate to change the current funding formula until there is reliable information about: the level of external revenue; the level of expenses required to operate is clear; and the standard to which local government services is being provided as there could not be a defensible basis on which to make an alternative allocation to recipients.

In the consultation with the Department of Premier and Cabinet, KPMG learned that there may be a possibility that FaHCSIA will not fund the provision of municipal services after 30 June 2013. KPMG reviewed the *Families, Housing, Community Services and Indigenous Affairs Portfolio Budget Statements for the 2012-13 Budget Period*. These statements indicate that the Municipal and Essential Services Program was extended and funded for an additional financial year (2012-13)⁹ "while the Commonwealth, the states and the Northern Territory work towards clearer roles and responsibilities for funding and delivery of municipal and essential services and infrastructure"¹⁰. No additional program funding or alternative sources of funding could be identified in these papers, suggesting that the Commonwealth does not, within the current budget and forward estimates period, have funding to continue to support these services in communities. This does not mean that this funding is now embedded in a new more broadly defined program, however, without direct consultation with FaHCSIA, KPMG is unable to confirm the ongoing status of funding of municipal services within communities. (This is outside the scope of the current review).

Because the provision of municipal services within these communities is dependent on continued funding from FaHCSIA, it would appear that there is a risk that this funding may not be continued in the near future and therefore the horizontal equalisation principle will require that the allocation of additional FAGs funding to meet this funding deficiency. In the absence of an increase in the size of the pool this could only come at the expense of other local councils. Consideration of such a move is well outside the scope of the ToR for this review. It is worth noting that not all of the current FAGs recipients provide municipal services and therefore it should not be assumed that these existing corporations have the governance and business model necessary to provide efficient and effective service delivery to these communities, and therefore the funding may need to be allocated to an alternative provider (e.g. the APY do not provide any municipal services, relying on RASAC to engage with FaHCSIA directly to provide these in the APY lands).

Further, within the majority of councils, it is possible to fund a reduction in government grant funding with an increase or change to the rates levied on residents and businesses. Within the indigenous communities, there is no legislative capacity to levy rates, increasing the level of reliance on the FAGs, or other untied funding sources to cover this loss of support from the Commonwealth Government.

⁹ Page 30

¹⁰ Page 130

7 Summary of findings and recommendations

The information currently available would indicate that there is no reasonable basis upon which the Commission could move away from the current allocation methodology and in the absence of any further or more detailed information it would therefore be recommended to continue with the current practice in the short term. There are however, a number of interrelated issues that require the early attention of the Commission and the Government more broadly in the near future. These are outlined below.

7.1 Recommendations

Recommendation 1 – Maintain the status quo for the funding of the five Aboriginal Communities

Based on available information and a significant number of uncertainties it is considered that there is no legitimate rationale from moving away from the current funding arrangements for the five Aboriginal Communities. Any move by FaHCSIA to withdraw support may have direct implications for the Commission (refer recommendation 2).

Recommendation 2 – Confirm the Status of FaHCSIA's Funding of Municipal Services

KPMG was advised that FaHCSIA and the SA State Government were in the process of negotiating a new funding agreement to cover the provision of housing and related services to indigenous communities. These negotiations are the responsibility of the SA Housing Minister and their Department; however, there appears to be a potentially direct impact on the funding allocations made by the Commission, with the possibility that additional funding may be required on 1 July 2013. The exact status of these negotiations was not provided to KPMG and is outside of the scope of the review.

KPMG recommends that the Commission confirm the funding arrangements anticipated by the SA Housing Department to apply in the forthcoming financial year and if a changed funding model is required, commence work on developing this model. Any impact on the Commission would be dependent firstly on any changes made by FaHCSIA and secondly any other policy response (either by the Commonwealth or State Government's).

Recommendation 3 – Establish a Clear Understanding of the Level of Grant Funding Communities Currently Receive

A recurrent theme encountered by KPMG with all stakeholders, and in the review of the financial information provided by the indigenous corporations, is that there is no way to confirm the value of other grants received by the corporations to fund the provision of services to residents. This may take on increased importance if the funding provided by FaHCSIA is withdrawn in the coming months. In either case, the Commission will require a defensible basis on which to make future decisions about the allocation of FAGs funding, and a baseline across funding recipients is essential to that process.

Recommendation 4 – Conduct an Assessment of the Nature and Standard of Municipal Services Delivered to Indigenous Communities

Because of the role FaHCSIA has played in engaging and funding contractors to provide municipal services, the Commission lacks evidence about whether the current service delivery meets the principles specified in the national framework. It is therefore recommended that the Commission seeks the Government to undertake a benchmark of the services provided within the area covered by the 5 Indigenous Corporations to assist in determining whether the level meets the reasonable needs of these 5 municipalities.

Recommendation 5 – Maintain the status quo for the funding of the OCA but maintain a close watch in respect of other policy developments

Based on available information and a significant number of uncertainties it is considered that there is no legitimate rationale from moving away from the current funding arrangements for the OCA. The Commission should maintain a close watch on developments in respect of the OCA raising levy funds and their relative needs in the provision of services. A longer term objective may be to move the OCA to the general methodology.

Appendix A: Terms of Reference

1. Develop an understanding of the National Principles contained in the Commonwealth legislation – the Commonwealth *Local Government (Financial Assistance) Act 1995*;
2. Develop an understanding of the methodology including a clear understanding of the assessment of general purpose and identified road grants;
3. Review the application of the National Principles contained in the Commonwealth Legislation, including:
 - 3.1. The effects of distribution of Commonwealth Financial Assistance Grants amongst the States based on population share versus distribution within each State based on need (Horizontal Fiscal Equalisation);
 - 3.2. To what extent to the National Principles allow for the distribution of grants in a manner that is consistent with specific policy directions of the Commonwealth and State Governments of the day; and
 - 3.3. The application of the Effort Neutrality Principle in an environment where Commonwealth and State Governments are placing a greater emphasis on accountability and sustainability within local government.
4. Review the current methodology for the assessment of general purpose grants introduced in 1998-99 and subsequent modifications, which includes an assessment of:
 - 4.1. The relevance of the current revenue assessments and the use of property values as a measure of capacity to pay;
 - 4.2. The effects of changes to land valuations which are impacted by water licensing and the impacts of these effects on revenue assessments;
 - 4.3. The effects of fixed rates and variable charges on the assessment of councils capacity to raise revenue;
 - 4.4. The material impact of the use of the SEIFA index adjustments on revenue assessments (for residential and rural assessments) and the effects of further weighting of this index to take account of socio-economic advantage or disadvantage experienced by ratepayers within councils;
 - 4.5. The current number of expenditure functions and the relevance of their units of measure as a determinant of the provision of services by each council;
 - 4.6. The waste management expenditure function to quantify the relative advantage or disadvantage of transferring waste to transfer stations or landfill sites outside of council areas (this may result in an additional or updated cost relativity indices for waste management);
 - 4.7. The expenditure functions and identify possible alternatives to the natural weighting provided by the level of council expenditure reported;
 - 4.8. Any costs of services provided by councils that are not being assessed (or should no longer be assessed) as part of the methodology (e.g., growth, airstrips, traffic volumes); and
 - 4.9. The impacts of including capital expenditure in the assessment process and whether the assessment process should consider capital items in addition to the inclusion of depreciation.
5. Analyse the level of scaling back required under the current methodology and its impact on grant outcomes;
6. Review funding provided to the Aboriginal Communities and the Outback Communities Authority; and
7. Review the distribution of the identified road grants, including an assessment of the feasibility of incorporating the use of Asset Management Plans into the assessment process.

Appendix B: Stakeholders consulted

The following is a list of stakeholders that were consulted throughout the project.

Name, title	Organisation	Date
Greg Moore, CEO	Napapanha Community Inc	18 February 2013
Jane Gascoigne	SA Local Government Grants Commission	21 February 2013
Karen Coombe-Smith	Department of Premier and Cabinet	28 February 2013
Peter Ilee	SA Local Government Grants Commission	28 February 2013
Greg Franks	Yalata Community Inc	28 February 2013
Richard Preece	Anangu Pitjantjatjara Yankunytjatjara Inc	7 March 2013
Mark Sutton	Outback Communities Authority	8 March 2013

KPMG also sought to consult with Gerard Community Council Inc, who did not return calls until this report was being prepared, and the Maralinga Tjarutja Inc, who were not in a position to participate due to key personnel being unavailable for an unknown period and relief personnel not having the ability to assist.

Appendix C: Document analysis

The following is a list of documents provided for the purpose of the review.

Document
Planning Advisory Services. 2005. Review of funding five Aboriginal communities (final draft)
Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981
Outback Communities (Administration and Management) Act 2009
Maralinga Tjarutja Land Rights Act 1984
Review of Funding Five Aboriginal Communities April 2005
South Australian Local Government Grants Commission Act 1992
Review of Eligibility of Aboriginal Organisations for Commonwealth Financial Assistance Grants April 1994
Yalata Inc Consolidated Financial Report for the Period Ending 30 June 2012
Maralinga Tjarutja Inc Consolidated Financial Report for the Period Ending 30 June 2012
Nipapanha Community Inc Financial Report for the Period Ending 30 June 2012
Assessment of the Operations and Performance of the Outback Areas Development Trust, May 1999
Local Government (Financial Assistance) Act 1995 (Cth)
South Australian Local Government Grants Commission Act 1992
Families, Housing, Community Services and Indigenous Affairs Portfolio Budget Statements 2012-13