



**JOINT SELECT COMMITTEE ON
CONSTITUTIONAL RECOGNITION OF
LOCAL GOVERNMENT**

SUBMISSION

Local Government Association of Queensland Ltd

18 December 2012

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs. LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Introduction

Local government in Queensland has a strong and storied history. The first Queensland municipality to be declared was Brisbane, in September 1859, with a population of 5,000 and an area of 14.25 square kilometres. Five years later the first comprehensive local government legislation in Queensland, the *Municipal Institutions Act 1864*, was enacted.

That enabled municipalities to charge rates, borrow money, enact bylaws, control or regulate public infrastructure and utilities, and provide public amenities such as gardens and hospitals.

Today, Queensland's 73 councils are responsible for making their regions better places to live through things like arts and cultural programs, recreational facilities, events and festivals, youth development programs, healthy environments.

Queensland councils generate around \$9.5 billion in revenue annually and maintain more than 150,000 kms of local roads.

Through economic development initiatives, councils help create jobs in their communities – in fact, local government is one of the largest employment sectors in Queensland – about 40,000 people work for councils as full time, part time, casual employees, apprentices and trainees.

Constitutional recognition of local government would be no empty gesture. It has practical benefits for all Australians in that it will give local councils - the sphere of government closest to Australians' everyday lives - a rock-solid financial and legal base on which to plan for improving and maintaining the lifestyles of their communities.

The Australian Constitution is the principal expression of the laws that make this nation what it is, one of the most admired democracies in the world.

As such, it is important for the Constitution to remain a living, breathing document that can continue to reflect the social and political progress Australia is making in the world.

Financial recognition of local government

For more than a decade, successive federal governments have been paying funds directly to local councils for community infrastructure programs, including such schemes as Roads to Recovery. This has proven to be an efficient means of ensuring public revenue is spent in a way that delivers maximum benefit to the local community.

However, as this arrangement has matured, it has become clear that the Australian Constitution's silence on the role of local government in providing for communities poses potential problems.

The so-called Pape and Williams cases in the High Court brought these problems into sharp relief. While the Government is able to provide some remedies to some of its payment arrangements via legislation, the direct funding of local government from the Commonwealth can only be legally confirmed through a change to the Constitution.

While such a change will have profound positive effects it is relatively simple to make. Amending Section 96 of the Constitution to state that "Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory" would confirm the Commonwealth's ability to pay funds directly to local councils in the national interest.

This means those federal funds could have to take a more circuitous and less efficient route to helping local communities than in the past, if a subsequent High Court challenge against these specific payments were to succeed.

There's nothing in the Constitution underpinning the funding relationship the Commonwealth has with local councils and legal experts say funding streams such as Roads to Recovery and other community infrastructure programs are under threat if someone wants to challenge their validity. The way these funds are distributed is efficient and effective despite the lack of involvement of state bureaucracies.

Supporting a simple change to the Constitution would legally enshrine Commonwealth funding direct to local councils and would keep the dead hand of the states away from funding decisions about local

projects, such as road improvements, swimming pools and sporting facilities. Constitutional recognition of local government is a small change, but big ramifications for the future quality of life of the communities that councils represent. It will legitimise and secure the important relationship between the federal and local governments.

It would be a form of recognition which has the clear purpose of improving the effectiveness of local government - with demonstrable benefits to the community.

LGAQ supports the majority of members of the Expert Panel on Constitutional Recognition of Local Government who found that financial recognition of local government was a “viable option” to put at a referendum.

Polling undertaken by the panel backed up earlier surveys of the Australian Local Government Association which indicated a substantial level of support for financial recognition in the broader community. The panel believed there were enough indications that the community may support recognition of local government in the Constitution in a form which addresses a perceived problem like the uncertainty of the funding relationship between the Commonwealth and local councils.

Bipartisan support

There is bipartisan political support in Queensland for constitutional recognition of local government. Premier Campbell Newman has expressed strong support for the move. In a 2011 letter to then LGAQ president Paul Bell, Mr Newman said the LNP had “consistently backed the need for local government to be recognised in this way, and be given greater autonomy and assistance to undertake its responsibilities to support and grow local communities in Queensland and across Australia”. The previous Labor government of Anna Bligh also backed constitutional recognition of local government.

National awareness campaign

Australians have not voted in a referendum to change the Constitution since the republic referendum in the late 1990s. Since then, debate and discussion on the Constitution and its place in Australian public life has been muted and sporadic. However, there is ample evidence to show that Australians value democracy and the nation’s three-tiered system of government. There would be value in ensuring the creation of a publicly funded national education and awareness campaign about the role the Constitution plays in Australia’s democracy and how the power to change it is in the hands of the voters themselves. Such a campaign could also extend to explaining the problem posed by not having local government recognised in the Constitution and the simple proposal that would resolve it.

Conclusion

LGAQ urges the committee to support a referendum to change Section 96 of the Australian Constitution to ensure the certainty of the Commonwealth’s ability to directly fund local communities. The referendum should be held at a time conducive to maximising its chances of success. To that end, LGAQ urges the committee to examine the need for a federally funded national awareness campaign to ensure Australians are fully informed of the importance of the Constitution. Such a campaign is necessary as the experience of recent years has shown that constitutional recognition of local government is fundamental to the efficient distribution of public funds in Australia.