



28 November 2012

Refers to: CRM 25572/2012

Mr Glenn Worthington
Secretary
Joint Select Committee on the Constitutional Recognition of Local Government
PO Box 6021
Parliament House
Canberra ACT 2600

jsclg@aph.gov.au

Constitutional Recognition of Local Government – Submission

Port Macquarie-Hastings Council wishes to make the following submission in support of a referendum at the next Federal Election seeking *constitutional Recognition of Local Government*.

Currently, Local Government across Australia draws its head of power from the relevant State Government where legislation has been enacted to create the third tier of government. In each State, a *Local Government Act* has been legislated which sets out the process for the operation of a local Council in each State.

At a ground level, Local Authorities play an important role in their respective communities not only in providing a very broad range of services to their communities, but also is responsible for facilitating outcomes that help to sustain local communities across Australia. Local Government has for a very long time been striving to secure the interest of the Federal Government to undertake a referendum on constitutional recognition of Local Government. In 1974 and again in 1988 questions pertaining to Local Government were included in a referendum and on each occasion the questions were defeated. At the 2010 National General Assembly of Local Government it was expressed that Local Government should be recognised within the founding Commonwealth political and legal document – the Australian Constitution.

The 'Case for Change' report from the 2012 NSW Independent Local Government Review Panel supports this Council's assertion that there is a need to review the distribution of Financial Assistance Grants in order to direct more funds to Councils and communities in the greatest need of assistance.

Further to this, IPART has indicated that in the period of 2001/2 to 2010/11, growth in total revenues for NSW Councils equates to 5.7% per annum compared to 8% for other mainland states. Better access to Federal funding for Local Government may go some way to alleviating the burden rate pegging has placed on NSW Councils for over thirty years.

On 22 June 2011, Port Macquarie-Hastings Council considered a report seeking the Council's support for the Australian Local Government Associations Constitutional Recognition Proposal. At this meeting, Council resolved as follows:

"That Port Macquarie Hasting Council declare its support for the financial recognition of Local Government in the Australian Constitution so that the Federal Government has the power to fund Local Government directly and also for the inclusion of Local Government in any new preamble to the Constitution if one is proposed and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition."

Letters were written to the Prime Minister (the Hon. Julia Gillard, MP) and the Leader of the Federal Opposition (the Hon. Tony Abbott, MHR) seeking their support in line with the Council's resolution. A response was received from The Hon Simon Crean MP (on behalf of the Prime Minister) and Maxine Sells (Adviser on behalf of Leader of the Opposition). A copy of their responses are attached. Their responses indicated support for the process to proceed with the 2013 Federal Election.

Recognition in the Federal Constitution of Local Government will:

1. Enshrine local citizen's rights to democratic representation at a local level through electing a local Council,
2. Enhance participation and service outcomes for local communities
3. Improve integrated planning between all spheres of Government (ie. Federal, State & Local),
4. Ability to access funding direct from the Federal Government.

Council has a preference for amendments to Section 96 of the Constitution, specifically to state "Parliament may grant financial assistance to any State or Local Government body formed by or under a law of a state or territory". This would assist greatly to ensure that Local Government has the same ability to access funding from the Commonwealth as each State currently has the ability to access.

This Council looks forward to a *Referendum* being undertaken with the Australian voters as part of the 2013 Federal Election.

Please do not hesitate to contact me if you have any questions by ☎ (02) 6581 8111.

Yours sincerely

Peter Besseling
MAYOR

Attachments:

1. Response letter from the Hon Simon Crean on behalf of the Prime Minister, the Hon. Julia Gillard, MP
2. Response letter from Maxine Sells on behalf of the Leader of the Opposition, the Hon. Tony Abbott, MHR



Adm.

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THE HON SIMON CREAM MP

**Minister for Regional Australia, Regional Development and Local Government
Minister for the Arts**

Reference:C11/907

Mr Neil Porter
Administrator
Port Macquarie - Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Port Macquarie	
HASTINGS COUNCIL	
Parcel	
- 8 AUG 2011	
Library	
Room	<i>Govt.</i>
Cabinet	<i>Federal.</i>
Binder	<i>Regional Dev.</i>

2 August 2011

Dear Mr Porter

I refer to your letter of 24 June 2011 to the Prime Minister, the Hon Julia Gillard MP, concerning constitutional recognition of local government. As the matters raised fall within my portfolio responsibility your letter has been passed to me for consideration. I apologise for the delay in replying.

The Australian Government has been committed, since 2007, to working with local government to advance recognition of local government, the tier of government closest to communities, in the Australian Constitution. The Government supports local government taking the lead in educating the community and generating public support for constitutional recognition.

In September last year the Government made a commitment to hold a referendum on constitutional recognition of local government during the current Parliament or at the next election. To progress this commitment, the Government recently announced that the former Chief Justice of the Supreme Court of New South Wales, the Honourable James Spigelman AC, will lead an independent expert panel on recognition of local government in the Australian Constitution.

The Expert Panel will consult widely with the community and stakeholders (including local governments and the Australian Local Government Association (ALGA)) and will report to the Government in December 2011 on both the level of support for constitutional recognition of local government and possible forms such recognition could take. The Government will carefully consider the Expert Panel's recommendations in shaping any proposal put to referendum. Further information on the Expert Panel, including terms of reference, is available online at the Department of Regional Australia, Regional Development and Local Government's website (www.regional.gov.au).

The Government is aware of the concerns expressed by ALGA around the financial security of local government bodies and more recently about Commonwealth payments to local government following the High Court's decision in the 2009 Tax Bonus case. However, the Government's view is that the current arrangements are appropriate having regard to the High Court's decision.

Thank you for raising this matter on behalf of Port Macquarie - Hastings Council. I encourage your community to share its views with the Expert Panel during its consultations

Yours sincerely

SIMON CREAN

26-09-11 014 ADM



Office of the Hon Tony Abbott MHR
Leader of the Opposition
Federal Member for Warringah

Mr Neil Porter
Administrator
Port Macquarie Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

HASTINGS COUNCIL	
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26 SEP 2011	
Library	
Room	
Cabinet	ADMINISTRATOR 20
22 SEP 2011	

Dear Mr Porter

Thank you for your letter to the Leader of the Opposition, the Hon Tony Abbott MHR regarding the recognition of local government in the Australian Constitution. Mr Abbott has asked me to respond on his behalf.

The Coalition supports appropriate constitutional recognition of local government in the Australian Constitution, as announced by the then Leader of the Opposition, the Hon Malcolm Turnbull MP.

It is argued that constitutional recognition of local government is required to ensure the free flow of funding for successful and important regional programmes like *Roads to Recovery*. As I said at the national conference of the Australian Local Government Association, comments made in passing by the High Court should not be allowed to interfere with local government programmes that are appropriately funded by the Commonwealth. And it is for these reasons, that the Coalition supports the Committee currently examining this issue.

At the same time, the Coalition will only support a referendum that is limited to facilitating direct Commonwealth funding of local government. A referendum that sought to usurp the role of the States, or otherwise change the current order of governance of Australia, would be highly problematic and is not something the Coalition would be likely to support.

The Coalition will carefully examine the formulation of any proposal for constitutional recognition of local government. I have recently nominated two Coalition representatives to serve on the Government's Expert Panel: Mrs Jane Prentice MP, Federal Member for Ryan and former member of the Brisbane City Council; and Mr Paul Bell AM, Deputy Mayor of the Central Highlands Regional Council and President of the Queensland Local Government Association. The Member for Ryan and Mr Bell are well-respected in this area and their extensive experience should provide sound practical skills to the Panel's deliberations.

I invite you to stay up to date with Coalition news and policy announcements via the Liberal Party website www.liberal.org.au and to keep in touch with Mr Abbott via his personal website www.tonyabbott.com.au.

Yours sincerely

MAXINE SELLS
Adviser