



TRUST THE PEOPLE ON CONSTITUTIONAL CHANGE

A planned referendum on recognising local government is a chance for robust debate

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IT'S time again to think about what citizens want out of the Australian Constitution and how we are going to get it. The agreements between Labor, Greens and the independents that underpin the Gillard government commit to national referendums within the next three years to constitutionally recognise indigenous Australians and local government.

The commitments provide a great opportunity for the Australian people to re-engage with the evolution of their 109-year-old Constitution. Indigenous and local government recognition are important issues. According to Griffith University's Australian constitutional values survey, conducted before the election, a substantial majority of citizens agree it is important to move on these issues. But to do so, we need to debate what changes will benefit Australia and, depending on what we are trying to achieve, the form of the changes.

Constitutional recognition of local government is a case in point. It should be simple. But it has been tried twice before — in 1974 and 1988 — and failed to win public support both times.

On some theories, all that is needed is to add three words, "and local governments", to the section of the Constitution that lets the federal government grant money to state governments.

Clearly, this must be central to any change. After last year's Pape decision in the High Court, the legality of much direct commonwealth funding to local governments and other regional programs is more doubtful. The change would also end the symbolic silence about the existence of local government which, as a creation of the states, gets no mention in the Constitution.

However, this is also the same fix that was tried and failed in 1974. It is important to do it but we have to ask why it failed 36 years ago.

If we are just fixing a technical hitch, we also must ask whether there is another, easier fix. And there is. We can go back to channelling all local and regional funding through the states, as the constitutional framers intended.

Most Australians are suspicious of arguments that a change is good because it is minimal. If it is minimal, it doesn't really matter (in which case, no cost to vote no) or there is more going on than we're being told (in which case, best vote no).

So to understand what we are really doing we need a process that is open, thorough, transparent and engages the entire community in discussion about the true issues driving this change.

Constitutional values research shows that citizens want to see movement towards a better federal system of government. This is what really drives the case for recognition of local government, not just tidying up the status quo or fixing a technical problem.

Supporters know that direct federal funding is important to continuing reform of the public financial system as a whole, reorganising ourselves as one system of government rather than a complex, often wasteful grab bag of disconnected parts, including state governments.

Simply regularising existing funding is also obviously not what is needed. Most people recognise that the best reason for change is to ensure more of our national tax revenues can be redirected to local government if it is to do its present and future job properly. And some of this growing share must, and should, come from money presently allocated to the states.

Until now, laundering local and regional funding through state governments has resulted in decades of state cost-shifting, "cream-ing off" and further confusions of responsibilities between all levels. A lot of Australians will look for

signs the change is intended to address these larger problems, rather than merely tinkering.

Recognition is also important because it may be the only way to get a truly national, coherent program for reform of local government itself, to make it more democratic and competent. Research shows a decisive proportion of Australians may be sceptical about improving local government's access to money without an upgrade in expectations about how it serves the community.

If people see recognition of local government as part of tackling the problems of our federal system, they will vote for it. If they don't, they may not.

This reinforces the need for a process that opens these questions to a wider deliberative process than simply one controlled by politicians, vested interests and those presumed to know. For example, some people are inclined to let local government identify what form of recognition is needed. But is this safe? After all, it is not local government but the Australian people who will be voting. It is their Constitution.

We have seen previous referendums fail based on arguments — including from politicians — that citizens cannot trust politicians to get constitutional change right. If that sentiment remains true for federal and state politicians, it is truer for local ones.

Before we go too far, the government and Greens need to decide on the process for proper engagement to occur. It is time for us to start really trusting the people. Only then will we get the kind of change voters are likely to support in a referendum.

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