



19 November 2012

Our Ref: KS/AG

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

Constitutional Recognition of Local Government

The Local Government Association of Tasmania (LGAT) welcomes the opportunity to provide a submission to the Joint Parliamentary Committee into Constitutional Recognition of Local Government. Representing all 29 Tasmanian councils, LGAT is the voice of Local Government in Tasmania to other governments, interested stakeholders and the wider community.

Support for Constitutional Recognition

Constitutional Recognition for Local Government is formally supported by LGAT members. LGAT strongly supports the position of the Australian Local Government Association (ALGA) that a constitutional referendum empowering the Commonwealth to directly fund local government, would cement its ability to continue to cater to the needs of local communities. This support has been encompassed in a number of motions passed at LGAT General Meetings (see attachment 1).

Local Government is an essential part of Australia's system of government and over recent decades, its role has widened significantly. Local Government now covers increasingly complex areas including planning, environmental management, recreation, regional development and in particular, growing responsibilities in human services. Further, Local Government is increasingly being asked to both contribute to the national policy agenda and support improvements in public policymaking and service delivery at the regional level. As such, Local Government is now directly involved in the development of national policy.

Local Government is a legislative responsibility of the States and Territories and is recognised in the Constitution of each State. ALGA is an accepted member of the Council of Australian Governments, the highest forum for collaboration in our federal system. In a time of economic uncertainty, more than ever all levels of government have recognised the need to take a cooperative approach to the reallocation of responsibilities and

resources to minimise duplication and waste and to increase sustainability and accountability for communities.

While Local Government generates around 80% of its own revenue, funding from the Commonwealth Government remains a critical source of revenue for councils, particularly for programs and service in regional and remote communities. In response to the High Court challenges against direct funding by the Federal Government to bodies other than State Governments, LGAT believes constitutional recognition for Local Government would remove the current uncertainty in regards to direct funding programs, such as the highly successful Roads to Recovery Program, and secure Local Government's ability to cater to the needs of local communities in line with the intent, in 1840, when councils were first established.

In addition to Roads to Recovery funding, Tasmanian councils have in recent years benefited from direct funding for infrastructure development, healthy communities programs, climate change adaptation and mitigation activities and implementation of electronic development assessment programs. These funds have been critical to enable Local Government to keep abreast of increasing community and policy demands in these areas.

Community Support in Tasmania

Unfortunately an ever increasing regulatory role for Local Government has significantly altered the perceptions of communities in relation to their councils. Increased compliance coupled with expanding roles is tending to lead to councils being viewed as an enforcement agency in the eyes of the community, rather than as a critical component of democratic governance. However, there are many instances where councils are the last institution left in the town or the region and communities continue to approach councils to undertake services that have traditionally been provided by other spheres of government or the private sector. This can range from the facilitation of banking and communications services through to the provision of medical services such as podiatry, dentistry and a local doctor. Increasing community expectations for a greater range and improved quality of services, while maintaining rates at acceptable levels, is a significant driver for change and a strong indicator of the relevance of Local Government within communities

In Tasmania this has lead to a significant focus on Local Government reform, particularly in the Southern Region, over the last few years. While it could appear that this has the potential to derail community support for Constitutional Recognition of Local Government, recent survey results suggest that communities may be able to take a more strategic view of the matter.

The Local Government Association of Tasmania conducts a state-wide community satisfaction survey biannually. The most recent was concluded in July 2011 and for the first time incorporated questions related to constitutional recognition, and direct federal funding, of Local Government.

1210 residents, randomly selected from across the State, were interviewed by telephone, with a demographic profile representative of the broader Tasmanian population. Nine categories of council services were identified and within these areas 30 distinctive service areas were recognised.

The Survey showed a positive increase in resident satisfaction across a range of important Council service delivery areas over the past two years, notwithstanding a decrease in residents' rating of Council's overall performance. It was a case of the sum of the parts being greater than the whole.

Despite some issues with overall satisfaction, survey respondents showed a high level of support for the Constitutional Recognition of Local Government with 2 in 3 respondents scoring 4 and 5 on a scale of 1-5 (with 5 being most important). 78.9 per cent of respondents were strongly in support of ensuring continued direct funding of Local Government by the Federal Government. Only 15.8 per cent of respondents did not agree with the idea of Constitutional Recognition for Local Government and only 9.4% of respondents did not believe that the Federal Government should be able to directly fund Local Government.

The full survey is available on the LGAT website¹ but an extract is provided in Attachment 2.

Key Issues

The Amendment Sought

Tasmanian councils support the ALGA position of seeking financial recognition through an amendment to Section 96 of the Constitution so that it would read "Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory".

This change would provide the Federal Government with the power to be able to provide funding directly to local government where this was in the national interest. It is not about asking for more money but rather is about removing doubts about the Federal Government's ability to keep doing what it is doing.

Importantly, this simple change to the Constitution would have no impact on how local governments work or on their relationship with state governments. Local government, in seeking recognition, does not seek to break or change the relationship between itself and the State and Territory Governments.

Conditions for a successful referendum

The LGAT is in agreement with the ALGA's belief that in order to give any proposal the best chance of success, the following are required:

- Bipartisan support
- A strong and public Government lead and support.
- A comprehensive and factual education campaign informing voters about the Constitution, how changes can be made to it and the question being asked.

The last point is critical as voters who do not fully understand a proposal are more likely to vote 'no' because of misunderstanding or fear as opposed to a 'true assessment' of the proposal.

Yours sincerely

Dr Katrena Stephenson
POLICY DIRECTOR

¹ http://www.lgat.tas.gov.au/webdata/resources/files/Community_Satisfaction_Survey_2011_-_Final_Report.pdf

Attachment 1: Constitutional Recognition Timeline –Tasmania (2000 to 2011)

Key dates:

June 2000: The Local Government Association of Tasmania established a working party 'to progress the recognition of Local Government in the State and Commonwealth Constitutions'.

May 2001: At the General Meeting of the Local Government Association of Tasmania (LGAT) a number of motions were passed with the intention of initiating discussions with the State Government on the issue of constitutional recognition of Local Government.

June 2001: The Premier's Local Government Council (PLGC) referred the matter of Constitutional Recognition of Local Government to its Officials Committee to assess how best to progress the issues raised by Local Government and to assess the legal and practical implications of implementation.

June 2006: Tasmanian councils voted in support of the following motion:

- Continue to lobby for the inclusion of appropriate recognition of Local Government in the Commonwealth Constitution.
- Urges the Local Government Association of Tasmania to renew its efforts to gain appropriate recognition of Local Government in the Commonwealth Constitution, including the formal of a special committee to work with other states to finalise the wording of proposals, and undertake appropriate lobbying activities to achieve Constitutional recognition.
- Urges the Local Government Association of Tasmania to use all efforts to press the Australian Local Government Association to be more active in pursuing the Australian Parliament to undertake measures to have Local Government recognised in the Commonwealth Constitution.

August 2008: 21 participants from 15 councils, gathered together to aid in developing a Tasmanian position on Constitutional Recognition for Local Government. Participants workshopped a series of key questions including: What do we want to achieve through Constitutional Recognition? What form should Constitutional Recognition for Local Government take? What is the Tasmanian Community likely to think about the issue? How can the community best be engaged? 9 representatives later attended the Australian Local Government Association's expert's forum in Canberra.

March 2011: LGAT member councils agreed to contribute \$75,000 annually, through subscriptions, into a Constitutional Recognition 'fighting fund', with such a fund to be quarantined for a campaign, or refunded if a referendum does not eventuate, to be topped up with LGAT reserves.

July 2011: LGAT member councils agreed that LGAT should lobby the State Government to ensure that the provisions of the Tasmanian Constitution be strengthened to recognise that Local Government is a democratically elected level of government.

June 2012: 26 of 29 Tasmanian councils have passed formal resolutions in favour of financial recognition of Local Government in the Constitution.

Attachment 2: Extracts from 2011 Tasmanian State-wide Community Satisfaction Survey.

Methodology

The total sample of 1210 respondents reflected the relative population (residents 18 years plus) of each LGA to total, subject to a minimum of 20 respondents for the smaller LGAs and a maximum of 120 respondents for the larger LGAs.

The survey sample and survey methodology together provide statistically robust results statewide and for the key groupings – region of state and council category.

The total sample provides statistically robust results for the total group – maximum sampling error 3% plus or minus at the 95% confidence level, ie. survey outcomes are likely to be within 3% of the actual measure for the total Tasmanian resident population aged 18 years and over.

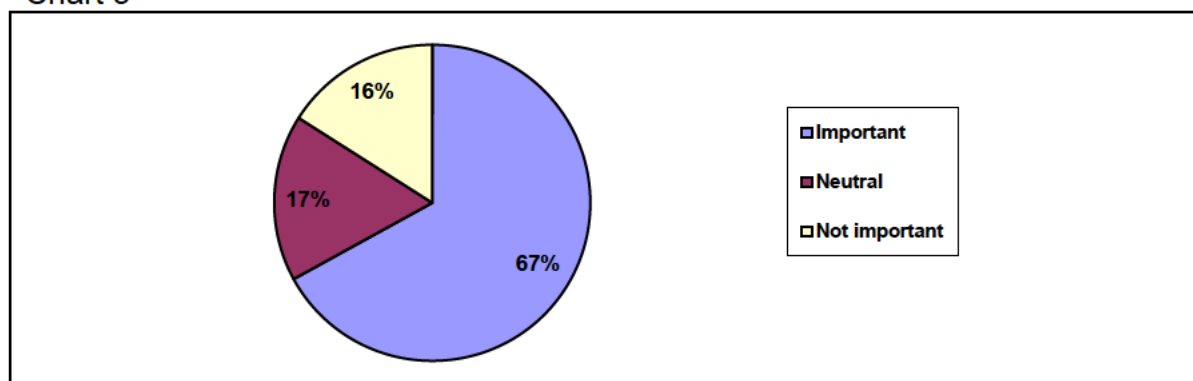
Note that there is a variation in sampling error (generally marginal) where lower numbers than the total sample have responded to a particular question.

Respondents were asked to rate their satisfaction with the level of service provided by their council for the following council activities, services and programs – on a scale of 1 to 5, where 5 is very satisfied down to 1 is very dissatisfied (n = don't know, not sure, not applicable).

Results

- 2 in 3 respondents think it important that **Local Government be recognised in the Australian Constitution** – more likely to be residents from the North-West and from rural councils (*refer Chart 3, page 23*).
- Close to 80% of respondents believe that the **Federal Government should be able to fund Local Government directly** compared with the current funding arrangement mainly via the State Government in addition to council levied rates and charges ... again more likely to be North-West residents and from rural areas of the State (*refer Chart 4, page 23*).
- Two in three respondents felt it important that local government be recognised in the Australian Constitution, with just 1 in 6 not believing this to be important. The chart summarises community sentiment -

Chart 3

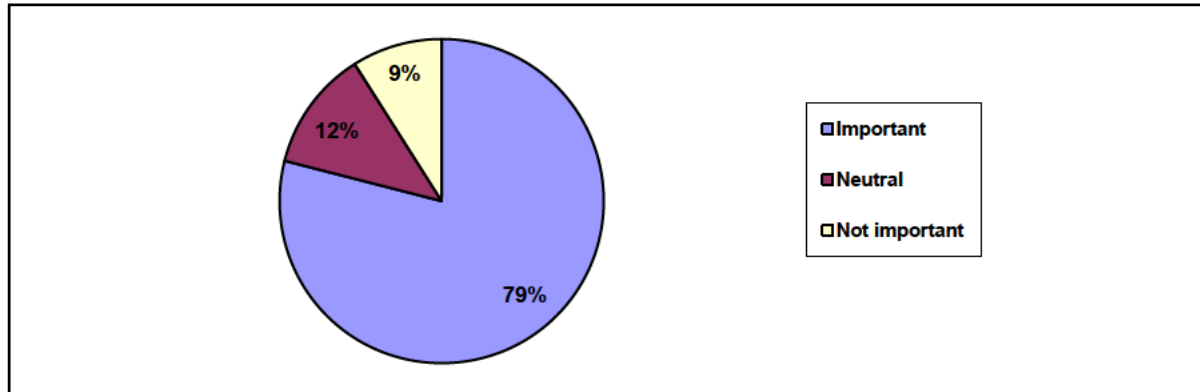


- Residents from the North-West of the State and from rural communities were more likely to see this as an important change to the Constitution.

Direct Federal funding of local government

- Close to 80% of respondents thought it important that the Federal Government should be able to directly fund local government, with less than 10% thinking this was not important – as the chart below shows.

Chart 4



- Again North-West and rural respondents were more likely to support this proposed change to funding arrangements.

10.1 Local Government is currently not recognised in the Australian Constitution. On a scale of 1 – 5 where 5 = very important and 1 = not important at all, how important do you think it is that local government is recognised in the Australian Constitution?

Table 10.1							
	5	4	3	2	1	Total responding	n
Frequency	420	319	188	79	95	1101	109
%	38.1	29.0	17.1	7.2	8.6	91.0	
% 4/5	67.1						
% 1/2	15.8						
Average	3.8						

10.2 The Federal Government provides funding to local government, via the State Government, to supplement the money councils receive from rates and charges. On a scale of 1 – 5, where 5 = very important and 1 = not important at all, how important do you think it is that the Federal Government be able to directly fund Local Government?

Table 10.2							
	5	4	3	2	1	Total responding	n
Frequency	570	344	135	74	35	1158	52
%	49.2	29.7	11.7	6.4	3.0	95.7	
% 4/5	78.9						
% 1/2	9.4						
Average	4.2						