



Local government and the Commonwealth: an evolving relationship

Dr Lyndon Megarrity
Politics and Public Administration

Executive summary

- This paper provides a broad historical overview of Australian local government and its relationship with the Commonwealth, with some discussion of contemporary issues. It shows how the Commonwealth has come to play an important policy role in local government and how that relationship has evolved through time. The paper does not, however, attempt to give a detailed account of specific technical aspects of the local government experience such as financial administration. A strong theme in this paper is the long-held desire among local governments for greater autonomy and funding to match their increasingly heavy administrative and social role.
- Each state, as well as the Northern Territory (NT), has a system of local government, created by state/territory legislation: the states and the NT may restructure their local government system at any time. Each local government authority provides services to a specific, geographically-defined community, covering a broad range of civic responsibilities, from infrastructure to human services. Its responsibilities continue to grow according to local demand.
- Local governments have been established since the nineteenth century. The growth in local government activity since 1945 has encouraged local authorities to seek increasing subsidies from the Commonwealth government.
- Commonwealth funding of local government projects such as roads has been most prominent in recent times, especially after Prime Minister Gough Whitlam's unprecedented interest in local government policy between 1972 and 1975.
- Because local government is not mentioned in the Australian Constitution, the Commonwealth government has generally been compelled to provide subsidies to local government indirectly: that is, through the states. An attempt by the Whitlam Government to enshrine a direct financial link between the Commonwealth and local government within the Australian Constitution failed when put to the people via referendum. A subsequent referendum proposal by the Hawke Government to provide constitutional recognition to local government also failed. Both the Whitlam and Hawke Governments were unable to convince the electorate that the federal system required reform.

- In recent decades there has been bipartisan Commonwealth support for local government. In an unorthodox move, the Howard Government's Roads to Recovery program provided direct funding to local governments for the building and maintenance of local roads.
- Along with Labor, the Coalition Government condemned the amalgamation of local councils in Queensland during 2007.
- The Rudd Government created the Council of Australian Local Governments, which has provided a forum for Commonwealth–local government issues. It also continued the Roads to Recovery program and funded local government projects as a means of beating the Global Financial Crisis in 2008–09.
- The subsequent Gillard Government has affirmed the ALP's ongoing commitment to providing constitutional recognition of local government.
- In the final section of the paper, the options for constitutional recognition are briefly discussed. These options include acknowledgement of local government as part of the federal system, guaranteed structural protection of local government, or shoring up Commonwealth–local government financial arrangements.
- Two final points are raised. First, it is stressed that civic participation and local identity are important parts of local government, and thus the Commonwealth–local government relationship may prove to be more meaningful and productive if it involves balancing the demands for regional development with an acknowledgement of the legitimacy of local priorities. Second, the Commonwealth, the states and the local government sectors must maintain a dialogue to ensure that any reforms of the federal system are reached by consensus.
- Accompanying the paper are Appendices which (A) provide statistics for the 1974 and 1988 Commonwealth referendums on local government; (B) lists the most relevant state legislation addressing local government; and (C) give details of the Commonwealth's 2006 parliamentary resolution which gave formal recognition to local government.

Contents

Introduction	1
The role of local government.....	1
The historical establishment of local government: a short overview	3
The colonial era to the 1940s	3
Years of expansion: 1945 to 2000.....	4
Since 2000.....	5
The evolution of Commonwealth-local government relations.....	6
Post-war planning: the 1940s	7
The Whitlam era	8
The Fraser and Hawke years: 1975–1991.....	10
The 1988 referendum on constitutional recognition of local government.....	11
Recent developments	12
Future directions in local government reform	14
Appendix A: Previous Referendum questions and results.....	18
Appendix B: State constitutional recognition and governing legislation.....	20
Appendix C: Parliamentary resolution	21

Introduction

This paper provides a broad historical overview of Australian local government and its relationship with the Commonwealth, with some discussion of contemporary issues.¹ It shows how the Commonwealth has come to play an important policy role in local government and how that relationship has evolved through time. Further, the paper provides the general reader with a short introduction to local government and the nature of its links to the local community, the states and the Commonwealth. The paper does not, however, attempt to give a detailed account of specific technical aspects of the local government experience such as financial administration. A strong theme in this paper is the long-held desire among local governments for greater autonomy and funding to match their increasingly heavy administrative and social role.

The role of local government

Local governments play an important role in the lives of citizens in the six Australian states and the Northern Territory. Local government authorities exist to provide services and amenities to local communities, and are also responsible for regulating and providing services for land and property in their district. The most common kinds of local authorities include city councils in metropolitan and regional urban 'hubs', as well as shire councils, which serve many rural areas. The titles of local councils vary from state to state. What all local councils in Australia have in common is that they are the creatures of state/territory legislation, which stipulates the activities which the state or territory requires the local government to perform, as well as the functions it is allowed to perform if it chooses. In practice, local councils have a great deal of autonomy, but they can be dissolved, suspended or amalgamated with other councils if their state/territory government regards such measures as appropriate. The state/territory government may also override council decisions.²

Each council employs or contracts staff to provide local government services. Staff activity and the character of the local council are guided by the decisions of elected councillors who are generally led by a mayor. Their role is to represent their community at council meetings, committees and functions, as well as to communicate local council decisions to the public. Councillors also develop council policies and make decisions relating to those policies. Mayors tend to receive higher remuneration than other councillors, reflecting their higher workload.³ Despite the general

-
1. The author would like to thank Cathy Madden, Nicholas Horne, Rob Lundie, Scott Bennett, Rod Sullivan and Dy Spooner for their feedback on this paper.
 2. Sources on the role of local government include CR Forell, *How we are governed: federal, state and local government*, eleventh edition, Longman Cheshire, Melbourne, 1994, pp. 143–145; Department of Infrastructure, Transport, Regional Development and Local Government, *2007–08 Local Government National Report*, Commonwealth of Australia, Canberra, 2010, pp. 2–3; 'Local government's vital role in our democratic system', *Local Government FOCUS*, April 2010, p. 12; T Smith, 'Council bypass a shonky plan for Melbourne', *Age*, 2 June 2010, p. 17. The Australian Capital Territory does not have a local government system.
 3. Remuneration conditions for councillors vary according to region and state/territory. See for example the Queensland Government's Department of Infrastructure and Planning website, viewed 28 September 2010, <http://www.dip.qld.gov.au/local-government-/index.php>; Local Government Association of South Australia (LGAS),

consensus that councils should represent and serve their communities, women remain under-represented as elected councillors (approximately 27 per cent of all elected council members in early 2010).⁴

Regulation is an important aspect of local government activity. Local government performs regulatory tasks that would be difficult for a state government to administer because of their localised and varying nature. These tasks can include building inspection, planning and development approval, dog and cat management, parking, as well as food and health inspection. Another priority of local governments is the general health and well-being of the local community, reflected in such activities as drainage, immunisation, public toilets, water coolers, waste disposal and the cleaning and maintenance of local streets, footpaths and roads. Local governments also provide community services (such as libraries and child care) and recreational facilities (such as public gardens, parks and sports grounds). Depending on the wealth and means of the council, attempts to encourage tourism or the hosting of 'special events' to foster local commercial benefits or community pride are not uncommon.

Local government, then, is a means of ensuring that local communities function effectively on a daily basis and are provided with the basic services and facilities that Australian communities expect to find in suburbs, towns and rural areas. It also has the potential to be a catalyst for building local identity and social cohesion, depending on the priorities and capabilities of each council.

How is local government financed? In the first place, 'ratepayers', people that own property, are charged annual rates by councils. Other local revenue streams include car parking charges and fines, user charges for council services and licence fees. As local government revenue is limited by population and subject to restrictions by states on how much the local authority can charge, state and Commonwealth subsidies are also important. Subsidies are especially vital for country shires, which tend to be large in area but small in terms of population. The capacity of rural councils to deliver all their required services can be severely strained, especially as they are subject to inevitable fluctuations in grant monies and (sometimes) levies for state-delivered services (like State Emergency Services).⁵ The tensions between community expectations and the capacity of local governments to deliver can best be appreciated by briefly tracing the history of local government.

So you want to be on council, LGAS, Adelaide, 2006, viewed 17 June 2010,

http://www.prospect.sa.gov.au/webdata/resources/files/So_you_want_to_be_on_Council1_pdf.pdf

4. Australian Local Government Association, *Women in politics: showing the way in 2010*, Australian Local Government Association, Deakin (ACT), 2010, p. 6.
5. G Sansom, 'A fair slice of the cake', *About the House*, March 2004, p. 29; J Kane, 'Constitutionalising local government', *Public Administration Today*, July–September 2006, p. 24; D Jopson, 'Gone to pot: councils on the brink', *Sydney Morning Herald*, 5 April 2010, p. 1. For more details on Commonwealth financial assistance to local government, see R Webb, *Commonwealth general purpose financial assistance to local government (revised September 2007)*, Research Paper 9, 2007–08, Parliamentary Library, Canberra, 2007, pp. 2–3, viewed 21 September 2010, <http://www.aph.gov.au/library/pubs/rp/2007-08/08rp09.pdf>

The historical establishment of local government: a short overview

The colonial era to the 1940s

Local government was slow to develop in Australia. Adelaide can boast the establishment of the first elected municipal council (1840), followed by Sydney and Melbourne (both 1842). After the British Government granted self-government to several colonies in the 1850s, the establishment of elected local councils grew more rapidly. The growth in local authorities was largely achieved through the active encouragement of the six colonial governments. At various times, cash-strapped central authorities transferred various responsibilities to local communities: drainage, water supply, public transport, roads, gas, and other local infrastructure. Eventually, some of these same services were returned to the control of the central government when it became clear that the expense and administration were too great for local authorities.

By the end of the nineteenth century, elected local government was a fixture in Australian colonial life. The sector was chiefly concerned with local infrastructure needs, especially roads; the central government tended to take on public tasks which transcended local boundaries, such as education.⁶

The role of local government was barely mentioned during the 1890s Constitutional Conventions which led to Federation. Most of the founding fathers, including Sir Samuel Griffith, saw local government as purely a domestic responsibility of the individual states which had no relevance to federal discussions. One future Prime Minister, Alfred Deakin, tentatively suggested at the Australasian Federal Convention (1897) that some individual 'localities' might be funded directly by the Commonwealth, but another future Prime Minister, Edmund Barton, expressed what many other colonial politicians thought of this proposal:

The revenue and the financial position of the various colonies would be so impaired and hampered that they would become municipalities instead of self-governing communities.⁷

Barton's response reflected the consensus that Federation was an agreement between the future states to create a nation on mutually agreed principles. The notion of local government as the 'third tier' of Australian governance was yet to take hold.

-
6. For the history of the early years of local government, see RJK Chapman and M Wood, *Australian local government: the federal dimension*, George Allen & Unwin, Sydney, 1984, pp. 18–23; MA Jones, *Local government and the people: challenges for the eighties*, Hargreen Publishing Company, West Melbourne, 1981, pp. 29–39; C Balmer, 'Local government in the federal system', in Australian Local Government Association/ICL Australia Pty Ltd, *The Australian local government handbook*, Australian Government Publishing Service, Canberra, 1989, pp. 1–2; J Hirst, 'Local government', in G Davison, J Hirst and S Macintyre, eds, *The Oxford companion to Australian history*, Oxford University Press, Melbourne, 1998, p. 396.
 7. E Barton (speaking at the Australasian Federal Convention, second session, 1897), cited in C Aulich and R Pietsch, 'Left on the shelf: local government and the Australian constitution', *Australian Journal of Public Administration*, vol. 61, no. 4, 2002, p. 18.

Nevertheless, a large minority of the first federal parliamentarians elected in 1901 had served in local government (29.7 per cent according to one estimate).⁸ The fact that there were so many former local councillors elected to federal parliament suggests that the popular status of local government was reasonably high by the time of Federation. While not widely celebrated, the role of the local government authority within many communities was strong. Aside from rubbish collection, road maintenance, and other services to property, many councils from the early years of local government were involved in a modest amount of ‘place-shaping’—that is, attempting to create a bond between people and their local area. Such place-shaping activities between 1850 and 1950 typically involved the provision of public facilities such as halls, municipal baths, parks and gardens.⁹

Years of expansion: 1945 to 2000

However, it was only after World War II that local councils increasingly had to carefully balance their traditional ‘services to property’ with community welfare and quality of life issues. Community expectations after the war had risen:

- the wartime employment of women had led to demands for greater council attention to child care through the provision of crèches and infant welfare centres;
- the post-war ‘baby-boom’ and the proliferation of suburbs encouraged councils to invest in youth-focused recreational facilities such as swimming pools; and
- it might be speculated that the growing post-war State and Commonwealth emphasis on formal education and training filtered down to the local level via the massive development of free municipal libraries across Australia between the 1940s and 1970s.¹⁰

8. J Rydon, *A federal legislature: the Australian Commonwealth parliament 1901–1980*, Oxford University Press, Melbourne, 1986, p. 97. Rydon collated various figures on local government service among federal parliament between 1901 and 1980, and she notes that her figures were probably incomplete because she was unable to access all local government records. *Ibid.*, p. 97.

9. Advisory Council for Inter-government Relations, *Responsibilities and resources of Australian Local Government*, Australian Government Publishing Service, Canberra, 1984, p. 10, 160. The concept of local government as a ‘place-shaper’ is developed in B Dollery, B Grant and S O’Keefe, ‘Local councils as ‘place-shapers’: the implications of the Lyons Report for Australian Local Government’, *Australian Journal of Political Science*, vol. 43, no. 3, 2008, pp. 481–94. For examples of council involvement in creating public facilities in the nineteenth and twentieth centuries, see D Jones, ‘The foundations of Adelaide’s Gardenesque Parks and Gardens: the role of August Wilhelm Pelzer’, *Studies in Australian Garden History*, vol. 2, 2006, pp. 81–95; C Leach, ‘The leisure pursuits of Brisbane children during the 1930s depression’, *Queensland Review*, vol. 15, no. 2, 2008, pp. 89–109; I McShane, ‘The past and future of local swimming pools’, *Journal of Australian Studies*, vol. 33, no. 2, 2009, pp. 195–208.

10. For details of the post-war expansion in local government services, see R Atkins, ‘Local government’, in RN Spann, ed., *Public administration in Australia*, New South Wales Government Printer, Sydney, 1973, p. 241; M Bowman, ‘Historical perspectives’, in A Sinclair with M Bowman and L Strahan, *Getting the numbers: women in local government*, Hargreen Publishing Company, North Melbourne, 1987, p. 15; A Bundy, ‘Case-study: public libraries—books, bytes, buildings, brains’, in C Munro and R Sheahan–Bright, eds, *Paper empires: a history of the book in Australia 1946–2005*, University of Queensland Press, St Lucia, 2006, pp. 373–7; McShane, ‘The past and future of local swimming pools’, *op. cit.*, p. 195.

It is important to point out that the trend towards greater involvement in 'quality of life' services was not uniform: it depended on the financial circumstances and priorities of each council, as well as the availability of state subsidies. It is probably no accident that the ambitious local council initiatives since the 1970s, such as art galleries, performance centres, youth programs and social welfare services, have been pursued at a time when the Commonwealth has provided more support for the local government sector than in previous decades.¹¹

Since 2000

In recent times, there has been a great deal of dissatisfaction expressed within the local government sector about its current status within the Federation. As former president of the Australian Local Government Association (ALGA), Paul Bell, points out, 'Ultimately hanging over the head of every council is the knowledge that a state government can at the stroke of the legislative pen do away with any council it wishes.'¹² State governments in the last two decades have forced numerous councils to amalgamate in the name of economic efficiency, discounting other aspects of local government such as social cohesion and civic participation at the local level. The attachment which many residents have to their local areas could be seen in strong regional protests prior to the 2008 council amalgamations in Queensland, which reduced the number of councils from 157 to 73 with a minimum of consultation.¹³

Individual councils are further reminded of their ultimate lack of autonomy by state governments sometimes taking over responsibility for the handling of contentious building and land development proposals, bypassing council approval and community consultation processes.¹⁴ Local governments have also criticised the states for under-funding areas expected by the community but which local government cannot fund entirely on its own. According to librarian and academic Alan Bundy, libraries are a key example:

If the state and territory governments had maintained over the last 25 years their public library funding relative to that of local government and as a percentage of their annual expenditures,

-
11. For civic initiatives of the 1970s and 1980s see for example R Lowell, 'Unfinished business: the evolution of local government human services in Victoria', *Victorian Historical Journal*, vol. 76, no. 1, 2005, pp. 88–95; D Tucker, 'Transforming a provincial city: the Pilbeam mayoralty in Rockhampton 1952–1982', *Queensland Review*, vol. 10, no. 1, 2003, p. 172.
 12. H Grennan, 'Councils hope for end to uncertainty', *Sydney Morning Herald*, 14 August 2007, p. 30.
 13. S Prasser, 'Democracy and local government: The Queensland experiment', *Sydney Papers*, vol. 19, no. 4, 2007, pp. 83–92; J Anderson, 'The bush fires up', *Townsville Bulletin*, 12 May 2007, p. 7. See also W Frew, 'Calls for bigger and fewer councils', *Sydney Morning Herald*, 18 November 2008, p. 2; R Fitzgerald, L Megarrity and D Symons, *Made in Queensland: A New History*, University of Queensland Press, St Lucia, 2009, p. 275. The upheaval experienced by the Queensland local government sector was mirrored in Victoria during the Kennett Liberal-National Party Government (1992–99), during which time the number of Victorian local councils was reduced from 210 to 78. See A Vince, 'Amalgamations', in B Dollery and N Marshall, eds, *Australian local government: reform and renewal*, Macmillan Education Australia, South Melbourne, 1997, pp. 156–60.
 14. Smith, 'Council bypass a shonky plan for Melbourne', op.cit., p. 17; M Moore, 'Councils join forces for legal tilt at Barangaroo project', *Sydney Morning Herald*, 7 May 2010, p. 9.

the 2009/2010 investment in Australia's public library system would likely now be double the current total funding of \$800 million pa.¹⁵

As a consequence of the numerous challenges facing their sector, many local government representatives have come to view the Commonwealth government as a potential ally, both in funding and assisting them in gaining greater autonomy and status as the third tier of government. To understand how this view has come to mark public debate on local government's future development, it is worth investigating the evolution of the Commonwealth–local government relationship.

The evolution of Commonwealth-local government relations

During the twentieth century, Commonwealth politicians often found local government to be a useful political training ground and means of developing a support base and profile. Ben Chifley (Abercrombie Shire Council), Sir John Gorton (Kerang Shire Council) and Senator Margaret Reynolds (Townsville City Council) are among the many former federal members to have served in local government.¹⁶ However, despite the personal impact which local government has had on the careers of federal politicians, Commonwealth involvement in local government issues was relatively minor until late in the twentieth century.

Local government is not mentioned in the Australian Constitution. Because local government is a legislative creation of the states, however, section 96 of the constitution was able to be liberally interpreted as permitting the Commonwealth to indirectly fund aspects of local government *via* the state authorities:

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament sees fit.¹⁷

The first major indirect Commonwealth intervention in local government matters occurred during the 1920s, when the Commonwealth government began assisting state governments financially with the construction of roads. With some councils boasting expertise in engineering, local governments in the interwar years 'often acted as an agent of the State in the construction and maintenance of

-
15. A Bundy, 'A better, more accessible public library system for all in Australia: whose responsibility?', *Aplis*, vol. 22, no. 4, 2009, p. 141. See also P Perry, 'Library squeeze angers authors', *West Australian*, 30 March 2010, p. 1. For a discussion of perceived under-funding of the local government sector, especially by the states, see House of Representatives Standing Committee on Economics, Finance and Public Administration, *Rates and Taxes: a fair share for responsible local government*, Commonwealth of Australia, Canberra, 2003.
 16. See D Waterson, 'Chifley, Joseph Benedict', in J Ritchie (ed.), *Australian dictionary of biography*, Melbourne University Press, Carlton, 1998, vol. 13, p. 414; I Hancock, *John Gorton: he did it his way*, Hodder, Sydney, 2002, pp. 44–8; M Reynolds, *Living politics*, University of Queensland Press, St Lucia, 2007.
 17. Australian Constitution, s. 96.

main roads'.¹⁸ Aside from roads, the indirect impact of the Commonwealth remained small for several decades.¹⁹

Post-war planning: the 1940s

The Commonwealth first began to seriously consider expanding its relationship with local government during the era of post-war planning (roughly 1942 to 1949). In 1943, the first Minister for Post-war Reconstruction, Ben Chifley, expressed a desire to include local government participation in the Commonwealth's post-war plans:

I readily appreciate what ... [local] authorities can do, because I still have the distinction of being a shire councillor. I recently addressed a conference of the shires on that very subject and emphasized the great part that local authorities will be able to play in [post-war] reconstruction; but I pointed out that they would have to drop many of their parochial ideas and combine in regional councils ... so that their activities could be spread over a wider field.²⁰

During a Premiers' Conference in October 1944, the Commonwealth and the States agreed that regional planning was necessary for the best use of physical, economic and social resources during the post-war era. As University of Sydney geographer J Macdonald Holmes reported, the states subsequently created plans which theoretically divided each state 'into regions having economic and social unity and community of interest'.²¹ Nearly 100 of these 'regions' were tentatively established across Australia by the states. New South Wales, Victoria and Tasmania subsequently established Regional Development Committees for various 'regions'. As well as state appointed members, these committees included local government representatives. Some regional planning work was begun by the regional committees and the Commonwealth Department of Post-war Reconstruction.²²

The Chifley Government's ideal of co-operative regionalised planning involving the three tiers of government was scrapped after the Menzies Government won the 1949 federal election.²³ Significantly, however, having taken over from the states the power to tax income during World War

18. Advisory Council for Inter-government Relations (ACIR), *The Provision of roads: a report on the relationships among the three spheres of government in Australia*, ACIR, Hobart, 1981, p. 7. See also CP Harris, *Local government and regionalism in Queensland 1859 to 1977*, Australian National University, Canberra, 1978, p. 42; RJK Chapman and Michael Wood, *Australian local government: the federal dimension*, George Allen & Unwin, Sydney, 1984, p. 31.

19. J McNeill, 'Local government in the Australian federal system', in B Dollery and N Marshall, eds, *Australian local government: reform and renewal*, Macmillan Education Australia, South Melbourne, 1997, p. 24.

20. JB Chifley, statement, estimates 1943–44, 14 October 1943, *Commonwealth Parliamentary Debates*, House of Representatives, vol. 176, 1943, p. 510.

21. J Macdonald Holmes, 'Regional Planning in Australia', *The Geographical Journal*, vol. 112, no. 1/3, 1948, p. 79.

22. *Ibid.*, pp. 78–82; Commonwealth Department of Post-War Reconstruction (CDPR), *Regional planning in Australia: a history of progress and review of regional planning activities through the Commonwealth*, CDPR, Canberra, 1949, pp. 17, 88–9.

23. AH Kelly, B Dollery and B Grant, 'Regional development and local government: three generations of federal intervention', *Australasian Journal of Regional Studies*, vol. 15, no. 2, 2009, p. 175.

II, the Commonwealth government was now the dominant political player within the Federation.²⁴ The Commonwealth's increasing financial stake in what were traditional state concerns in the 1960s and 1970s—like education and Indigenous affairs—inevitably led to renewed questions about the proper relationship between the Commonwealth, state and local spheres of government.

The Whitlam era

During the ALP Government of 1972 to 1975, Prime Minister Gough Whitlam sought to use the Commonwealth's dominant financial position to achieve some of his national goals through local government channels. In the years leading up to his election as Prime Minister, Whitlam argued that local government should have a greater role in the Australian federal system: 'There are few aspects of our environment or our development, our culture or our welfare which can be adequately tackled without involving local government'.²⁵ He also signalled a desire for sweeping reforms of Australian governance:

The State boundaries arranged at Whitehall [UK] in the middle of the last century and the local government boundaries devised in the State capitals early this century, have little relevance to today's needs. Ideally, our continent should have neither so few State governments nor so many local government units.²⁶

The Whitlam era saw a massive increase in Commonwealth grants to local government, as Whitlam later recalled:

The Federal Government's payment to or for local government authorities increased from \$7 500 000 in 1972–73 to \$165 372 000 in 1975–76 ... New local government programs which the Government financed through the states included senior citizens' centres ... sewerage backlog, leisure facilities, national estate, urban transport and tourism.²⁷

The majority of funds committed to local government during the Whitlam era were distributed to local authorities via the states. While lacking constitutional authority to intervene directly in local government, this did not prevent the federal ALP Government from making 'special purpose grants' direct to local government. A key example of the direct 'special purpose grant' was the Regional Employment Development Scheme (an employment creation program designed to tackle unemployment at the local level).²⁸

The Whitlam Government wanted to ensure that the Commonwealth–local government relationship it was developing was constitutionally unambiguous. Accordingly, it put to the voters a 1974

24. C Lack, ed, *Three decades of Queensland political history 1929–1960*, Government Printer, Brisbane, 1962, pp. 791–802.

25. EG Whitlam, 'A new federalism', *The Australian Quarterly*, vol. 43, no. 3, 1971, p. 11.

26. *Ibid.*, p. 11.

27. G Whitlam, *The Whitlam government 1972–1975*, Viking, Ringwood (Vic.), 1985, p. 724.

28. CP Harris, 'Regional and local government programs', *Australian Journal of Public Administration*, vol. 35, no. 2, 1976, p. 109; McNeill, 'Local government in the Australian federal system', *op.cit.*, p. 26.

referendum proposal which asked for permission to alter the constitution to allow the Commonwealth to 'borrow money for, and grant financial assistance to, local government'.²⁹

The referendum proposal was rejected by the Australian public. The total YES vote was 46.85% with only New South Wales showing a majority of voters in favour (see Appendix A).³⁰ There were a number of reasons for this. From a practical perspective, the local government proposal was only one of four referendum questions put to the voters at the May 1974 general election; given the tendency of Australian voters to reject reforms to the constitution, it was perhaps unhelpful to the local government cause to have the distraction of other questions.³¹ The lack of bipartisan support was also a contributing factor.³² The Liberal–Country Party opposition portrayed the referendum proposal as a means of downgrading the role of the states in favour of increased Commonwealth centralism that was ultimately not in the best interests of local government. Opposition leader Billy Snedden claimed:

Once that centralism is achieved we will find that the grant of money will have a whole series of conditions attached to it which will deprive local government of its own freedom of action, and some bureaucrat in Canberra will decide the way in which local government ought to conduct its affairs.³³

The Minister for Urban and Regional Development, Tom Uren, countered Snedden's arguments by asserting that all the Commonwealth government was trying to do in its reform of local government financing was to create 'co-operative federalism', which ideally would be built upon the notion of '3 equal tiers of government':

Local government is a creature of the States. We all recognise that. But it is apparent that the States have downgraded the position of local government.³⁴

Yet the Whitlam Government's position on local government was ambiguous. The government seemed less concerned with strengthening local governments than with exploring various forms of 'regionalism'. Harking back to the Chifley era, the Whitlam Government created 68 notional regions nationwide through which to distribute local government grants. Each region consisted of several existing local governments, although constitutional lawyer Geoffrey Sawer noted, the regional organisation was 'little more than a post office for transmitting applications from the member local

29. C Saunders, 'Constitutional recognition of local government in Australia', in N Steyler (ed.), *The place and role of local government in federal systems*, Konrad–Adenauer–Stiftung, Johannesburg, 2005, p. 49.

30. AJ Brown, 'In pursuit of the "genuine partnership": local government and federal constitutional reform in Australia', *UNSW Law Journal*, vol. 31, no. 2, 2008, p. 441.

31. I McAllister, M Mackerras and CB Boldiston, *Australian political facts: second edition*, Macmillan Education Australia Pty Ltd, South Melbourne, 1997, pp. 111–12.

32. S Bennett, *The politics of constitutional amendment*, Parliamentary Library, Research Paper no. 11, 2002–03.

33. B Snedden, 'Constitution Alteration (Local Government Bodies) Bill 1974', Second reading speech, House of Representatives, *Commonwealth Parliamentary Debates*, 15 November 1973, p. 3437.

34. T Uren, 'Constitution Alteration (Local Government Bodies) Bill 1974', Second reading speech, House of Representatives, *Commonwealth Parliamentary Debates*, 15 November 1973, pp. 3441–3442.

governments', the successful applicants gaining Commonwealth funds via the states.³⁵ The Whitlam Government also implemented a competing vision of regionalism: the Australian Assistance Plan (AAP). The AAP provided regionally-organised funding for local social welfare programs such as emergency accommodation for women and children.³⁶ Whitlam's enthusiasm for 'big picture' regionalism had begun to overshadow his commitment to local government.

However, the 1974 referendum may also have failed because the urgency required to reform the federal system simply was not there. Whitlam was overseeing a great expansion of Commonwealth fiscal involvement in local government without having to amend the constitution. Moreover, state governments in Victoria and South Australia in the 1970s were gaining unprecedented attention as policy innovators in social reform areas, which called into question the need to reform the federal system in order for transformative change to occur.³⁷

The Fraser and Hawke years: 1975–1991

After the defeat of the Whitlam Government in December 1975, the 'regional' focus of the Commonwealth's local government policy was soon dismantled. The new Liberal–Country Party Government re-emphasised the states' responsibility for local government, but the Whitlam years had made an irrevocable impact. Commonwealth funding remained an accepted and expected part of local government budgets, distributed through local government Grant Commissions set up by the states.³⁸ The Whitlam years had also raised the profile of local government, which led the 'third tier' of government to hope for greater autonomy and financial security within the federal system.

The future of local government remained a current issue under the governments of Fraser (1975–83) and Hawke (1983–91) through forums involving Commonwealth, state and local government representatives, chiefly the Australian Constitutional Convention (ACC) meetings (1973–85) and the Advisory Council for Inter-government Relations (ACIR) (1976–86). Both the ACC and the ACIR pushed for the recognition of local government in each of the state constitutions. Probably

35. G Sawyer, *Federation under strain: Australia 1972–1975*, Melbourne University Press, Carlton, 1977, p. 22. See also JM Power and RL Wettenhall, 'Regional government versus regional programs', *Australian Journal of Public Administration*, vol. 35, no. 2, 1976, p. 122.

36. M Oppenheimer, 'Voluntary action, social welfare and the Australian Assistance Plan in the 1970s', *Australian Historical Studies*, vol. 39, no. 2, 2008, pp. 167–182. The AAP provided direct funding to the organisations involved, bypassing the states. The Whitlam Government justified the direct funding with reference to Section 81 of the Constitution, which stipulated that the Commonwealth's Consolidated Revenue Fund was to be 'appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.' The AAP survived a High Court challenge to its constitutional validity. In Whitlam's words, 'In the case of the AAP the High Court allowed the Federal Government to exercise powers on all matters of concern to Australia as a nation and not merely on those expressly within Federal legislative power.' Whitlam, *The Whitlam Government*, op. cit., p. 718.

37. A Parkin, 'The states, federalism and political science: a fifty-year appraisal', *Australian Journal of Public Administration*, vol. 62, no. 2, 2003, pp. 106–7; D Garden, *Victoria: A history*, Thomas Nelson Australia, Melbourne, 1984, pp. 433–4.

38. R Webb, *Commonwealth general purpose financial assistance to local government*, Parliamentary Library, Research Paper 19, 2000–01, pp. 2–3, viewed 21 June 2010, <http://www.aph.gov.au/library/pubs/rp/2000-01/01RP19.pdf>

influenced by the ACC and the ACIR, each state subsequently took legislative steps to recognise local government in their constitutions (see Appendix B). In 1979, Victoria and Western Australia became the first states to provide constitutional recognition of local government, followed by South Australia (1980), New South Wales (1986), Tasmania (1988) and Queensland (1989). The constitutional acknowledgement of local government by the states did nothing, however, to expand the autonomy and power of the third tier of government.³⁹ As a local government chief executive officer, Stephen Chapple, points out, 'Whilst state constitutions now have provisions maintaining a "system" of local government, the provisions do not guarantee appropriate funding of local government.'⁴⁰

The 1988 referendum on constitutional recognition of local government

Probably hoping to achieve an historic reform during Australia's bicentennial in 1988, the Hawke Government held a referendum proposing constitutional recognition for local government by the Commonwealth. If successful, a new section (119A) would have been added to the Australian Constitution. This would have recognised the existing reality of local governments in Australia as state-created entities but would not grant them any special powers or autonomy. The wording of the text implied, however, that states were legally required to maintain a system of local government:

[Proposed section 119A] Each State shall provide for the establishment and continuance of a system of local government, with local government bodies elected in accordance with the laws of the State and empowered to administer, and to make by-laws for, their respective areas in accordance with the laws of the State.⁴¹

As in the 1974 referendum, bipartisan support was lacking, with the Liberal–National Coalition again raising the spectre of an ALP government committed to centralisation. The essentially symbolic referendum proposal was portrayed by Coalition MPs like Garry Nehl (Cowper) as the beginnings of a Commonwealth power grab:

-
39. Saunders, 'Constitutional recognition', op. cit., pp. 50–57; Sessional Committee on Constitutional Development, *Discussion paper no. 9: constitutional recognition of local government*, Legislative Assembly of the Northern Territory, Darwin, June 1995, p. 2-11; R Chapman, 'Intergovernmental relations', in B Dollery and N Marshall, eds, *Australian local government: reform and renewal*, Macmillan Education Australia Pty Ltd, South Melbourne, 1997, p. 47. Saunders points out that 'all state constitutions guarantee a "system" of local government' but that 'No state constitution guarantees any particular content for the powers of local government. In each case, the Constitution explicitly leaves it to the state legislature to prescribe the powers of local government from time to time'. Saunders, 'Constitutional recognition', op. cit., p. 55. Appendix B provides a list of the state constitutional provisions and the governing state legislation.
40. S Chapple, Chief Executive Officer, Ararat Rural City Council, in 'Will the ayes have it?', *Local Government Manager*, December 2008/January 2009, p. 18.
41. Cited in D Simmons (Calare), 'Local government', House of Representatives, *Debates*, 1 September 1988, p. 781.

However innocuous the question might first appear to be, it would be absolutely naive to believe that any extension of power to Canberra would always be used for benevolent ends rather than for dubious ideological aims.⁴²

The 1988 referendum failed, with only 33.61% of electors voting YES (see Appendix A for full details). Presumably, as in 1974, voters had not been convinced of the need to change the Constitution, and the issue had remained divisive because of the absence of bipartisan support.⁴³ After all, the proposed change was to all intents and purposes simply giving constitutional recognition to the *status quo*.

Recent developments

One of the major features of the 1990s was the growth in prominence of the Australian Local Government Association (ALGA) as a powerful national representative of local government interests. A 1992 initiative by the Keating Labor Government (1991–96) led to the President of ALGA, the state premiers and the Prime Minister becoming members of a new forum, the Council of Australian Governments (COAG), which meets a number of times per year. COAG gave local government a chance to consult with other layers of government on issues of national significance, such as National Competition Policy, as well as to signpost the impact of such policies on local government and communities.⁴⁴

Relatively low key but highly symbolic Commonwealth support of local government continued during the Howard Liberal–National Government (1996–2007). A significant local government initiative of the Howard years was the Roads to Recovery program, which provided funds direct to local governments to upgrade, construct and maintain local roads. Begun in 2000, some \$1.2 billion dollars was spent on Roads to Recovery grants by May 2005, and a further \$1.23 billion was subsequently committed for the 2005–06 to 2008–09 fiscal period.⁴⁵ This program benefited many rural and regional councils, a reflection, perhaps, of an old national ideal identified by political scientist Judith Brett:

Built into the notion of what it was to be an Australian was an idea of shared access to basic services, a shared minimum standard of living, no matter where you lived.⁴⁶

The rhetoric behind the Roads to Recovery scheme included a slightly ‘Whitlamesque’ concern for fostering local ‘agency’ and expeditious outcomes without state involvement:

-
42. G Nehl (National Party), ‘Local Government’, Statement, House of Representatives, *Debates*, 1 September 1988, p. 784.
 43. As in 1974, moreover, the 1988 local government referendum was one of four referendum questions put to the voting public on the same day.
 44. Chapman, ‘Intergovernmental relations’, *op. cit.*, pp. 50–3.
 45. Department of Transport and Regional Services, *Roads to Recovery Programme: Annual Report 2004–2005*, Commonwealth of Australia, Canberra, 2006, pp. 3–7.
 46. J Brett, ‘Comment: the country and the city’, *Australian Journal of Political Science*, vol. 39, no. 1, 2004, p. 27.

The Australian Government determined that the programme would operate under simple administrative arrangements so that councils could devote the additional resources provided to road works instead of having to divert resources to the administration of the programme. Local decision making enabled councils to implement their own priorities in terms of the projects and the technical details of the work undertaken.⁴⁷

As the Liberal-National coalition and the Labor opposition geared up for the 2007 election, both major parties were united in their general support of local government as an important part of the federal system. In late 2006, there was bipartisan support in Commonwealth parliament for a successfully carried motion which recognised the important role the local government sector played in providing infrastructure, planning and community services at the local level (see Appendix C).⁴⁸ In 2007, as the election grew closer, the Howard Government and the Rudd opposition displayed their credentials as local government supporters by expressing disappointment with the Queensland Government's failure to consult with the community over the decision to cut massively the number of Queensland local councils.⁴⁹

In communicating its local government policy to the electorate, the ALP sought to differentiate itself from the Howard government in three main ways. First, Leader of the Opposition Kevin Rudd reaffirmed his party's longstanding commitment to constitutional recognition of local government and effectively promised that a Labor Government would work towards this goal. Second, Labor pledged to establish a Council of Australian Local Governments to act as a forum for local government and the Commonwealth to discuss national issues. Finally, the ALP opposition sought to position itself as the party with the most sincere interest in local government issues. Labor Senator Kate Lundy talked of 'equal partnership' with local government rather than a top-down relationship with the third tier of government, and she portrayed the Coalition's interest in local government as based on electoral politics rather than sentiment:

Our support for constitutional recognition and the establishment of a Council of Australian Local Governments shows the strength of our commitment to local government and to the idea of cooperative federalism. The Howard government, by contrast, has been caught being tricky and opportunistic in seeking to exploit the difficulties that local government is facing.⁵⁰

After the Commonwealth election, the new Rudd Government fulfilled its promise of creating a Council of Australian Local Governments (CALG), which met for the first time on 18 November 2008.

47. Department of Transport and Regional Services, *Roads to Recovery*, op. cit., p. 9.

48. 'Local government recognised', *About the House*, December 2006, p. 55.

49. See for example L Taylor and M Ludlow, 'Referendum call on council mergers', *Australian Financial Review*, 8 August 2007, p. 10; K Lundy (ACT), Second reading speech, Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, Senate, *Debates*, 12 September 2007, p. 3.

50. K Lundy (ACT), Second reading speech, Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, Senate, *Debates*, 12 September 2007, p. 5. For more details on Labor's 2007 election commitments on local government, see G Sansom, 'Challenging times for local government in Labor's new federation', *Commonwealth Journal of Local Governance*, no. 1, 2008, pp. 148–9; A Fraser, 'Qld threatens challenge to federal intervention', *Canberra Times*, 17 August 2007, p. 5; K Lundy, 'Local government, Labor-style', *Local Government Manager*, August/September 2007, p. 42.

Representatives of the 565 local councils and shires, as well as other local government groups met in Canberra with the Commonwealth Government to discuss local government issues at CALG. While constitutional recognition was discussed at the meeting, the Rudd Government's agenda was inevitably different from what it appeared in opposition. Whereas the Rudd opposition's media statements of local government largely emphasised regionalism, a significant focus of CALG proved to be future infrastructure needs for major cities (which are, of course, mostly divided into local councils). The Rudd Government also tied support for local government with its plan to beat the Global Financial Crisis (GFC) through public spending: 'ready-to-go' local council projects were subsequently allocated money. There were also continuities with the Howard era, with continued support for the 'Roads to Recovery' program.⁵¹

On 24 June 2010, Kevin Rudd was replaced as Prime Minister by Julia Gillard. The changeover did not result in a dramatically new direction in the ALP's local government agenda. When the 21 August 2010 Commonwealth election resulted in a hung parliament, Gillard was able to form a minority government with the support of three Independents and a Green MP. Two of the aforementioned Independent MPs, Tony Windsor (New England) and Rob Oakeshott (Lyne) secured formal conditions for their support which included a massive injection of funds to non-metropolitan areas and a commitment to initiating a referendum on constitutional recognition for local government.⁵² Such policies were consistent with the ALP Government's general outlook on local government matters.

Future directions in local government reform

'In Australia', political commentator Kenneth Wiltshire asserts, 'it is no longer possible to assign whole functions of government to just one level of government. Rather, federalism is more like a "marble cake" where the functions of government swirl around, engulfing two or three levels.'⁵³ If we accept Wiltshire's argument that the three tiers are interdependent, how then might the federal system be reformed to improve local government's status and position, and hopefully enhance the workings of the Australian Federation overall?

Local government reform advocates have outlined a number of options for constitutional recognition, including:

- symbolic recognition in the Preamble of the Constitution or its body

51. K Rudd, 'Question: Local government', House of Representatives, *Debates*, 18 September 2008, pp. 7944–7945; A Albanese, 'A new partnership with local government', *Local Government Manager*, vol. 42, no. 2, 2008, p. 5; D Harrison and P Martin, 'Rudd to announce \$300m for local projects', *Age*, 18 November 2008, p. 1; S Prasser, 'Local government comes to Canberra', *Public Administration Today*, no. 17, October–December 2008, p. 58; A Albanese, 'ACELG gathers speed', *Local Government Manager*, February/March 2010, p. 5.

52. J Gillard to T Windsor, undated letter outlining 7 September 2010 agreement to form government, Tony Windsor MP website, viewed 23 September 2010, <http://www.tonywindsor.com.au/releases/AgreementToFormGovt.pdf>

53. K Wiltshire, 'Reforming Australian governance: old states, no states or new states?', in AJ Brown and J Bellamy, eds, *Federalism and regionalism in Australia: new approaches, new institutions?*, ANU EPress, Canberra, 2007, p. 191.

- practical recognition in the body of the Constitution, whereby symbolic recognition is accompanied by measures designed to protect local government interests or
- financial recognition of local government in the body of the Constitution.⁵⁴

Symbolic recognition of local government reform in the Australian Constitution has the political benefit of formally recognising the importance of the third tier while leaving state powers and legislation unchanged. On the negative side, such a symbolic gesture does not, by itself, resolve the tensions between local and state government. On the other hand, a carefully drafted section in the constitution may give moral and potentially legal force to the arguments of local government advocates. University of Technology Sydney academic Graham Sansom has suggested the insertion of a section in the constitution that identifies the rights and responsibilities of local government along the following lines:

Within every State there shall be a system of local government under which elected local authorities shall be granted adequate powers and access to sufficient resources to perform their functions with equity and efficiency.⁵⁵

Another idea that has been canvassed by local government is to add a section to the Australian Constitution that checks the power of the states to decide on the structure of local government. Protection against arbitrary amalgamation by state government is probably the reason for this suggestion.⁵⁶

Others suggest that the financial relationship between local and Commonwealth government should be part of any constitutional recognition. For instance, some financial certainty might be secured through guaranteed minimum Commonwealth funding for local government, fixed 'as a percentage

54. N McGarrity and G Williams, 'Recognition of local government in the Australian Constitution', *Public Law Review*, vol. 21, no. 3, 2010, pp. 164–187. Some may argue that by wording a section in the Constitution recognising local government in such a way as to suggest that states are compelled to have a local government system (see section on 1988 referendum) is more than just symbolic recognition. I would argue strongly that such a section would, in practice, be a symbolic reflection of reality, as state governments have expressed little or no interest in abolishing local government systems. Rather, their interest has been in altering the nature of local government through amalgamations and other measures.

55. G Sansom, 'Be very careful what you ask for ...', *Local Government Manager*, December 2008/January 2009, p. 15. Some advocates of constitutional recognition, such as Jane Prentice (Liberal MP for Ryan), argue that such recognition is vital to ensure that there is no danger of a successful legal challenge to Commonwealth funding to local government bodies in the future. Supporters of constitutional recognition sometimes cite a 2009 High Court case, *Pape v Commissioner of Taxation*. While academic Bryan Pape's challenge to the Commonwealth's capacity to fund a stimulus package involving tax bonus payments to individual tax payers was unsuccessful, the High Court decision (and the comments of dissenting judges) raised serious doubts about the Commonwealth's power to directly fund areas, like local government, which are not mentioned in the Constitution. A case might be made that local government should be recognised to give absolute legal certainty to the funding of the sector. See D Kerr, 'The High Court and the executive: emerging challenges to the underlying doctrines of responsible government and the rule of law', *The University of Tasmania Law Review*, vol. 28, no. 2, 2009, pp. 168–71; J Prentice (Ryan), Speech on local government, House of Representatives, *Debates*, 23 November 2010, pp. 75–6.

56. S Ryan, 'Shires consider plan to bypass the states', *Australian*, 18 November 2008, p. 6.

of national taxation'.⁵⁷ Australian Local Government Association president, Geoff Lake, has suggested a more simplified constitutional assertion of the right of Commonwealth governments to directly fund local government, thereby preventing the possibility of legal challenges to such arrangements:

It's as easy as amending section 96—the section which sets out that the Commonwealth may grant financial assistance to the States on such terms and conditions as it thinks fit— and simply adding the words 'and Local Government'.⁵⁸

The danger, however, of pursuing constitutional recognition is that another referendum on the topic might be an expensive failure.⁵⁹ Writers on public policy such as Scott Prasser have argued that unless the states can be persuaded to agree to the goal of greater local government autonomy, any talk of constitutional recognition is futile:

It is the states that have the real power over local government. It is with the states that real reform for local government must happen first.⁶⁰

The extent to which the achievement of constitutional recognition would actually lead to a more cohesive relationship between the Commonwealth and the local government sector is also worth consideration by policy-makers. Gillard's 2010 *Light on the Hill* address to the ALP emphasised Commonwealth involvement in regional Australia as part of a commitment to universal social equity: 'quality services, a better life and a fair go for all our people and every region.'⁶¹ But for the third tier of government and the people they serve, social equity is not the only desired policy outcome. The push for constitutional recognition of local government—a key ALP goal—has been marked by a hunger at grassroots level for the preservation of local identity and autonomy.

A potential temptation for both the Commonwealth and the local government sectors is to view the relationship chiefly as a means of pursuing national infrastructure and regional development goals. A more nuanced approach to regional policy, recognising the importance of civic participation in local communities, as well as the different values and priorities of each council, may lead to more targeted and meaningful outcomes for local government and the federal system as a whole.

Maintaining the dialogue between the three tiers of government is undoubtedly the key towards elevating the position and authority of local government, and ensuring that it complements the work of state and Commonwealth authorities. As Kenneth Wiltshire argues, for any 'ongoing reform of governance', there is a need to 'ensure that the prime goal is to retain a sense of nationhood, and to

57. 'Constitutional recognition', *West Australian*, 5 August 2009, p. 5.

58. G Lake, 'Local government's vital role in our democratic system', *Local Government FOCUS*, April 2010, p. 12.

59. S Bennett and S Brennan, *Constitutional referenda in Australia*, Parliamentary Library, Research Paper no. 2, 1999–2000.

60. S Prasser, 'Raggedy councils limp into Canberra to plead for a bit more', *Courier-Mail*, 19 November 2008, p. 41. See also Prasser, 'Local government comes to Canberra', op. cit., p. 59.

61. J Gillard, Light on the hill address, Bathurst, 18 September 2010, Prime Minister of Australia website, viewed 23 September 2010, <http://www.pm.gov.au/node/6914>

agree on basic principles before becoming enmeshed in debates about maps, boundaries, functions, taxes, and roles.⁶²

62. Wiltshire, 'Reforming Australian governance', op.cit., p. 186.

Appendix A: Previous Referendum questions and results

1974

Question 4

Proposed law entitled ‘An Act to alter the Constitution to enable the Commonwealth to borrow money for, and to grant financial assistance to, local government bodies’.

Do you approve the proposed law?

Constitution Alteration (Local Government Bodies) 1974 sought to give the Commonwealth Parliament powers to borrow money for, and to make financial assistance grants directly to, any local government body.

Result

State	Number on rolls	Ballot papers issued	For		Against		Informal
				%		%	
New South Wales	2 834 558	2 702 903	1 350 274	50.79	1 308 039	49.21	44 590
Victoria	2 161 474	2 070 893	961 664	47.38	1 068 120	52.62	41 109
Queensland	1 154 762	1 098 401	473 465	43.68	610 537	56.32	14 399
South Australia	750 308	722 434	298 489	42.52	403 479	57.48	20 466
Western Australia	612 016	577 989	229 337	40.67	334 529	59.33	14 123
Tasmania	246 596	237 891	93 495	40.03	140 073	59.97	4 323
Total for Commonwealth	7 759 714	7 410 511	3 406 724	46.85	3 864 777	53.15	139 010

Obtained majority in one State and an overall minority of 458 053 votes.

Not carried

Source: Parliamentary Library, *Parliamentary Handbook of the Commonwealth of Australia*, 31st edition, 2008, p. 403

1988

Question 3

A Proposed Law: To alter the Constitution to recognise local government.

Do you approve this proposed alteration?

The Constitution recognises government at the Commonwealth and State levels but makes no mention of local government. *Constitution Alteration (Local Government) 1988* sought to give such constitutional recognition to local government.

Result

<i>State</i>	<i>Number on rolls</i>	<i>Ballot papers issued</i>	<i>For</i>	<i>%</i>	<i>Against</i>	<i>%</i>	<i>Informal</i>
New South Wales	3 564 856	3 297 246	1 033 364	31.70	2 226 529	68.30	37 353
Victoria	2 697 096	2 491 183	882 020	36.06	1 563 957	63.94	45 206
Queensland	1 693 247	1 542 293	586 942	38.31	945 333	61.69	10 018
South Australia	937 974	873 511	256 421	29.85	602 499	70.15	14 591
Western Australia	926 636	845 209	247 830	29.76	584 863	70.24	12 516
Tasmania	302 324	282 785	76 707	27.50	202 214	72.50	3 864
Australian Capital Territory	166 131	149 128	58 755	39.78	88 945	60.22	1 428
Northern Territory	74 695	56 370	21 449	38.80	33 826	61.20	1 095
Total for Commonwealth	10 362 959	9 537 725	3 163 488	33.61	6 248 166	66.39	126 071

Obtained majority in no State and an overall minority of 3 084 678 votes.

Not carried

Source: Parliamentary Library, *Parliamentary Handbook of the Commonwealth of Australia*, 31st edition, 2008, p. 408

Appendix B: State constitutional recognition and governing legislation

State	Constitution	Governing
Queensland	Constitution Act 2001 Chapter 7, ss. 70–78 System of local government	Local Government Act 1993
New South Wales	Constitution Act 1902 Part 8, s.51 Local government	Local Government Act 1993
Victoria	Constitution Act 1975 Part IIA, ss. 74A–74B Local government	Local Government Act 1989
South Australia	Constitution Act 1934 Part 2A, s. 64A Constitutional guarantee of continuance of local government in this State	Local Government Act 1999
Tasmania	Constitution Act 1934 Part IVA, ss.45A–45C Local Government	Local Government Act 1993
Western Australia	Constitution Act 1889 Part IIIB, ss. 52–53 Local government	Local Government Act 1995
Northern Territory		Local Government Act 1993

Appendix C: Parliamentary resolution

The federal parliament gave formal recognition to local government in 2006. On [6 September 2006](#) the then Minister for Local Government, Territories and Roads, Hon J Lloyd moved a motion in the federal parliament:

That the House:

- (1) recognises that local government is part of the governance of Australia, serving communities through locally elected councils;
- (2) values the rich diversity of councils around Australia, reflecting the varied communities they serve;
- (3) acknowledges the role of local government in governance, advocacy, the provision of infrastructure, service delivery, planning, community development and regulation;
- (4) acknowledges the importance of cooperating with and consulting with local government on the priorities of their local communities;
- (5) acknowledges the significant Australian Government funding that is provided to local government to spend on locally determined priorities, such as roads and other local government services; and
- (6) commends local government elected officials who give their time to serve their communities.

The motion was passed with bipartisan support. An amendment moved by the Labor opposition proposing constitutional recognition, was defeated along party lines.

Source: House of Representatives, *Debates*, 6 September 2006, viewed 30 November 2010

http://parlinfo/parlInfo/genpdf/chamber/hansardr/2006-09-06/0117/hansard_frag.pdf;fileType=application%2Fpdf

© Commonwealth of Australia 20110

This work is copyright. Except to the extent of uses permitted by the *Copyright Act 1968*, no person may reproduce or transmit any part of this work by any process without the prior written consent of the Parliamentary Librarian. This requirement does not apply to members of the Parliament of Australia acting in the course of their official duties.

This work has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

Feedback is welcome and may be provided to: web.library@aph.gov.au. Any concerns or complaints should be directed to the Parliamentary Librarian. Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Entry Point for referral.