



6 February 2013

Committee Secretary
Joint Standing Committee on Constitutional Recognition of Local Government
P.O. Box 6021
Parliament House
Canberra, ACT 2600

E-mail: jsclg@aph.gov.au

SUBMISSION RE:
Constitutional Recognition of Local Government

Dear Mr. / Ms. Committee Secretary,

I would like to bring to your attention some history regarding previous failed attempts to persuade the Australian electorate to grant formal recognition to a third tier of government / local government by enshrining it in the Constitution of the Commonwealth of Australia via national referendum.

In 1974 there was a constitutional referendum consisting of four different questions presented to the voters of Australia. One of these, the ***Constitution Alteration (Local Government Bodies) 1974*** proposed to amend the Australian Constitution to allow the federal government to grant financial assistance to any local government body, and to make loans on their behalf. The question put to the voters read as follows:

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?"

This was rejected by a majority of voters. Although the wording of the referendum question did not ask voters to acknowledge the legality of local government, the voters decreed that this third tier of government ***did not qualify*** to receive financial assistance from the Commonwealth, thus stating, by inference, that local government was not worthy of formal constitutional recognition.

Then in 1988 another constitutional referendum on local government was presented to the voters of Australia. The ***Constitution Alteration (Local Government) 1988*** proposed to alter the constitution to give formal recognition to local government. The question put to Australian voters was:

“A Proposed Law: To alter the Constitution to recognise local government. Do you approve this proposed alteration?”

This proposed constitutional amendment was also rejected by a majority of voters. In the state of Victoria, only just over 36% of the voters voted in favour of this alteration to the federal constitution, and just under 64% voted against it. This occurred 25 years ago. The voters of Australia, in their wisdom, and the voters in Victoria, in their wisdom, declared it unnecessary to grant formal, constitutional recognition to a third tier of government / local government / shire councils.

Two very important questions we should be asking ourselves now in 2013, are:

a) Why attempt this formal recognition again? and b) Aren't two rejected referendums regarding the formal recognition of a third tier of government / local government by the voters of Australia in the past 39 years a clear indication that the common person does not trust shire councils enough to enshrine them in the Commonwealth Constitution?

We can speculate on the answers; a good presumption seems that certain politicians - such as the Prime Minister of Australia, the federal Minister for Local Government, the Premier of Victoria and the Victorian Minister for Local Government - are rather nervous about the fact that local government / shire councils still only possess a *semi-legal status* under the present legal setup and constitutional arrangements. It seems a fair assumption that the Prime Minister, the Hon. Julia Gillard, would much prefer funding earmarked for local councils to pass directly from the Commonwealth to the shire council level, without having to go through the second tier of government, the state level.

Another important question that we should be asking ourselves, is ***do we, the residents and ratepayers of any local shire, have enough confidence in the smooth functioning of our local shire council and our elected councilors, to grant them the honour of formal recognition in the Commonwealth Constitution?***

Mr. / Ms. Secretary, I am a resident of Hepburn Shire Council (HSC), located in the central highlands region of Victoria. And having observed the shenanigans of HSC for the past few years, I will answer the above question – in my humble judgment and opinion - with a resounding ***NO! I cannot trust them!*** I am sorry to state that the recent history of HSC has been a rather sad and dismal one, marked by incompetence, false promises, inability to perform duties satisfactorily and so on. Just to mention a few examples:

- During the previous three years, property rates have increased on average by about 7 – 8% each year. During the years of the early 2000s, some property owners saw their rates increase by 10 or 20 or 30% or even more from one year to the next. Yet it is generally agreed that council services have not increased in efficiency during the same time period. Thus there appears to be no connection between increased property rates and council services.
- A new council depot located on council land on the Trentham - Daylesford Road was built in 2009 – 10. In the 2008 – 09 HSC budget, \$1.45 million was set aside for the depot. In a council meeting in November 2009, it emerged that the project was actually to exceed the cost estimates by nearly \$400,000-, to reach a total of \$1.83

million. That was over **27%** higher than the original cost! No apology or even decent explanation for the cost blowout was ever offered by HSC to the public.

- In July 2012 the Doug Lindsay Recreation Reserve, a sports venue (AFL footy, soccer, netball) and amenities project was completed in Creswick. The \$3.1 million price was funded by the Federal Government Regional and Local Community Infrastructure Program, the State Government, Hepburn Shire, Creswick and District Bendigo Bank Branch, Creswick Football Netball Club and community fundraising. HSC oversaw construction of the Reserve but was criticised for poor management thereof. Later in 2012 it was discovered that the grass surface was inadequate and poorly constructed and a potential source of injury to players. HSC had to earmark an extra \$200,000+ of ratepayers' funds to fix the problems and clean up the surface.
- In 2012, a plan to redesign and renovate the area where most of Daylesford's businesses are located, on Vincent Street between the two roundabouts, was floated by HSC. Architects were consulted and hired, and plans drawn up, but with little public consultation or input. Most traders on Vincent Street were unhappy with the plan, backed by one councillor in particular. I do not have the fiscal figures for the monies spent available, but I estimate it would have been at least in the \$100 - \$200K range. After the recent council elections in October 2012 in which that councillor was defeated, the new council decided to put the project on hold, thanks to opposition from the Vincent Street traders and the general public.

The inefficiency and mismanagement that has characterised the business dealings of HSC in recent years was formally acknowledge and criticised in a report prepared by the Victorian Auditor-General and tabled in the Victorian Parliament in September 2011. The title of this report seems innocuous enough: **Business Planning for Major Capital Works and Recurrent Services in Local Government**. It was basically an audit of four councils in Victoria, the Glen Eira City Council, an inner-city Melbourne suburb, the City of Whittlesea, a fringe, semi-rural Melbourne suburb, the South Gippsland Shire Council in the state's southeastern corner and Hepburn Shire Council in the state's central highlands. The audit focused on council business and management since the year 2003, when the Victoria *Local Government Act 1989* was amended.

It would take too long to list all the relevant details in the report, but basically, Glen Eira more or less earned the approval of the Auditor-General in most of the areas examined, while the other three councils came up short. Among the other three councils audited, Hepburn Shire came in dead last in almost every category. Here is a quote from the Audit Summary at the beginning, page viii: "While Glen Eira generally manages its planning and budgeting well, considerable improvement is still required by the other three councils examined before they can provide adequate assurance to ratepayers they are spending their funds appropriately and effectively. The absence of robust strategic, operational and financial plans supporting annual budget decisions at these councils means they cannot demonstrate that they are effectively managing their costs or that their expenditure decisions are sound." Under the subheading **Adequacy of planning and budgeting**, the report continued: "Glen Eira's strategic, operational and financial plans were generally sound, but there was substantial room for improvement in the other three councils examined. Strategic and operational objectives were not clearly specified, nor were they

supported by soundly developed strategies, actions and performance indicators. Operational plans also lacked sufficient detail on the service levels, resources and responsibilities required for achieving objectives. These councils also did not adequately link their plans, nor did their corporate and divisional business plans align clearly with, and demonstrably support, the objectives and strategies in their council plans... Further, none of the councils examined could demonstrate they adequately consulted their communities on the financial and other consequences of their aspirations when initially developing their council plans.”

These preliminary observations are damning enough. But as one reads through the following pages of the report, it becomes obvious that the Auditor-General listed failure after failure in the way that the examined councils conducted their business (with the notable exception of Glen Eira), and Hepburn Shire Council (HSC) scored the lowest out of the other three. What was the reaction, then, in HSC when the report was made public in September 2011? One of the councilors dismissed the entire report as inaccurate!! So it goes when petty minds and bruised egos are directly confronted with the sad reality of a failed and failing system. In the end, the then Chief Executive Office of Hepburn Shire was either forced or persuaded to resign from her position, to the relief of many in the shire.

In the light of this report and its repercussions in the shire, how can anyone in their right mind state that HSC is worthy of formal recognition in the highest document and legal act in the nation, the Commonwealth of Australia Constitution Act? Such recognition, in my view, would be tantamount to treason. Our federal Constitution may not be a perfect document, but among scholars of the various constitutions around the world, it ranks very high on the list. In order to be formally recognized in such a document, any governing body such as a shire or city council should *prove itself worthy* of such recognition, which in my opinion is a very great honour. Sadly, HSC, thanks to its dismal recent record, is a long, long way from reaching such a status. There is a general belief that in the recent elections of October 2012, the council has improved thanks to some previous members being voted out and new faces coming in, but we shall have to see how this council actually performs in the months and years ahead.

In summary, I am opposed to constitutional recognition of local councils / third tier of government, given our recent experience here in Hepburn Shire. Let the council continue to operate in a semi-legal status, but it should not be given constitutional legal status.

Sincerely Yours,

Zachary C. Casper