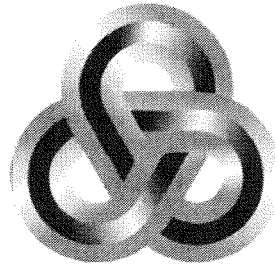


RECEIVED  
09 OCT 2009

BY: LACA



Submission No 021

# AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION

**SUBMISSION TO THE HOUSE LEGAL AND CONSTITUTIONAL  
AFFAIRS COMMITTEE REVIEW OF THE EFFECTIVENESS OF  
LEGISLATION ADMINISTERING THE CONDUCT OF REFERENDUMS**

9 October 2009

## Overview

The Australian Local Government Association (ALGA) is the national body that represents Australia's 565 local government bodies. ALGA has a strong interest in the issue of constitutional reform and in particular the inclusion of local government in the Constitution. Such reform will be difficult to achieve unless there are changes to the processes for identifying and developing reform proposals and administering the referendum process. As part of a suite of changes, ALGA proposes that the Referendum (Machinery Provisions) Act be amended to provide for public funding of referendum questions (based upon the precedent of funding for Federal Elections), public education for the voters on constitutional matters, greater objectivity in arguments contained in pamphlets distributed by the Australian Electoral Commission and more effective Parliamentary oversight of the processes.

## Introduction

The Australian Local Government Association welcomes the opportunity to make a submission to the House Legal and Constitutional Affairs Committee review of the effectiveness of legislation administering the conduct of referendums. The *Referendum (Machinery Provisions) Act 1984* (Cth) sets out the processes for preparing the 'Yes' and 'No' cases for referendum questions and restricts government spending in relation to referendum questions.

ALGA is the national voice of local government in Australia, representing 565 councils across the country. ALGA is a federation of state and territory local government associations and includes the Government of the Australian Capital Territory in recognition of its combined state and local government functions.

ALGA was established in 1947 and throughout its history has been closely involved in issues of national significance affecting the local government sector. ALGA has enjoyed a close and productive working relationship with the Federal Government, as well as support from state and territory governments. This is demonstrated by our current membership (through our president) of the Council of Australian Governments (COAG) and 13 other commonwealth-state ministerial councils.

In addition to ALGA's representative role on ministerial councils, ALGA's key functions include participating in policy reviews, providing submissions to Federal Parliamentary inquiries and enhancing opportunities for local government to inform the development of national local government policies.

## Constitutional change

The Australian Constitution is the fundamental document which sets the framework for the governance of the Australian federation. ALGA does not support the view that the Constitution is a document ‘written in stone’ which should not be amended from time to time to enhance the effective operation of government in contemporary times. Carefully considered amendments to the Constitution are an important part of Australia’s evolution as a nation and a mechanism for addressing omissions from the original text, the changing circumstances facing Australia and the evolving aspirations and wishes of Australian citizens.

ALGA is therefore concerned that our historical tendency as a nation to be unable to agree to changes to the Constitution appears to reflect both a lamentable level of ignorance and disinterest in the Constitution and that the mechanism for change hinders, rather than facilitates, such change. The poor record of change is evident from the history of previous referenda. Of the 44 referenda put to the people since 1906, only 8 have been successful. The last successful referendum was in 1977 which is now more than 30 years ago. This growing record of opposition to change is creating a degree of inertia which will be increasingly difficult to overcome. In previous eras the electorate has been more familiar with referenda. In the 31 years between 1946 and 1977 there were seven referenda votes covering 17 different questions of which five were successful. In the 32 years since 1977 there have been three referenda votes covering six questions of which none have been successful. The electorate’s lack of familiarity with referenda runs a real risk of increasing the public’s ignorance of the Constitution and decreasing its willingness to countenance future change.

ALGA supports the need for a review of the mechanisms guiding constitutional change to ensure that they facilitate, rather than hinder, sensible and necessary constitutional change.

ALGA believes that it makes sense that the Constitution should be amended from time to time in a mature democracy such as Australia’s, in order to keep pace with changing practice and to accurately describe and support contemporary governance arrangements. For example, it is ALGA’s view that the current Constitution would be improved by including local government and by describing the machinery that has evolved since federation to support intergovernmental relations between the three levels of government, such as the operation of the Council of Australian Governments (COAG).

In the absence of referenda to bring about sensible and necessary constitutional change, it appears that the High Court has increasingly become the mechanism by which change is promoted or stymied, depending on the views of the Court at a particular point in time. The recent decision in *Pape v Commissioner of Taxation* (2009) 257 ALR 1, and its implications for the Commonwealth’s ability to fund activities it believes are in the national interest, is a clear illustration of the growing divergence between the black letter of what the Constitution empowers and Australia’s need for a flexible and modern system of government.

## Constitutional reform and local government

There have been two previous unsuccessful attempts to reform the Constitution to include local government - 1974 and 1988. The 1974 referendum was designed to allow the Australian Government to directly fund local government rather than having to pass the funds through state and territory governments. The 1988 referendum aimed to require state governments to maintain a system of local government. Both questions were defeated.

Despite this lack of success, inclusion of local government in the Constitution has remained an issue on local government's strategic agenda.

The goal of constitutional reform in relation to local government was given new impetus when the current Federal Government promised in the 2007 election that it would progress the process for achieving constitutional recognition of local government. Since its election, as well as engaging ALGA on this issue, the Government has also placed it on the agenda of the newly established Australian Council of Local Government. Further, the National Party and the Greens support constitutional recognition of local government and the leader of the Liberal Party has supported it in principle and given a commitment to engage constructively with local government on the issue.

In late 2007, the ALGA Board embarked on a 12 month process, culminating in a Local Government Constitutional Summit at the end of 2008, to engage councils on the issue of constitutional reform. Our aim was to improve the sector's understanding of the Constitution, identify the best process to be pursued for constitutional change and evaluate the various options for including local government in the Constitution. ALGA worked with a panel of constitutional law experts to develop materials and inform debate, including Professor George Williams, Associate Professor Anne Twomey, Mr Scott Bennett and Mr Kerry Corke.

Background factual material was provided to all councils in early 2008. (Available at <http://www.alga.asn.au/constitutionalrecognition/ExplanatoryNotes.php>). Councils were encouraged to conduct a 'Council Conversation' on the issues of constitutional reform and provide feedback to ALGA on the preferred type of recognition. Workshops and discussions were then held at state association level (often through state conferences) and an expert seminar (to which Federal and state government representatives were invited) was convened in Canberra in August 2008 to identify and develop options for recognition. A detailed options paper was then circulated to inform debate at the Constitutional Summit convened in Melbourne on 9-11 December. (Available at <http://www.alga.asn.au/constitutionalrecognition/summit.php>). Following a wide-ranging discussion, guided by advice from a panel of eminent constitutional academics, the approximately 600 delegates at the Summit adopted a set of principles which was then incorporated into a formal Declaration which was unanimously adopted by the Summit. The text of the Declaration is included in **Attachment A**.

The Declaration reflects the three core principles agreed to by delegates at the Summit:

- The Australian people should be represented in the community by democratically elected and accountable local government representatives;
- The power of the Commonwealth to provide direct funding to local government should be explicitly recognised; and
- If a new preamble is proposed, it should ensure that local government is recognised as one of the components making up the modern Australian federation.

Prominent features of the discussion included acceptance by local government that the form of any recognition sought:

- should not seek to remove the nexus between state/territory government and local government;
- should not guarantee the protection of any individual council from dismissal or restructure; and
- should not guarantee any level of funding for local government.

This Declaration was subsequently conveyed to the Australian Government, the Opposition and minor parties for information. It was also provided to all state and territory local government ministers by the president of ALGA through a meeting of the Local Government and Planning Ministers Council in Sydney on 8 May 2009.

Following the December 2008 Summit, ALGA commissioned a government relations and communications adviser to develop a strategic framework to guide the pathway to a referendum on the inclusion of local government in the Constitution. The pathway which has been mapped out envisages a two to four year process. The ALGA Board has subsequently contracted the adviser to implement the initial phases of the strategic framework. As part of this work, independent national research was undertaken during August into the public's awareness and understanding of the Constitution, referenda and local government<sup>1</sup>. The findings of this research will inform ALGA's constitutional reform campaign going forward and have been drawn on to inform this submission.

ALGA is now in the process of seeking meetings with key decision makers to discuss the importance of constitutional reform, the implications arising from our research and our proposed path to a referendum during the term of the next parliament.

## **The challenge of changing the Constitution**

Section 128 of the Australian Constitution sets out the process to amend the Constitution. A referendum can only be initiated by the passage of a Bill through the House of Representatives and the Senate by an absolute majority.

---

<sup>1</sup> The national research was conducted by Millward Brown in August 2009 and involved qualitative research through 8 focus groups and quantitative research using a sample size of 1500 across state and territories.

Within four weeks of a referendum question being passed by the Parliament, the Electoral Commissioner must publish a booklet containing the ‘yes’ and ‘no’ cases. That is:

- an argument of less than 2000 words approved by the majority of parliamentarians who voted ‘yes’ to the proposed referendum question; and
- an argument of less than 2000 words approved by the majority of parliamentarians who voted ‘no’ to the proposed referendum question.

The question is then submitted to a referendum. A majority of voters overall must support the measure. A majority of states must also support the measure – that is four out of the six states must vote yes (the two territories do not count for this purpose).

This is what is called the double majority.

It has been said by various commentators that the ‘double majority’ creates too high a hurdle for the success of a referendum. A 1974 amendment to the Constitution suggested that a majority of Australian voters and a majority of voters in half of the States would have enabled three more referenda to be successful (Marketing (1946), Industrial Employment (1946) and Simultaneous Elections (1977)). However an even more significant factor appears to be the difficulty of securing 50 per cent of the national vote for the ‘yes’ case. On at least nine occasions, the national vote has been in the range 49.0% to 49.8%, with a further seven being in the 45-48% range.<sup>2</sup>

Bennett concludes that the double majority, of itself, has not had a major effect upon constitutional referenda results, but five more successes might have been achieved had it not existed. More bipartisan support would probably have meant securing a ‘yes’ majority and thus a double majority in more cases.

ALGA’s view is that while the challenge of a double majority presents a high hurdle, it is not an insurmountable hurdle, nor an unreasonable one, provided other parts of the referendum process facilitate rather than hinder the consideration of the change.

ALGA’s research shows that only 76% of Australians of voting age recognise that Australia has a Constitution, with the most informed group being males over 50 years of age and the least informed group being females between 18 and 24. Similarly, only 22% of those surveyed understood that constitutional change required the support of a majority of voters in a majority of states and 25% admitted they did not know. Less than half of respondents were aware that state governments were recognised in the Constitution. In terms of local government, there was very little awareness that local government is not recognised in the Constitution – 19% thought it was, 21% did not know.

In our view, it is crucial that more effort is directed towards better informing the Australian public around what is involved in constitutional change so that the electorate is better placed to be more effectively engaged in future referenda.

---

<sup>2</sup> Scott Bennett, *The Politics of Constitutional Amendment*, Parl. Research paper No, 11, 2002-03.

## **Some lack of willingness to change the Constitution**

ALGA's research showed that regardless of age, most people will determine their vote based on the merits of any referendum question. However, 15% of respondents indicated they were very cautious about changing the Constitution. Only 7% were enthusiastic about changing the Constitution.

## **Cost of a referendum**

The immediate response when confronted with the possibility of a referendum is that it will be a costly exercise, however, actual knowledge of the costs involved is fragmented. Of the total respondents to our survey, 53% believed it would cost under \$50 million; 18% thought it would cost \$80 million; and 24% were closest at \$100 million. Around 48% of those surveyed thought it would be self-indulgent to hold a referendum during the current Global Economic Crisis.

The Republic Referendum in 1999 cost an estimated \$80 million.

Referenda held independently of general elections can ensure higher level of focus on the issue but the downside is that this happens at a significantly increased administrative cost.

## **Number of questions**

The general lesson to be drawn from past referenda attempts seems to be that the level of support for any single proposal can be eroded by combining it with other questions which may have a lower level of support. There are clear opportunities for those opposed to one or more questions put simultaneously to advocate that voters simply vote 'no' to all questions (which appears to have been a factor influencing the failure of all four questions in the 1988 referendum).

## **ALGA's preferred way forward for constitutional reform**

ALGA believes that constitutional reform is an important part of the evolution of Australia's system of government. The record of reform to date supports the view that the current process for change presents a high, although not insurmountable, hurdle but there are changes which could be made to the processes which would better facilitate reform. These changes would not go to the fundamental requirements of the process (such as the need for a referendum initiated by Parliament, the requirement for compulsory voting, the requirement for a double majority and the need for material on the 'yes' and 'no' cases. Rather they go to the machinery which stands behind the referendum process which involves the development of proposals for reform, the education of the public regarding the Constitution and referenda and public funding of the 'yes' and 'no' cases.

### **Constitutional Commission and Joint Committee process**

ALGA's preferred mechanism to develop proposals for constitutional change is a Constitutional Commission rather than a Constitutional Convention. ALGA acknowledges that in the past there have been a number of Constitutional Conventions convened to develop proposals for change, modelled to some degree on the original conventions which developed the Constitution in the 1890s. These Conventions however, have been long and drawn out affairs (the 1998 Convention on the Republic lasted for 10 days) with large numbers of participants (152 in the 1998 Convention) and at great cost to the taxpayer (the 1998 Convention cost an estimated \$28 million). Some commentators argue that such conventions engage the broader public in the constitutional debate but the low turnout of voters to elect the directly elected representatives at the 1998 Convention (half of the 152 representatives at the Convention) and the failure of both questions in 1999, suggest otherwise.

The alternative approach, preferred by ALGA, is for the Government or Parliament to appoint a Constitutional Commission to look at possible options for reform.

This Commission would be based on the model adopted in 1985 when the Hawke Government appointed a six-person Commission to carry out a fundamental review of the Constitution.

The 1985 Commission consisted of the following:

- Sir Maurice Byers QC, former Solicitor-General (chair)
- Justice Toohey, then Federal Court judge
- The Hon Gough Whitlam, former Prime Minister
- The Hon Rupert Hamer, former Victorian Premier
- Professor Enid Campbell, Monash University
- Professor Leslie Zines, Australian National University

### **A new Constitutional Commission**

ALGA proposes a new Constitutional Commission with approximately six members appointed by the Government and given a year to report. ALGA proposes further that the Commission could be appointed at the end of 2010 and asked to report by August 2011. It would look at possible options for constitutional reform and make a series of recommendations to the Government or Parliament. The members, chosen by the Government in consultation with the Opposition, would ideally be apolitical and be drawn from politics, academia and the law.

### **Joint Select Committee**

ALGA proposes that on receiving the report of the Commission, the Government then establish a Joint Select Committee of the full Parliament to look at the recommended options for reform and decide on those to be put forward. ALGA accepts that such joint select committees are quite rare with the most recent being the Select Committee on the Retailing Sector formed in



December 1998. That Committee consisted of 10 members (five from the House of Representatives and five from the Senate):

- 3 members of the House of Representatives nominated by the Government;
- 2 members of the House of Representatives nominated by the Opposition or Independents;
- 2 Government Senators;
- 2 opposition Senators; and
- 1 minor party Senator,

ALGA believes a Joint Select Committee would have sufficient authority and support of Parliament to enable proposals to be developed with the greatest chance of support from the full Parliament. Such support is essential if constitutional reform is to be achieved.

ALGA believes that such a Select Committee could be formed in August 2011 and given 6 months to report (February 2012).

ALGA would see such a Select Committee refining and determining the proposals to be put to referenda and then approving the draft of the bills to be submitted to the House and the Senate, perhaps in the period June/August 2012 with a referendum vote to follow in November 2012. ALGA believes that the Government should give precedence to those proposals of the Committee which have the unanimous support of the Committee.

ALGA's preferred timing for a referendum is November 2012 which is consistent reflect with our research findings that the public would be less likely to support a referendum during the current economic downturn.

#### **Public funding of 'yes' and 'no' cases (proportional to size of vote in Parliament)**

ALGA believes that the current constraints on public funding of referendums should be removed.

The current legislation prohibits the Commonwealth from spending money in respect of the presentation of either the 'yes' or 'no' cases, except in very limited circumstances relating to the costs expended on the preparation of the 'yes' and 'no' case pamphlets, translations into other languages and into other forms suitable for visually impaired people and distribution and publication on the internet.

ALGA believes that the special arrangements which applied to the 1999 referendum should apply on a permanent basis (in 1999, \$15 million of public funding was provided, with \$7.5 million going to either side of the republic question). ALGA believes the Commonwealth should fund the advertising for both the 'yes' and 'no' cases but unlike the 1998 referendum on the republic, ALGA proposes that the proportion of public funding to be allocated to the 'yes' and 'no' cases should reflect the proportion of parliamentarians voting for and against the Bill. This would be an equitable distribution of Commonwealth funding reflecting the will of the Parliament.

ALGA believes that the current arrangements in the Electoral Act, which provide for public funding of Federal Elections, provide a precedent for the amount of funding and for its allocation on the basis of support. The level of election funding in 2007 was in the order of \$49 million, based on the sum of around \$2.10 per first preference vote. The amount is indexed annually.

Public funding for advertising of the 'yes' and 'no' cases for each referendum should be equal to that amount provided for elections. The allocation of funding however should be based on the level of support in Parliament rather than a post event assessment of votes received. The funding pool should be notionally allocated between the 226 members of the Federal Parliament (approximately \$217,000 per member, if the pool is assumed to be about \$49 million). The funds should then be allocated between the 'yes' and 'no' cases based on the level of support they receive in the House of Representatives and the Senate.

The responsibility for overseeing the expenditure on the 'yes' and 'no' advertising campaigns should lie with Parliament. It would be Parliament's responsibility to select a panel of members for both the 'yes' and 'no' cases. These Panels should also be responsible for preparing the 2000 word 'yes' and 'no' cases to be distributed in pamphlet form by the Australian Electoral Commission. There would need to be a report back to Parliament on the expenditure of funds which could be prepared by the Australian National Audit Office.

#### **Content of the 'yes' and 'no' cases**

ALGA is concerned about the quality of the 'yes' and 'no' pamphlets which are created by Parliamentarians under the Referendum (Machinery Provisions) Act. Previous referenda have been characterised by 'no' cases which exaggerated the implications of accepting the proposed constitutional change. ALGA understands that there is no requirement that arguments keep to the facts and it has often been the case that opponents of amendments have distorted and exaggerated the dangers with the aim of frightening voters.

In his work on referenda previously cited, Scott Bennett notes that the *Aviation* proposal (1937) was designed to give the Commonwealth power to make laws with regard to aviation. However, the 'no' case supporters pushed the argument much further than the government expected, claiming that the proposal would 'ruin the state railway systems' and 'bankrupt country towns'. The two earlier *Local Government* cases featured similar distortion of the facts by opponents. Opponents of the Commonwealth making grants to local government (1974) asserted that the referendum was 'an underhand attempt to put Canberra's bureaucratic fingers into every one of Australia's Council Chambers'. In the recognition of local government question (1988) the proposal was described as being 'a legal minefield that will keep the High Court busy for years'. Such exaggerated claims can be difficult to rebut.

In addition, the wording on the ballot papers can influence a vote. For example, the use of language which raises concerns can, at the very point of voting, influence voters making their decision.

ALGA believes that such exaggeration is neither appropriate or ethical given that public funding is involved in the distribution of such material. ALGA believes that the 'yes' and 'no' texts should be approved by the Parliament itself.

The current word limit is 2000 words for a pamphlet setting out the 'yes' case and the 'no' case. ALGA does not propose that the word limit be varied but does believe that some format guidelines should be adopted to ensure the factual nature and comparability of the cases in the hands of the voters.

### **Need for civics education**

ALGA believes on the basis of its recent research that before any proposals to amend the constitution are put to the Australian people, there needs to be a nationally funded education campaign on the nature of the constitution and the process for constitutional change.

ALGA's research is consistent with the findings of other research (as reported in the Parliamentary Library's Current Issues Brief 11 of 1997-98 on the 1998 Constitutional Convention, at page 7) which state that a 1994 report on citizenship by the Civics Expert Group found that only 18% of Australians have some understanding of what their Constitution contains and a 1987 survey conducted for the Australian Constitutional Commission which found that 47% of Australians were unaware that Australia had a written Constitution.

ALGA is not calling for a funded education campaign to be part of the formal school curriculum. If it were to be part of the formal education curriculum it would be best placed as a high school subject, probably in the latter two years of school as part of the lead up to students turning 18 years and being able to enrol to vote. The difficulty is that the current curriculum is crowded and there are many pressures for additional material, including road safety and alcohol education, etc. There are strong, bureaucratic structures in place which advise on curricula and it would be difficult to champion something new in this field. In addition, trying to inject some new material which deals with electoral issues and constitutional referenda may raise the suggestion of political partisanship and at the very least invites criticism (and demands for 'equal time') from those who believe that the constitution should not be changed at all or changed only rarely.

ALGA's preferred model for an education program, which is aimed primarily at informing voters in advance of a referendum vote, is for a national program run by the Australian Electoral Commission which focuses on the role of the Constitution, the mechanism by which it can be changed and the role of individual electors. This should be designed as a factual campaign involving pamphlets and television and radio advertisements. It should be approved by Parliament and the Auditor-General to ensure its acceptance as legitimate public advertising.

There is a precedent for such a public education campaign. The 1999 referendum also included \$4.5 million set aside for a neutral education campaign. This funding was a separate public education program run by the Government over a period of five months. It provided material on

- the current system of government;
- information on the referendum process; and

- information on the actual questions.

ALGA would prefer to see such a campaign being restricted to information about the Constitution and the referendum process itself rather than relating to the actual question(s) to be put in any future referendum.

The 1999 public education campaign was advised by a panel of experts comprising:

- Sir Ninian Stephen (chair);
- Professor Geoffrey Blainey;
- Dr Colin Howard QC;
- Professor Cheryl Saunders; and
- Dr John Hirst.

ALGA believes that a similar panel should be appointed by the Government.

The general public education campaign should be run before each election. Given that the campaign is aimed at providing general information about the Constitution, once a campaign has been developed in its initial form it would be a simple task to maintain its currency.

The campaign would be run following the passing of a Bill to amend the Constitution and before any question-specific materials (such as pamphlets) are circulated to voters.

### **Proposed amendments to Referendum (Machinery Provisions) Act**

ALGA believes that the Act (and in particular Section 11) needs to be amended to include the following

- the Provision of public funding for advertising the ‘yes’ and ‘no’ cases, equal to the current election funding provided to political parties under the Electoral Act;
- allocation of such funding between the cases to reflect the proportion of Parliamentarians voting for and against the proposals;
- responsibility for overseeing funding for advertising the ‘yes’ and ‘no’ cases to be given to two panels of parliamentarians, with the Australian National Audit Office responsible for auditing the expenditure;
- provision of adequate funding for a public education campaign (in the order of \$4.5 million) to be run before each referendum by the Australian Electoral Commission;
- requirement that the content of the ‘yes’ and ‘no’ pamphlets be factual and be approved by Parliament;
- the format of such pamphlets to be approved by Parliament to ensure clarity and ease of comparability;

## **Conclusion**

ALGA has a strong interest in the issue of constitutional reform and in particular the inclusion of local government in the Constitution. Such reform will be difficult to achieve unless there are changes to the processes for identifying and developing reform proposals and administering the referendum process. As part of a suite of changes, ALGA proposes that the Referendum (Machinery Provisions) Act be amended to provide for public funding of referenda drawing on the precedent of funding for Federal Elections, public education for voters on constitutional matters, greater objectivity in arguments contained in pamphlets distributed by the Electoral Commission and in general more effective Parliamentary oversight of the processes.

***Local Government Constitutional Summit – A Special National General Assembly  
Summit Declaration***

*Whereas:*

- Local government existed in Australia prior to Federation;*
- Local government contributes more than 2 per cent of economic activity to GDP, through the employment of over 168,000 people, the custodianship of more than \$200 billion of assets and the annual expenditure of over \$23 billion on the services and infrastructure that allows Australian communities to develop and grow; and*
- The role of local government in the governance of the Australian Federation has been recognised by participation on the Council of Australian Governments (COAG)*

*We the Mayors, Shire Presidents, Councillors and Aldermen, who are:*

- Democratically elected by the Australian people to councils throughout the Commonwealth; and*
- In attendance at this Local Government Constitutional Summit – A Special National General Assembly*

*Now declare our commitment to achieve the recognition of local government as the third sphere of government in the paramount political document of the Australian Federation – the Australian Constitution.*

*We:*

- Applaud the commitment of the Rudd Labor Government to constitutional recognition, and the Australian Labor Party and Coalition commitment to participate in the development of a referendum proposal on the constitutional recognition of local government; and*
- Commend the spirit of bipartisanship demonstrated by the passing of the Federal Parliamentary Resolution in 2006 recognising the importance of local government to our nation and our system of Australian Government.*

*Building on these developments and, whilst recognising the continuing importance of maintaining accountability and legislative frameworks for local government established by State and Territory Parliaments, we now declare our belief that constitutional recognition will assist the process of reforming the Australian Federation by:*

- Correcting the historical oversight of not recognising in Australia's paramount political document the level of government that is closest to the people;*
- Acting as a driver for local government participants to act in a transparent, fair and accountable manner;*
- Reinforcing the belief that local decision-making will ensure the provision of services and infrastructure that best meet local needs;*

- *Reaffirming the concept that individuals and communities have the right to engage in the democratic processes of their local government area;*
- *Advancing the relationship between all three spheres of government within the Australian Federation; and*
- *Establishing a clear capacity for the Commonwealth to provide direct funding to local government, so as to improve or provide the infrastructure and services to meet the legitimate expectations of all Australians, whilst ensuring the sustainability of the local government sector.*

*We believe that to ensure the quality of planning and delivery of services and infrastructure provided to all Australians, and the ongoing sustainability of local government, any constitutional amendment put to the people in a referendum by the Australian Parliament (which could include the insertion of a preamble, an amendment to the current provisions or the insertion of a new Chapter) should reflect the following principles:*

- *The Australian people should be represented in the community by democratically elected and accountable local government representatives;*
- *The power of the Commonwealth to provide direct funding to local government should be explicitly recognised; and*
- *If a new preamble is proposed, it should ensure that local government is recognised as one of the components making up the modern Australian Federation.*

*We call on the Australian Local Government Association, the State and Territory Associations and the councils of Australia to work with the:*

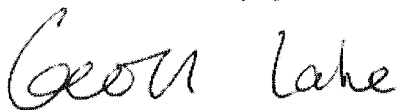
- *Parliaments of Australia;*
- *Governments of Australia;*
- *Political Parties of Australia;*
- *The Australian Council of Local Government;*

*and, most importantly, the*

- *People of Australia.*

*So as to create and leave a stronger nation for future generations.*

*DATED this 11th Day of December 2008*



*Cr Geoff Lake  
On behalf of the Delegates  
Local Government Constitutional Summit*