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File/Our Ref: GMcL:
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Submission Number: 205
Date Received: 14/02/2013



11th February, 2013

Committee Secretary
Joint Standing Committee on Constitutional Recognition of Local Government
Department of House of Representatives
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Dear Sir/Madam,

I am writing to you in respect of the current enquiry being held by the "Joint Select Committee on Constitutional Recognition of Local Government."

The ASU notes the committee is currently undertaking and receiving submissions until the 15th of February in line with the terms of reference.

"A joint committee of the constitutional recognition of local government be appointed to enquire into and report on the majority finding (financial recognition of the expert panel on constitutional recognition of local government, including by amending Section 96 of the Constitution and in conducting its enquiry the committee will assess the likely success of a referendum on financial recognition and will take account of the following matters:

- i) the report of the expert panel on constitutional local government, including preconditions set by the expert panel on the holding of a referendum;
- ii) the level of state and territory support;
- iii) consequences of local government state and territories of such amendment, and
- iv) any other matters the committee considers may be relevant to a decision on whether to conduct a referendum and the timing of such referendum."

The ASU took the opportunity to write to the expert panel on constitutional recognition in November 2011 supporting recognition of local government in the Australian Constitution in the form of supporting financial recognition. In addition to this submission from the expert panel, myself, Greg McLean, was appointed to the expert panel on constitutional recognition of local government and attended meetings of the committee as well as a number of public hearings.

The ASU has strong concerns on the long term funding of local government and see's recognition as part of an important step in delivering services to local communities, and also an opportunity to offset the cost shifting that has occurred over recent years.

In recent times the ASU has held concerns on the discontinuation of local government funding from any federal government on the basis of an argument that may or will arise in the future by way of a consideration of an application to the High Court of Australia that would declare funding to local government directly by the federal government inappropriate.

We have also seen in the recent years the great success of programs that have linked federal government and local government together in funding opportunities and note that this has been actions by both the current government and previous Conservative governments.

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It is of concern to ASU members, the communities in which they work and live, that local government should continue to receive direct funding from the federal government on a range of projects that are necessary to be carried out in local communities and are best carried out directly by local government.

One of the strengths in the carriage of direct funding and projects by local government is the financial management structures that are in place in local government, the strong accountability that local government has to its state government, local community and those, such as the federal government, that would provide funding for specific projects.

We note that the recent global financial crisis provided a significant opportunity to keep many communities and many jobs alive and support local economies at the time that the rest of the world was facing financial crisis, and that local government was a key player in being able to ensure spending in local communities to maintain employment in both those that serve the community but just as importantly, in additional resources to be provided to the community and the involvement in additional council employment additional support from the private sector in working with councils to complete projects that needed additional support. This therefore kept a number of tradesmen, building contractors, local shop keepers, local business, and a range of others that in turn supported materials for council's construction efforts in employment and allowed the country to weather the storm of the financial crisis, councils can get the money out far quicker than state governments.

Local government has always played such a role, including back to the "red" schemes of the Whitlam government, and other programs by both Liberal / National and Labor led governments of the federal parliament.

The ASU therefore believes that it is critical that local government continue to play an important role in dispensing funds readily and easily in both times of financial crisis and also directly in emergency management, and natural disaster recovery . These are important steps and should involve the community directly and can also ensure immediate spend by the federal government, immediate financial stimulus.

We note also in the submissions made to the expert panel that strong representation was made for financial contributions directly to local government and an appropriate alteration of the Constitution, point 96. As opposed to symbolic recognition, it seemed the Councils were about practicality and urgent need of certainty.

The ASU also noted that submissions by the Australian Local Government Association to the expert panel were very strong and favourable, as well as the recent part report from the parliamentary committee has been received well by the ALGA.

Currently we have an opportunity that has not been with us for many, many years and may well not occur again for 20 or 50 years, for consideration of local government to be included in the Constitution, for the purpose of direct funding.

We have read recently that some corners have thought that it would be better off to run a referenda on constitutional recognition in four years' time after an education campaign.

It is the view of the ASU that we do not have an additional four years to consider this, but move this year for financial recognition of local government to be included in a referenda question to Australian citizens. Our concerns include that when one looks back at history, it can often be seen that there was a better point in history to do a job, or take on a task, rather than do it at a time in the future that may have been considered more appropriate.

In other words, this may well be the best chance we ever get to include local government in the Constitution, and in four years' time, the opportunity for such recognition may well have moved on and once again, the issue is put to one side.

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We also believe that the management of such a campaign for recognition of local government funding should be managed in such a way that it is seen as an administrative action that still allows for state governments to maintain their legislative control on local government and that funding would be under guidelines and be of essential assistance to local communities in times of emergencies, such as we have seen from the recent floods and bushfires, special community needs and other opportunities for lobbying by local government, as key examples. It should also be seen as a consideration that the strong purse-holder in the Australian economy is the national government and that monies dispersed to state government for utilisation by local government can often see a portion of those monies kept to one side for state government processes to be included and/or administered by state governments rather than local communities.

A number of significant grants have been passed on by federal governments over the years to local government for specific projects, including the above – we do not at any time wish to see this direct funding at risk.

There has also been an issue in question in respect of some of that funding from the federal government being able to go to a body corporate versus a body political.

We note that the funding provided to local government does not come from one federal government department, but rather comes from various departments that all have respective transparency and guidelines in place as to who may apply for such funding and who may miss out. This concern has been one where there has been some discussion that local governments that are political entities, as opposed to corporate entities, may well miss out on some funding arrangements, and indeed we believe that there have been one or two only instances of this taking place due to some federal government departments that would normally not deal with local government funding, where local government has expressed an interest as well as community based organisations.

I have attached for your attention a copy of a letter recently provided to the ASU by the Minister for Local Government, Mr Crean, that outlines the approach to be taken by the federal government to ensure that local government, no matter if it be body political, or body corporate, not be disadvantaged by opportunities for federal government funding. We hope this letter will also be part of information and your report.

In addition to the ASU's position on both the above submission to the committee and my work as a member of the panel, I believe it is most important for the government to move to take an opportunity that may not arise again for many, many years in the future, and move to a referenda on local government funding recognition by the Commonwealth.

There are many instances in the expert panel's report on the necessity for funding and the changes that have taken place in Australian society and the increasingly important role local government has in meeting many of the community's needs and its important role. Indeed, local government is one of the largest industries in the country employing around 193,000 employees directly, which is larger than many other industries, including mining, the Commonwealth public service and a substantial number of other industries across the country.

We believe it is important that the parliamentary committee give consideration to the point in time we are standing, and the question of "what if the opportunity never arises again?"

Have we missed the chance in 2013 for local government to be recognised in the Constitution?"

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We would urge you as a committee to go forward in this position and to move to strong engagement with the community, community-based organisations that work with local government from sporting clubs, youth groups, who benefit from strategic services supplied by councils so that those organisations may also be aware of the significant benefits, of direct funding to local govt and the risks faced.

The ASU is also keen to work with the government in respect of recognition of funding for local government and sees this as an important part.

We look forward to working with those responsible for taking this matter further to ensure a positive outcome for local government and an opportunity to bring certainty to an important part of Australian society.

Yours faithfully,

Greg McLean OAM
ASSISTANT NATIONAL SECRETARY



THE HON SIMON CREAN MP

**Minister for Regional Australia, Regional Development and Local Government
Minister for the Arts**

Reference: C12/773

Mr Greg McLean OAM
Assistant National Secretary
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21 DEC 2012

Dear Mr McLean 

I am writing to bring you up to date following your letter of 27 April 2012 relating to the issue of Local Government "body politic versus body corporate" and the ability for New South Wales local governments to access to Federal Government funding under state legislation. I understand that you have had a number of discussions with my office and the offices of the Hon Warren Snowdon MP, Minister for Indigenous Health, and the Attorney-General, the Hon Nicola Roxon MP, regarding this issue.

It is essential that all states and territories receive fair and equitable access to Australian Government funding. Following your initial discussions with my office, my Department worked across government to highlight the possible issues relating to "body corporate versus body politic" when developing future program guidelines and to note in particular the potential impact on New South Wales.

I have also formally written to my Cabinet colleagues bringing this matter to their attention so that they are aware of the possible unintended consequences of excluding entities that are body politic of the state or territory.

It is anticipated that, following the exhaustive consultation process, this issue will be closely monitored across portfolios in the future.

Thank you for raising this matter with me.

Yours sincerely

SIMON CREAN