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11 December 2012

Mr Glenn Worthington  
Secretary  
Joint Select Committee on the Constitutional Recognition of Local Government  
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Dear Mr Worthington

**SUBMISSION TO THE JOINT COMMITTEE ON THE CONSTITUTIONAL  
RECOGNITION OF LOCAL GOVERNMENT**

Darebin City Council welcomes the opportunity to make a submission to the Joint Select Committee on the Constitutional Recognition of Local Government.

Over the past few decades, demands on local government in Australia, as elsewhere, have greatly increased. Far beyond their traditional responsibilities for roads, rates, and rubbish, councils deliver a range of community, social, health, environmental, cultural, regulatory, and planning services to Australian communities.

Given the important and expanding role that local government plays in the governance of Australia, the Darebin City Council supports the proposal to formally recognise local government in the Australian Constitution.

Council, at its meeting to be held on Monday 10 December 2012, proposes to pass the following resolution:-

*"That Darebin City Council declares its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new Preamble to the Constitution if one is proposed, and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition."*

Darebin City Council relies on funding from both State and Federal government to supplement income from rates and other charges and to provide essential services and infrastructure to our community.

The High Court's ruling in the 2009 in the case of *Pape v Federal Commissioner of Taxation* and more recently the 2012 *Williams v Commonwealth of Australia* case have cast the legality of direct Commonwealth powers in funding Local Government directly. With this uncertainty Council supports amendment to the Constitution to ensure that the Federal government can provide funding directly to Council without having to pass the funding through the State government which can sometimes lead to delays, increased costs and a reduction in funds available to deliver the services that the Commonwealth supports.

Council supports an amendment to Section 96 of the Australian Constitution to ensure that Local Government has the same ability and certainty to access funding from the Commonwealth as the States currently have, through changing section 96 to:-

“ ....The Parliament may grant financial assistance to any State or to *any Local Government body formed within the limits of a State or Territory* on such terms and conditions as the Parliament thinks fit. “

While the Victorian Constitution already provides for democratic recognition of local government, Darebin City Council welcomes the proposal for recognition of this type at a national level.

Democratic or institutional recognition of local government in the Australian Constitution would enhance the democratic legitimacy of councils. Such recognition is not, nor should it be interpreted as, seeking to enshrine the current local government landscape in the Constitution. Rather, the proposed constitutional amendments as set out in the Discussion Paper that 'each State shall, and each Territory may, establish and maintain a system of local government bodies directly chosen by the people,' should be viewed as guaranteeing local communities the right to participative local democracy.

By raising the political status of local government and ensuring direct funding arrangements can be entered into, formal financial recognition in the Constitution would help secure the future of councils and greatly improve their capacity to meet the growing and diverse needs of local communities.

The prospect of direct funding arrangements also implicitly recognises the need for Federal cooperation and provides a measure of symbolic recognition for local government in the Constitution.

Consequently, Darebin City Council believes financial recognition represents the most pragmatic form of constitutional amendment, offering a direct practical benefit to local communities, in a form that is likely to attract support at a referendum. Additionally, Council supports a publicly funded national education and awareness campaign to inform the public about the Constitution.

Yours sincerely

**Rasiah Dev**  
Chief Executive Officer