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Gosford City Council

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

Submission from Gosford City Council on Constitutional Recognition of Local Government

Following the 2010 Federal Election, Prime Minister Gillard committed to holding a dual referendum on the constitutional recognition of local government and the recognition of Indigenous Australians. Gosford City Council considered this matter at its meeting held on 22 March 2011 where Council resolved:

- A *Gosford 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.*
- B *Council write to the Prime Minister, the Leader of the Opposition, the Federal Member for Robertson and the Federal Member for Dobell advising them of Gosford City Council's support for constitutional recognition of local government.*

The Federal Government provides some funds each year to States and Territories with the requirement that they pass these funds on to councils. But this money is not enough to meet community needs. The Federal Government has therefore increasingly chosen to fund local government directly. Over the past decade, federal governments from both sides of politics have demonstrated their preference to use direct funding through initiatives such as the Roads to Recovery Program and the Regional and Local Community Infrastructure Program.

It is clear the Federal Government wants to support local communities directly and it has decided that providing funding directly to local governments represents the most efficient way of assisting local communities.

Two recent High Court decisions known as the *Pape Case* and the *Williams Case* delivered in the space of three years, have handed down judgements that challenge the Commonwealth's ability to fund activities that it believes are in the national interest. These decisions have important ramifications for local government, as both cases have rejected the Commonwealth's position that it has the capacity to spend money on whatever subject it wishes, for example, continued funding for programs like Roads to Recovery. This threatens the financial sustainability of councils and the wellbeing of communities across Australia and could mean reducing or discontinuing vital services to local communities. The only way to ensure the continuation of general direct funding is through change to the Constitution by way of a referendum.

The Constitutional change to allow the Federal Government to directly fund local government is simple. There is already a section in the Constitution (Section 96) which allows the Federal Government to fund state governments and the section would need to be changed to add in local government.

Section 96 would need to be amended to read:

"Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory."

This change would provide the Federal Government with the power to be able to provide funding directly to local government where this was in the national interest. This change to the Constitution would have no impact on how local governments work or on their relationship with state governments.

Bipartisan support for the referendum proposal is essential for its success. The leaders of the Liberal Party and National Party both publicly supported the constitutional recognition of local government at the 2010 National General Assembly of Local Government. The Federal Government's commitment to hold a referendum into the constitutional recognition of local government by 2013 is an important step in the process of reform.

For the referendum to be successful the following points are important:

- There needs to be support for the referendum across all political parties.
- The Government needs to lead on the issue and demonstrate its support publicly.
- The public need to be informed about our Constitution, how changes are made to it and the question being asked.
- The public needs to be informed in a factual way. An informed voter makes an informed decision at the ballot box.

Local government is one of the oldest forms of government in Australia. It has proven itself to be competent, reliable, innovative, adaptable and flexible in changing policy environments and is committed to progressing national objectives in collaboration with the other levels of government. Gosford City Council strongly believes that local government's growing role in the Federation must be supported through constitutional reform to recognise it as a level of government and provide the capacity for direct funding from the Commonwealth, so that it can continue to meet the needs and expectations of local and regional communities.

Gosford City Council considers that after 100 years it is time to include local government in the Constitution as the third sphere of government. Constitutional recognition will protect what Australians already take for granted and give local government the funding security to better deliver the services that the community needs and deserves.

Yours sincerely

Councillor Lawrie McKinna
MAYOR OF GOSFORD CITY

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