



Manly Council

Council Offices
1 Belgrave Street
Manly NSW 2095

Reference: 061212 HLL/ HTW
Enquiries: General Managers Office ph

Correspondence to
General Manager
PO Box 82
Manly NSW 1655

DX 9205 Manly

Mr Glenn Worthington
Secretary
Joint Select Committee on the Constitutional Recognition
of Local Government
PO Box 6021
Parliament House
CANBERRA ACT 2601

Telephone 02 9976 1500
Facsimile 02 9976 1400

www.manly.nsw.gov.au
records@manly.nsw.gov.au

ABN 43 662 868 065

Dear Mr Worthington

RE:Manly Council Submission to the Joint Select Committee on Constitutional Recognition of Local Government

Manly Council at its Planning and Strategy meeting of 3 December 2012 resolved unanimously as follows;

That:

1. Manly Council provide and lodge the attached submission to the Joint Select Committee on Constitutional Recognition of Local Government established by the Commonwealth Government; and
2. Manly Council supports a publicly funded referendum which is required to amend the Federal Constitution to enable section 96 to read that "*Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory*".

To this end please find attached Council's submission to the Committee and we along with many other Australian Councils, look forward to receiving Constitutional recognition in the near future.

Yours faithfully,


HT Wong
General Manager

Date: 6/12/2012

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ATTACHMENT 1

Corporate Services Division Report No. 31.DOC - Constitutional Recognition of Local Government - The Case for Change Submission



Manly Council Submission

To: Federal Government's Joint Select Committee on Constitutional Recognition of Local Government

Introduction

Manly Council supports the campaign of the Australian Local Government Association to achieve constitutional recognition of Local Government.

It supports that a Joint Parliamentary Committee has been established by Federal Parliament to look at the report of the Expert Panel into the constitutional recognition of local government, including the level of support for the proposal by the States and Territories, and the potential consequences for Local Government and the States and Territories of such an amendment.

The establishment of a Joint Select Committee on Constitutional Recognition of Local Government will allow the Commonwealth Parliament to examine the local government question. A parliamentary committee will also be effective in testing the level of bipartisan support at the State/Territory level, as well as public opinion through submissions. It can then make recommendations about the best way to proceed.

Last year, the Expert Panel recommended to the government that a referendum on financial recognition of local government was a viable option.

Manly Council supports the financial recognition of Councils via an amendment to Section 96 of the Federal Constitution so that it would read: "Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory".

Background

Although the Commonwealth Government has provided direct funding to local government for many years, a recent High Court decision has challenged its power to do so.

The 2009 High Court case of *Pape v Commissioner of Taxation* has found that the Commonwealth does not have power to directly fund areas such as local government. It can only spend money where it has a specific power under the Constitution.

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The decision presents a compelling reason to include local government in the Constitution. Without Constitutional recognition, direct Commonwealth funding of local government, through programs such as Roads to Recovery, may be technically invalid. Local government needs certainty and security of funding in order to provide the range and level of services expected by the community.

Local government raises its own revenue through rates (local government's only tax), fees and charges. For the past decade, local government has raised around 3 per cent of Australia's total taxation revenue. Although local government generates around 80 per cent of its revenue, funding from the Commonwealth Government through grants is an important source of revenue, particularly for regional and remote communities.

General purpose funding from the Commonwealth accounts for around 7 per cent of total local government revenue. This funding is in the form of Financial Assistance Grants (FAGs) which assist local government to perform its functions.

Issues For Manly Council

Manly Council received in the order of \$1.158 million for 2012-13 financial year from the Financial Assistance Grants for operational purposes. As in past years, the continued need for funding from the Commonwealth Government is critical for Council's limited revenue sources and continued and increasing local needs.

General purpose funding from the Commonwealth to local government has diminished over time in real terms, leaving many councils struggling to provide the level of services required by the community and threatening the long-term future of other councils.

An independent report by PricewaterhouseCoopers in 2006 estimated the impact of under-funding of local government was a \$14.5 billion backlog in repairing ageing infrastructure such as roads, swimming pools, libraries and town halls. The Commonwealth Government's Regional and Community Infrastructure Program provided \$1 billion in the 2008/09 and 2009/10 financial years for infrastructure renewal, but much more funding is needed to reverse the decline.

In the absence of greater funding from Commonwealth and state governments, local government faces the choice of reducing services, further delaying repair work, or trying to raise more local revenue (from local communities already paying their fair share). Funding certainty is critical to the short and long-term planning of councils, particularly in rural and regional areas where there is a greater reliance on external funding.

This is an on-going issue identified in for Manly Council's long term resourcing strategy, particularly the need to maintain its \$4.9 million in assets and \$2.8 million identified funding gap while meeting current needs.

In response to community demand, local government has become involved in much wider areas than the traditional property and roads infrastructure, such as community, cultural, recreation, health and welfare, with growing demand for more services. This means local government is currently providing a greater range of services to fill a gap that should be funded by other levels of government. These difficulties are outlined in Manly Council's Community Strategic Plan Beyond 2021.

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Manly Council's Position

Manly Council supports the consideration of the following issues as part of its submission:

- That Federal Government should be able to have the power to be able to provide funding directly to local government where this is in the national interest.
- That Councils need certainty of funding so that programs like Roads to Recovery can continue.
- Council supports an amendment to Section 96 of the Constitution so that it would read: "Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory".
- That bi-partisan support is an essential precondition if a referendum is to have the best chance of success to amending the Constitution.
- That such a referendum should be held at a time that maximises its chance of success.
- That Council support a publicly funded national education and awareness campaign to inform the public about the Constitution, how to change it, and about the question being asked before the referendum. An informed voter is more likely to cast an informed vote, which is based on facts rather than misinformation.

Conclusion

Manly Council supports the establishment of the Joint Select Committee on Constitutional Recognition of Local Government by the Commonwealth Government.

We recommend that there is bi-partisan support for this to protect the future and current financial resourcing of Local Government. This issue is critical now and for the future of Manly Council's and other local government revenue that is already constrained from a limited tax and fees source.

There is also a need for a publicly funded referendum to gain the support required to change the Federal Constitution to enable section 96 to be changed to read that "Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory". This is vital to protect Council's current and future revenue basis.

The Joint Select Committee and its proposed terms of reference are a significant step toward securing the future interests and resources of local government, and Manly Council looks forward to finally seeing local government Constitutional recognition.