

The inquiry

- 1.1 The Joint Select Committee on Constitutional Recognition of Local Government was established by the passing of a Resolution of Appointment through the Parliament on 1 November 2012. The Committee received full membership by 28 November 2012, and its first meeting was held on 29 November 2012.
- 1.2 The Committee invited submissions to the inquiry, and received a total of 252 submissions and seven supplementary submissions. A full list of submissions is at Appendix A. A summary of the content of submissions is below. The Committee also received a number of exhibits, and these are listed at Appendix B.
- 1.3 The Committee held two public hearings in Sydney, on 16 January and 20 February 2013. Full details of these hearings are at Appendix C, and transcripts of the hearings are available on the Committee's website.¹
- 1.4 The Committee presented its preliminary report to the Parliament's Presiding Officers on 24 January 2013 which is available on the Committee's website.² Further discussion of the preliminary report is below.
- 1.5 The Committee's Resolution of Appointment was varied by the Parliament on 6 February 2013 to provide for this final report to be presented no later than March 2013.

1 www.aph.gov.au/jsclg.

2 http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jsclg/localgovt/preliminaryreport.htm.

Scope of the inquiry

- 1.6 The Committee's Resolution of Appointment directed it to inquire into, and report on, the majority finding of the Expert Panel on Constitutional Recognition of Local Government (the Expert Panel), being that:
- a constitutional amendment to give effect to financial recognition was the most viable option (of those options considered) in the 2013 timeframe proposed by the Commonwealth;
 - the Commonwealth should negotiate with states and territories to achieve their support for the financial recognition option; and
 - the Commonwealth adopt steps suggested by the Australian Local Government Association (ALGA) to ensure success of such a referendum, necessitating temporary amendment to the *Referendum (Machinery Provisions) Act 1984*.³
- 1.7 The Expert Panel was appointed in August 2011, and comprised 18 members. The Final Report of the Expert Panel was presented to the Commonwealth Government in December 2011, and is available online.⁴

Major findings

- 1.8 The Committee's preliminary report made four recommendations, and the Committee maintains its support for the report and its recommendations.
- 1.9 The Committee believes that there are four strong arguments in favour of financial recognition of local government, and these are reported in Chapter 2, *The case for recognition*.
- 1.10 Since the preliminary report was published, the Committee has found increasing support for a referendum in important places. In a supplementary submission to the Committee, the President of the ALGA, Felicity-Ann Lewis, stated that:
- ALGA will support and campaign for a referendum to amend [section 96] of the Constitution to support direct funding of local government, as soon as it is proposed by the Federal Government...⁵
- 1.11 The Committee has reported on the Expert Panel's conditions for success, in Chapter 3, *Likelihood of success*. In particular, the Committee has

3 *Referendum (Machinery Provisions) Act 1984*.

4 <http://localgovrecognition.gov.au/content/final-report.html>.

5 Australian Local Government Association, *Supplementary submission 89.3*, p. 2.

considered the level of state support and the fulfilment of the ALGA preconditions.

- 1.12 The Committee believes that it is entirely feasible for the Commonwealth Government to negotiate for and secure the support of at least four state governments, including New South Wales and Queensland, as well as the two territories. This is now a matter of immediate priority for the Commonwealth Government, and the Committee understands that the Minister for Local Government, the Hon Simon Crean MP, has been discussing this issue with those parties, and will be pursuing these negotiations in coming days and weeks.
- 1.13 In respect of the preconditions, the Committee believes that there is sufficient time for these conditions to be met.
- 1.14 The Committee has taken compelling evidence from local governments around Australia about their appetite and preparedness to campaign for the referendum. Mayors, shire presidents, councillors, council staff and people who use local government facilities will together be a powerful grass-roots movement to lead the referendum campaign at a local level.
- 1.15 The Committee has also considered the broader historical context of this referendum, and reports its findings in Chapter 4, *Lessons from history*. In particular, the Committee notes that this referendum has the rare support of all sides of politics at a national level. Such unusual bipartisan support should not be squandered. As noted above, local government as a group will be a powerful campaigning force, and will help to build a momentum for change in the coming months. Finally, the Committee has reported on the significant risks involved in a delay of the referendum.

Content of submissions

- 1.16 The majority of submissions came from local government bodies. There were also submissions from state governments, local government associations, constitutional experts, Commonwealth Government departments and individuals.
- 1.17 While opinions for and against the referendum varied, the 173 submissions from local government bodies and seven from local government associations were resoundingly in favour of holding a referendum to effect financial recognition by amending section 96 of the Constitution.
- 1.18 Some of the local government bodies asked that if any preamble to the Constitution is proposed that local government be recognised in that also.

- 1.19 The majority of submissions in favour of a referendum requested that it be held at a time most likely to result in success.
- 1.20 Some concerns were raised by constitutional experts regarding:
- centralisation of power;
 - certain local government bodies being appointed rather than democratically elected;
 - the extent of the problem that the referendum would address;
 - previous mismanagement of policy initiatives by some local governments;
 - available time for public debate on the issue;
 - suitability of the recommended amendment; and
 - broader ramifications for the constitution.
- 1.21 Some private individuals expressed views concerning:
- the cost to taxpayers of holding a referendum;
 - the issue of whether local councils, being incorporated entities, could be a valid form of government;
 - the Westminster system is based on only two tiers of government;
 - a perceived lack of public consultation on the issue and the Committee's time frame; and
 - allegations of corruption in some local government bodies.
- 1.22 Some submissions were evidently distributed between numerous individuals, and additional copies of particular submissions forwarded to the Committee. While in most cases the Committee has published the original submission, it has taken subsequent copies of the same submission as correspondence, and these have not been published. Some of these distributed submissions raised questionable concerns which did not address the inquiry's terms of reference.