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20 November 2012

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

SUBMISSION - CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

On behalf of Logan City Council I would like to formally present Council's submission to the Joint Select Committee on the Constitutional Recognition of Local Government. Council applauds the Federal Government's decision to establish this Committee and welcomes the opportunity to lodge a submission.

Logan City Council strongly supports constitutional recognition as an essential step in ensuring that local communities receive the services and infrastructure they deserve. Council considered and passed the following resolution on 29 March 2011 (Minute No 103/2011).

Logan 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.

Council believes it is of the utmost importance for the Federal Government to be able to provide funding directly to councils to meet local community needs. The Federal Government has been doing so now for more than 10 years since the establishment of the Roads to Recovery program by the Howard Government to help maintain local roads. The commitment by the Federal Government to funding local communities has continued and increased with the Rudd and Gillard Governments providing direct funding for other local community infrastructure in addition to roads. Without this funding councils would not be able to deliver the level of local infrastructure and services required by communities to prosper economically and socially.

The importance of local government securing financial recognition in the Constitution has been highlighted in stark terms by the 2009 decision of the High Court in the case of *Pape v Federal Commissioner of Taxation* which raises legal doubt over the Commonwealth's powers to fund local government directly. This needs to be resolved once and for all. It is absolutely essential that in instances where it is the national interest for federal government to provide funding directly to local communities it is legally able to do so.

An important example of the need for this funding partnership is funding Federal Government provides to local government to help communities suffering from the impacts of disasters. Local communities rely on disaster relief funding by Federal Government to local governments so that communities can quickly and efficiently receive the support they need. Financial recognition of local government will enable this partnership between Federal and Local Government to continue.

Additionally, in order for Councils to continue delivering essential federally funded programs such as Roads to Recovery there must be certainty that Councils will have the ability to secure direct funding from the Federal Government into the future. Therefore, Council supports a referendum to amend 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".

Council acknowledges the challenge involved in attempting to change the Constitution. We need to learn from the history of referendums which has taught us the importance of ensuring the public is properly informed of the proposition being brought before them. We do not want the referendum for Constitutional recognition of local government to have the same fate as the 36 out of 44 unsuccessful referendums previously put to Australian voters.

Therefore, Council urges the Government to fully commit to the referendum for Constitutional recognition of local government by giving the referendum every possible chance to succeed. We believe this can be achieved by undertaking the following measures:

- Securing bi-partisan support for the referendum as history has demonstrated that referendum with broad support from both the Government and Opposition have the best chance of success;
- The Government taking the lead to declare its support for the referendum publicly;
- Ensuring the referendum is held at a time and under conditions when it is most likely to be successful;
- Providing funding for a national awareness and education campaign to inform the public about the Constitution, how to change it, and about the issue of Constitutional recognition of local government. This will ensure that voters are casting informed votes based on facts.

Because there have been no successful referendums since 1977 the majority of voters will have had no previous experience with a successful referendum. For this reason now more than ever a voter education campaign will be essential for ensuring the success of local government being recognised in the Constitution.

The issue of local government's financial recognition in the Constitution is of the utmost importance for the long term sustainability of local government as a sector and something that Logan City Council strongly supports.

Yours sincerely

Mayor Pam Parker
City of Logan