

**Section: MOTION ON NOTICE** 24 February 2009

**Item: 10.011/09 CONSTITUTIONAL RECOGNITION FOR LOCAL GOVERNMENT ATTACHMENT**

**SUMMARY**

I propose that the following report and notice of motion be adopted by Council.

**PROPOSED MOTION**

1. That Clarence Valley Council endorses the December 2008 unanimously supported National Constitutional Recognition Summit resolution and three core principles as its position in respect of securing Constitutional Recognition for local government, whilst retaining the ideal that Constitutional Recognition should be a process which ultimately guarantees a fixed percentage of income tax collections (i.e. a growth tax) to local government.
2. That Council endorse and support the Summit Declaration as contained in this Notice of Motion.

**COUNCIL RESOLUTION - 10.011/09**

**(Crs Comben/Hughes)**

**That:**

1. **Clarence Valley Council endorses the December 2008 unanimously supported National Constitutional Recognition Summit resolution and three core principles as its position in respect of securing Constitutional Recognition for local government, whilst retaining the ideal that Constitutional Recognition should be a process which ultimately guarantees a fixed percentage of income tax collections (i.e. a growth tax) to local government.**
2. **Council endorse and support the Summit Declaration as contained in this Notice of Motion.**

**Voting recorded as follows:**

**For: Councillors Williamson, Comben, Dinham, Howe, Hughes, McKenna, Simmons, Tiley, Toms**

**Against: Nil**

**BACKGROUND**

For several years under the leadership of the Australian Local Government Association, with which Clarence Valley Council is affiliated, councils have been striving to achieve recognition of local government under the Australian Constitution. I have enjoyed a keen personal and academic interest in the challenge.

To the June 2008 Clarence Valley Council meeting I presented Mayoral Minute 05.013/08 a copy of which is contained in the attachments and which will provide councillors some background on the issue. At the time Council adopted the three part Minute recommendation so that in relation to Constitutional Recognition council's position currently is "That Council expresses a preference for a form of constitutional recognition which guarantees a fixed percentage of income tax collections (i.e. a growth tax) to local government".

In August 2008 at the invitation of the New South Wales Local Government and Shires

Association I participated in Canberra at an "Experts Forum" to prepare the ground for a

December 2008 National Constitutional Recognition summit.

With the support of the Mayor I represented Clarence Valley Council at the December

Summit together with 350 delegates from Councils across Australia.

**ISSUES**

As councillors would appreciate, changing the Australian is a most difficult process. Only

8 of 44 referenda have succeeded since Federation. Various constitutional experts highlighted this at the Summit and emphasised the need early on to secure all party support and also to educate communities as to how they will benefit by supporting a local

government Constitutional Recognition referendum, given the usual voter position of, if in

doubt say no. Popular ownership of the referendum proposal before the vote is deemed

essential to success. There are of course many other important ingredients to a successful outcome.

The Summit was an excellent and stimulating experience. There were 12 keynote expert

speakers and politicians addressing the Summit included Federal Local Government Minister Hon Anthony Albanese who reiterated government support for Constitutional Recognition, Attorney General Hon Doug McClelland who addressed the legal and referendum challenges, Leader of the Opposition Hon Malcolm Turnbull who encouragingly indicated that the opposition had an open mind on the issue and would carefully consider the Summit outcomes and Leader of the Nationals Hon Warren Truss

who expressed his party's support in general terms for Constitutional Recognition of local government.

The Summit business papers canvassed the four options that were developed at the August 2008 Experts Forum. These were discussed at length over two days.

The Summit ultimately resolved as follows:-

"To ensure the quality of planning and delivery of services and infrastructure provided to

all Australians, and the ongoing sustainability of Local Government, any constitutional

amendment put to the people in a referendum by the Australian Parliament (which could

include the insertion of a preamble, an amendment to the current provisions or the insertion of a new chapter) should reflect the following principles:

- The Australian people should be represented in the community by democratically elected and accountable Local Government representatives;
- The power of the Commonwealth to provide direct funding to Local Government should be explicitly recognized; and
- If a new preamble is proposed, it should ensure that Local Government is recognised as one of the components making up the modern Australian Federation.

The Summit also unanimously moved a declaration on Local Government's position as

follows:-

"Whereas:

- Local government existed in Australia prior to Federation;
- Local government contributes more than 2 per cent of economic activity to GDP, through the employment of over 168,000 people, the custodianship of more than \$200

billion of assets and the annual expenditure of over \$23 billion on the services and infrastructure that allows Australian communities to develop and grow; and

- The role of local government in the governance of the Australian Federation has been

recognised by participation on the Council of Australian Governments (COAG)

We the Mayors, Shire Presidents, Councillors and Aldermen, who are:

- Democratically elected by the Australian people to councils throughout the Commonwealth; and

- In attendance at this Local Government Constitutional Summit –

A Special National General Assembly

Now declare our commitment to achieve the recognition of local government as the third

sphere of government in the paramount political document of the Australian Federation –

the Australian Constitution.

We :

- Applaud the commitment of the Rudd Labor Government to constitutional recognition,

and the Australian Labor Party and Coalition commitment to participate in the development of a referendum proposal on the constitutional recognition of local government; and

- Commend the spirit of bipartisanship demonstrated by the passing of the Federal Parliamentary Resolution in 2006 recognising the importance of local government to our

nation and our system of Australian Government.

Building on these developments and, whilst recognising the continuing importance of maintaining accountability and legislative frameworks for local government established

by State and Territory Parliaments, we now declare our belief that constitutional recognition will assist the process of reforming the Australian Federation by:

- Correcting the historical oversight of not recognising in Australia's paramount political

document the level of government that is closest to the people;

- Acting as a driver for local government participants to act in a transparent, fair and accountable manner;

- Reinforcing the belief that local decision-making will ensure the provision of services

and infrastructure that best meet local needs;

- Reaffirming the concept that individuals and communities have the right to engage in

the democratic processes of their local government area;

- Advancing the relationship between all three spheres of government within the Australian Federation; and

- Establishing a clear capacity for the Commonwealth to provide direct funding to local

government, so as to improve or provide the infrastructure and services to meet the legitimate expectations of all Australians, whilst ensuring the sustainability of the local government sector.

We believe that to ensure the quality of planning and delivery of services and infrastructure provided to all Australians, and the ongoing sustainability of local

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the current provisions or the insertion of a new Chapter) should reflect the following principles:

- The Australian people should be represented in the community by democratically

elected and accountable local government representatives;

- The power of the Commonwealth to provide direct funding to local government should

be explicitly recognised; and

- If a new preamble is proposed, it should ensure that local government is recognised as

one of the components making up the modern Australian Federation.

We call on the Australian Local Government Association, the State and Territory Associations and the councils of Australia to work with the:

- Parliaments of Australia;
- Governments of Australia;
- Political Parties of Australia;
- The Australian Council of Local Government;

and, most importantly, the

- People of Australia.

So as to create and leave a stronger nation for future generations.

DATED this 11th Day of December 2008

Cr Geoff Lake

On behalf of the Delegates

Local Government Constitutional Summit”.

In view of the outcomes of the December 2008 National Constitutional Recognition Summit it is important for Clarence Valley Council to align itself with such outcomes and

specifically the Summit Resolution and Declaration, given the vital need for local government to be ‘as one’ in terms of the ultimate goals of our sector. This is the purpose

of this Notice of Motion

FINANCIAL IMPLICATIONS

Nil

Councillor Ian Tiley

Date: 12<sup>th</sup> January 2009.