

LOCAL GOVERNMENT REFERENDUM
10.00am Monday 17 June 2013

Delegates it give me great pleasure to introduce this next session. Last night, Minister Albanese announced that the Government will provide public funding to the support ALGA's campaign for the Yes case in the referendum.

With that announcement the Minister has put in place the last prerequisite that ALGA, the Expert Panel for Constitutional Recognition and the Parliamentary Joint Select Committee said was necessary to provide our campaign with the best chance of success.

I am delighted that the Government has listened to these recommendations and delegates there is now only one further hurdle to jump before we can say without hesitation that there will be a local government referendum on 14 September 2013 - that is successful passage through the Senate of the *Constitution Alteration (Local Government) Bill 2013*. Once that is done and - the Referendum is a reality.

Delegates this has been an extremely complex journey, and to be honest, at times, frustrating. Many of you have been on that journey with us, and without your support we would not have got to this point. Today I want to give you a quick outline of where we have come from, so that you will understand where we are, and where we are going.

Tomorrow we will go into more detail about the campaign and the approach to be taken to get this referendum passed.

I share this stage with the President of every state and territory local government association. Each President is a Director of ALGA and they share the stage because it is these people, representing your associations, who have guided our planning and process toward the referendum. I want to thank every member of this group and express my appreciation for their support and energy in progressing this very complex matter. I also want to thank past Board members that have contributed to this campaign, and I want to particularly acknowledge my predecessors Cr Paul Bell, Cr Geoff Lake and Mayor Genia McCaffery, past ALGA Presidents for their leadership and contribution to the cause.

Every association is making an enormous commitment to achieve constitutional recognition. Indeed every association is making a significant financial contribution to the nationally coordinated campaign. I also know that almost every association has asked you, or your council more specifically, to contribute directly to the campaign.

[Introduce Sub-committee members]

Together, we propose to raise \$10 million, which as we know from the Minister's announcement last night will be matched by the Government, taking our total campaign budget up to around \$20 million. To put that in context we know the Republic referendum spend between \$7.5 million and \$11 million in 1999 or in today's terms around \$15 - \$20 million.

This is a large amount of money and a great responsibility, because in asking you to fund the campaign, your association leadership and the ALGA Board is taking on the obligation to:

- a) manage the funds responsibly, and
- b) ensure we get the best outcome from the referendum itself.

But we believe passionately in the cause and we think that constitutional reform is needed, so we take on this obligation seriously, and on behalf of all my colleagues on the stage I want to thank you for the trust you have placed in us to-date, and we pledge that we will manage this campaign prudently, and we have all committed ourselves to work with you with a singular purpose of achieving a 'Yes' vote for this referendum.

Tomorrow you will hear more about our plans for the campaign and the strategy that we have developed for what we hope will be the winning campaign.

Delegates we are 88 days from the referendum and frankly I am delighted, if not a little amazed, that we have got to this point. As I mentioned, this has been a complex journey and I want to outline some of that complexity for your background.

Our journey can be broken up into three streams of work. The first has been working with the Government in particular to lobby and encourage them to adopt our proposals and to develop the legislative program required to initiate a Referendum.

The second stream of work is political advocacy - essentially locking in, as best we are able, multiparty support. And the third stream is working with state and territory associations and you, the councils, to consolidate support and broader advocacy.

So let me outline each the stream of work quickly so that you understand what we have been doing at the national level.

We all know that the Government must initiate a Referendum. To do this they have to agree that the proposition is worthwhile, worth the effort and frankly that the referendum has a reasonable chance of success.

Having decided that it is worth the effort there are a range of important decisions that need to be taken. For example the Government must determine the actual wording of the proposal; it needs to build support for the proposal; it needs to develop legislation and shepherd this through the Parliament; it needs to organise the official 'yes' and 'no' case; decide whether it is prepared to fund a partisan campaign, and finally it needs to instruct the Australian Electoral Commission to set-up the referendum.

At each point of this decision chain the Government needs constant encouragement and in some cases very strong advocacy to make it happen. Noting that at any point of this chain a decision can be made to stop the Referendum dead in its tracks.

ALGA has spent years in a tightly focused effort to lock in the Government.

Following the 2008 Constitutional Summit, constitutional recognition has been a major priority for ALGA. Having put the issue on the national agenda, ALGA welcomed the Government's agreement with the Greens and Independents in 2010 to hold a dual referendum into the constitutional recognition of local government and on the constitutional recognition of Indigenous Australians in the life of the Parliament.

To take this commitment further ALGA constantly advocated for the Government to adopt a process to take the issue forward. In this regard ALGA put a number of positive options to the Government and finally in June 2011 the Government announced the establishment of the an independent Expert Panel, chaired by former Chief Justice of the Supreme Court, the Hon. James Spigelman AC QC, to identify the best way forward for the constitutional recognition of local government.

ALGA made a comprehensive submission to the Expert Panel and welcomed the Expert Panel's report in December 2011 which supported our preferred option - financial recognition. The Panel concluded that financial recognition was the only viable option capable of success and was the option which had the broadest base of support among the political leadership at both Federal and State level.

Delegates, at last year's NGA, 6 months after the Government had received the Expert Panel Report, the then Minister for Local Government the Hon Simon Crean spoke to us, but made no decision about the Expert Panel's recommendations. .

Frankly delegates I think all of us would have been happy if the Minister had been able to say at that time that the Government accepted the recommendations of the Expert Panel and had agreed a clear timeline for the referendum. This would have given us all sufficient time to carefully plan, allocate additional resources and execute our campaign.

But that was not the case. Instead he said that while the Government was prepared to take the Referendum forward if it was going to be supported by the voters, the Government was waiting for the outcome of the High Court decision on Williams before it decided on how to take the issue forward.

To be fair to the Minister, it is also important to recognise that for him to take the issue forward he needed full Cabinet support, and we understand that there were a number of Cabinet members who had concerns about the implications of an adverse High Court decision on Williams. If you remember the High Court decision in that case came down on the very last day of the 2012 Assembly.

I will leave the details of this case to Professor George Williams for later tomorrow, if you're are interested, but from local government's point of view the Williams case simply reinforced the fact that the Commonwealth's constitutional power to fund programs - including to local government - was much more limited than was previously thought - and that programs like Roads to Recovery were at risk of constitutional challenge.

Indeed, the Commonwealth responded to the Williams Case by quickly passing legislation which they asserted would deal with the issues raised

in the Williams case. ALGA's legal advice was that the legislative fix for the Williams Case did not, however, address local government's concerns for Roads to Recovery and our advice reaffirmed the need for constitutional change. An interesting footnote however is that we understand the Mr Williams is now planning a further High Court challenge on the validity of the Commonwealth's legislative response to the original Williams Case.

In short, however, the Williams Case strengthened our argument and the need for constitutional reform.

In July 2011, immediately after last year's NGA, the ALGA Board resolved to set out a clearly policy position to take to the Government to push the Referendum forward. In summary we advocated for the following:

1. That the Government to formally respond to the Expert Panel Report.
2. Urge support for the Expert Panel's recommendation on the wording of the question with some minor amendments as follows - S96 should 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 on such terms and conditions as the Parliament sees fit.
3. To hold the referendum at a time that maximises the chance for success.
4. There must be bi-partisan support to ensure maximum success for the referendum proposal.
5. There needs to be a federally funded community awareness program that educates the public regarding the Constitution, constitutional change, and the local government question.
6. The issues of funding, wording and timing should be immediately referred to a parliamentary committee and that ALGA should be consulted on the terms of reference.
7. The Parliamentary Committee should consider the issue of the timing of the referendum and the funding for the Yes and No case for the referendum. Our view is the Commonwealth contribution for the referendum campaign should be in proportion to the lower

house vote on the referendum bill and in the nature of \$12-15 million.

Many of these positions were not new. Indeed we had been advocating for a Joint Select Committee of Parliament process and public funding since 2009 when we made a submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into the Machinery of Referendums. But given the Government commitment to hold a Referendum by 2013 we believed it was vital that early action was taken to set it up.

But it was only in November last year the Government announced the establishment of a multi-party Parliamentary Joint Select Committee on Constitutional Recognition. Its task was to look at the majority finding of the Expert Panel - that financial recognition through the amendment of Section 96 is a viable option for a referendum in 2013 - and to assess the likelihood of success of a referendum on financial recognition.

In welcoming the establishment of the Joint Select Committee, ALGA prepared a significant submission and appeared before the Committee. At the time ALGA expressed concerns about the delay in getting certainty about the referendum in order to plan, raise funds through state associations, and execute a successful campaign.

ALGA's submission was based on the policy position that I just outlined. That is - we needed the Government to commit to financial recognition, we needed bipartisan support, we needed a public education campaign and we needed public funding for the yes campaign.

ALGA was criticised by some for our position, saying that we were putting hurdles in front of the campaign going forward.

On the contrary, ALGA was simply stating firmly the agreed position of every state and territory local government association, that we could not support a referendum, including spending council resources on a campaign that did not have the maximum chance of success.

The Joint Select Committee presented an interim report on 24 January 2013, recommending that the Government take all administrative steps necessary to proceed with the referendum in 2013. However the Minister indicated that he would wait until the final report was delivered before considering the recommendations.

ALGA lodged a supplementary submission to formally clarify our position to and correct the record, on 31 January and appeared at a second hearing of the Joint Committee in February to make our position clear and we strongly stated that the local government sector, led by ALGA, was committed to taking the campaign forward, and that we were ready to run a campaign once the preconditions for success had been met.

The final Joint Select Committee report was brought down on 7 March and its central recommendation remained the same as the interim report. Essentially it supported a Referendum on financial recognition of local government and that it should proceed with the next Federal Election.

At this point you might remember that on 30 January the Prime Minister Gillard announced that the date of the Federal Election would be 14 September 2013 which also locked in the date of the referendum to be on 14 September 2013. The Joint Committee also highlighted the urgency of the legislative program required for a referendum to be pursued for a 14 September Referendum.

With constant encouragement from ALGA, the Government introduced necessary Machinery of Referendum legislation on 21 March. Less than a week later, on 25 March, the ministerial responsibility for taking the Referendum forward within Government changed, with the appointment of Minister Albanese as Minister for Local Government.

On 9 May the Prime Minister the Hon Julia Gillard, Attorney General Mark Dreyfus and Minister for Local Government Anthony Albanese announced that the Government would proceed with the Referendum at the next Federal election - 14 September 2013.

The passage of the Machinery of Referendum legislation was critical to our campaign because without it the Government could not proceed to referendum. Indeed it would not be able to fund a referendum. On 15 May the legislation was passed by the Parliament and received Royal Assent on 17 May.

By this time we were much more confident that the Government was on track to ensure that Referendum would proceed. On the back of that, state and territory associations could now firm up their arrangements to provide funding to ALGA to run the National Campaign.

On 29 May Minister Albanese introduced the Constitutional Alteration (Local Government) Bill 2013. It is this legislation that contains the words of the Referendum and once passed the Referendum must be held between 2 and 6 months after it has received Royal Assent.

It's been passed in the House of Representatives (133 in favour and 2 against) and will be considered by the Senate over the next 2 weeks. The passing of this Bill in the House was a very tangible test of bipartisanship or more precisely multiparty support. The Bill passed, albeit with 2 from the Opposition voting against it. This is the final step in the process. I look forward to the outcome of this debate and sincerely hope the Senate strongly supports the Bill.

So delegates, that is the process that we have been working on with the Government.

Let me now move onto the second stream of work that I mentioned which was the political advocacy - essentially locking in, as best we are able, multiparty support. In my summary about working with the Government I outlined, in some detail, the process the Government has taken to get to this point, including over the last few months the introduction and passage of the necessary legislation.

Throughout this process ALGA has been working in parallel with the Coalition. Even as far back as 2008 bipartisan support for constitutional reform was identified as a key indicator for success. We have kept the Opposition apprised of our position, provided briefings to Parliamentarians, lobbied hard when required to keep the Coalition involved.

As previously mentioned the ultimate test of bipartisan support is the vote in Parliament on the Constitution Alteration (Local Government) Bill and we are extremely pleased with the level of bipartisan support shown in the House of Representatives.

We hope and expect this to be carried through to the Senate.

Delegates this has been a vast amount of work and it has been very important work, because of the importance that we have (and every commentator and legal authority has) placed on bipartisan support for the success of the Referendum. Indeed, if you remember, it was one of the preconditions for success that we put to the Expert Panel, the Joint Select Committee and the Government from the very beginning. If

Bipartisan support had been lost, at any time throughout this process, it would have basically ended the chances for the referendum.

I now wish to move onto the third stream of work - working with state and territory associations and you, the councils, to consolidate support and broader advocacy.

Delegates it is sometimes forgotten that ALGA is a federation of your state and territory local government associations. ALGA's policies are not developed by some strange third party based in Canberra. They are developed by consensus reached between all of the state and territory local government associations. While I lead ALGA, and we have a small professional Secretariat based here in Canberra, pursuit of Constitutional Recognition (and our other objectives) is a common goal shared by the associations. Every Association President sharing this stage with me today, has worked collaboratively to determine policies, agree strategies and tactics and agree to work with their State or territory local government association to achieve our goal.

As an ALGA Board sub-committee we have met by telephone basically every month now for over two years. More recently, as our level of confidence in the Referendum proceeding has grown, we have been meeting even more regularly. We have provided advice to the full ALGA Board and considered options, strategies and funding to take this referendum forward.

Through the National General Assembly, ALGA News, direct mail and our website we have attempted to keep you informed of developments and I know your state associations have used a range of communications channels including their own annual conferences to also keep you informed at state level.

At a state and territory level your associations have been making strong representations to state governments and major political parties to seek support for the referendum.

More than three years ago the ALGA Board agreed on the need to raise up to \$10 million to fund a national campaign if and when a referendum was put. A major challenge for us all however, was getting the timing of fundraising right.

The catch 22 was that it was extremely difficult to expect state associations and you - their members, to agree to contribute up to \$10

million for a national campaign, or to expend scarce resources, before there was any certainty that the Referendum would actually proceed.

Your state associations have been up to the challenge. Two years ago, we had achieved agreement to fund the campaign, albeit that a number of details including the campaign plan and cash flow issues, remained to be addressed. More recently your associations have been working with you to secure the necessary funds to make the campaign a reality.

Delegates, as the sub-committee of Presidents and the ALGA Board have become more confident in the Referendum, we have taken the necessary decisive steps to take this campaign forward.

At a national level our own funding, through your association, will be in place by July. And as we have heard from the Minister these funds will be matched by the Government.

Last week we contracted our National Campaign Director, whom I will introduce to you tomorrow, and the agencies necessary to put the national campaign together.

We are ready to go. All we need is the legislation to go through the Senate and of course a winning campaign strategy.

Delegates there will be a No case in this referendum. There almost always is a No Case. Indeed, it is not surprising that to-date the main critics of this referendum are the usual suspects - the ones that say no to everything and to every referendum. And their arguments almost always remain unchanged – whatever the referendum is, it will be a power grab from Canberra, it will have unintended consequences, it has not been thought through properly and it is not necessary.

Unfortunately they do not listen to the merits of the case. They made up their mind before they saw the words of the referendum and before they heard the case in support. They obviously know better than the High Court, the Government, the Opposition, the Joint Select Committee, the Parliament, the Expert Panel and a range of leading legal academics.

Our task is to make sure that the No case is exposed for what it is and that we carry the day with our communities.

The benefits of our case for local communities should be self evident. From a local government perspective this particular referendum question

relates to removing the uncertainty around current direct federal funding provided under programs such as Roads to Recovery. That particular program will have provided \$4.18 billion in funding to councils by 30 June 2014. A further \$1.75 billion is expected to be provided from 2014 to June 2019.

The Government undertook a cost benefit analysis of the program in 2003 which concluded that the benefit cost ratio from every dollar spent under the program was 1.8. Thus the benefit to local communities from this program in the period to June 2014 will have been more than \$7.5 billion. This is a benefit which would not have occurred without this direct funding program.

The funding would not have come from state governments (their inability to provide support for local roads was at the heart of the Howard Government's decision to introduce the program in March 2001) and there is no reason to suppose it will come from state governments in the future if the program ends because of lack of Commonwealth capacity to provide the funding as a result of constitutional legal doubts. The value to the community of this funding makes the cost of the referendum – which is also being borne by the community – a very sound investment.

There are no other costs associated with the proposed change since it will not impact on the relationship between councils and their state governments but unfortunately those who oppose this change do so in the mistaken belief that it will affect the states' powers and put at risk the substantial community benefits outlined above.

Delegates this campaign is a just campaign. It is in the interests of our communities and therefore it is for the betterment of our nation.

Referendums are very rare in Australia's history. Successful referendums even rarer. Only 8 of the 44 have been successful.

To change the Australian Constitution is not a trivial matter. I have outlined the complex Government process, political advocacy and work with state and territory association political to get to this point.

I started my address this morning saying we are at the eve of making history. We would not be here without your support and ladies and gentlemen on behalf of the ALGA Board and the state and territory Presidents with whom I share this stage, can I thank you for your support and commitment to this campaign.

To commemorate this event, we have taken the opportunity to create a Statement of Commitment Document that we are going to ask every delegate to sign. The document will be at the ALGA Stand in the Exhibition Hall for the next two-and-a-half days. Can I invite everyone to sign it. We will have copies of the Statement for each of you to take home at the end of the Assembly and we will keep a permanent record of your signatures to commemorate this point in history.

Delegates I want to thank you once again for your support. We will need everyone to continue to support the campaign and to play the role we will outline in detail tomorrow.

In closing I would ask that you join me and your state and territory Presidents in celebrating our achievements to-date and trust that our 2013 Local Government Referendum will be successful.

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