

Address to the National Press Club

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Introduction

Good afternoon everyone.

Let me begin by acknowledging the Ngunnawal people, the traditional owners of this land.

I believe this is the first time someone from local government has addressed the National Press Club.

And today I'm here to highlight the role that councils play in Australia's system of government and – more importantly – the role they might play in the future.

Now, pretty much everyone has a view on local government.

Perhaps it's based upon Bob Jelly from *Seachange*, Col Dunkley from *Grassroots* or perhaps it's the larger than life councillors who featured in that infamous documentary – *Rats in the Ranks*.

But it's more likely that you've had some direct dealings with your local council yourself and I hope your view has been more influenced by those experiences.

Because, it seems local government is increasingly everywhere.

It has always been the roads, the footpaths, the drains, the street trees, the parks and gardens, the local golf course, the public swimming pool. But in the past 50 years or so, it has popped up in many more places.

It is now typically also a provider of early childhood services, kindergartens, immunisations, aged care, libraries, art galleries, family counselling and community health. It is still the authority that predominately determines the look, the feel and development of our neighbourhoods and usually it's at the heart of regional economic development and tourism strategies.

If we were to list all of the things done by councils, we would come up with a list of more than 150, although no two councils would be exactly the same.

Today, I plan to cover three things:

1. I want to give you a better appreciation of what local government in Australia in 2010 is all about, and how it has evolved in recent times;
2. I want to give you an idea of our key contemporary challenges – and in particular, our funding and constitutional limitations;
3. And finally I want to make some comments about the importance of community involvement in the planning process.

In the course of discussing these areas, I will outline some areas for reform that would improve not only how local government functions, but also the functioning of the broader system of government we have here in Australia.

ALGA

Local government has been represented at the national level since 1947 when the Australian Local Government Association – or ALGA – was formed in response to local government’s increasing relevance in national issues. Today it remains the national peak body for local government, representing the interests of the 565 councils across Australia.

As its president, I represent local government on the Council of Australian Governments – COAG – and on 13 ministerial councils. And this positions local government right alongside key federal and state decision makers.

Ben Chifley

It was fitting that Australia’s Prime Minister at the time of ALGA’s formation was Ben Chifley.

Ben Chifley is often remembered as one of Australia’s great prime ministers.

However what people tend to overlook now, is that as well as being the train driver who rose through the ranks to become Prime Minister,

Chifley was also a great champion of grassroots community action and local involvement.

It is hardly remarkable that Chifley was a councillor before getting into parliament. Many of our current members of parliament cut their teeth in local politics too. And Arthur Fadden, Earl Page and John Gorton are other Prime Ministers who have also served in local government.

However, the fact that Chifley continued as a councillor during his time – first as Treasurer and then also as Prime Minister is astonishing.

You see, Ben Chifley understood the importance of the local. He wanted to be as involved in the decisions affecting his immediate locality in which he lived, as in the big decisions affecting Australia's war effort and its post war reconstruction.

He found that his capacity to shape issues as Treasurer or Prime Minister was enhanced by his understanding of service delivery at the local level.

Local government and national issues

The idea of Kevin Rudd dashing home to Brisbane to attend a council meeting on a Tuesday night – is unimaginable to us today.

But like Ben Chifley, Kevin Rudd is a strong believer in the importance of local government. In just two years in power, he has done more to develop a formal partnership between the commonwealth and local government than any other.

Over the past year, he's given councils an unprecedented \$1 billion in extra funding for community infrastructure, he has established the Centre of Excellence for Local Government and he has invested in local government reform. In 2008 he founded the Australian Council of Local Government – an annual meeting between him, the cabinet and the 565 mayors from across the country.

These new arrangements make a lot of practical sense given the key national issues currently on his agenda.

List any of the Rudd Government's priorities at the moment – from climate change to the roll out of the National Broadband Network – and it's pretty much pointless beginning a conversation about them that doesn't include local government.

Local government has a key role to play in many national policy areas, and without our engagement, effective reform or rollout in any of these areas will be difficult to achieve.

Intergovernmental cooperation and COAG

In a country like Australia with our three levels of government, vast geographic areas and centralised taxation system, it is essential that all levels of government work effectively together.

Indeed, there are very few policy issues facing Australia which can be solved solely at one level of government.

Under the Rudd Government, we have seen COAG go from an annual talkfest to a sharper, more reform focused body which now meets four times a year.

You can call this cooperative federalism, or you can call it something else – I'll just call it a good thing.

Of course, the COAG process is not perfect and developing it into a more robust and effective forum must remain a priority.

Constitutional reform

But cooperative federalism requires more than governments merely meeting together – and one of the main stumbling blocks is Australia’s Constitution.

Despite local government having existed in Australia since the 1840s, it is not mentioned anywhere in the Constitution.

That is a problem which I will explain shortly, but before I do, let me just get straight what this isn’t on about.

Despite the way some people refer to it, this is not about mere recognition for local government in the Constitution. To seek constitutional change simply in order to see the words ‘local government’ appear somewhere in the text of the Constitution, is little more than an indulgent frolic. And one, I think, that invites an impression of local government being a bit too self absorbed. Or to put it another way – a bit of the small man syndrome!

It is a cause in which I have no interest.

But let me explain the problem which does exist and which does need to be addressed.

You may recall from last year, academic Bryan Pape challenged the constitutional basis of the federal government's \$900 payments to taxpayers as part of the stimulus package.

Although the High Court ultimately upheld the validity of these payments, in doing so, their reasoning has created significant uncertainty for direct funding provided by the Commonwealth to third parties in other areas when it can't be tied to a specific head of power in the Constitution.

The High Court's reasoning suggests that the money paid by the Commonwealth directly to local government is unconstitutional.

That is also the view of Professor George Williams who is one of Australia's leading constitutional scholars and lawyers and who has provided legal advice on this matter to local government.

That's why when federal funding to councils was commenced in the 1970s by the Whitlam government, the funds were channelled into local government through the states to overcome this limitation. Plainly, this is an inefficient way to transfer funding.

Since 2001 though, there has been a preference by the Commonwealth for specific program funding which involves payments directly to local government.

This now amounts to hundreds of millions of dollars which councils receive each year directly from the commonwealth for programs such as investment into local roads.

We see this development as a good thing and one which makes logical sense – as we see little point in state government being the middle man.

But *Pape* now stands as authority for the proposition that the Commonwealth lacks the constitutional power to provide funds directly to local government.

Let's just stop and think about that for a second.

The High Court's decision suggests that by continuing to directly fund local government, the commonwealth is breaking the law. This is a real issue and it deserves attention.

It is ridiculous that in 2010, after more than 30 years of commonwealth funding of local government:

1. not only is there still a need to maintain extra and unnecessary bureaucracy to get money to local government via the states;
2. but the move to direct funding over the past decade may also need to be rolled back.

The Constitution is meant to enable government at the national level, but in this instance it fetters it.

It's hardly controversial to suggest that this money ought to flow seamlessly.

The current position, frankly, makes no sense at all and it's an example of where the Australian system of government is out of date and needs reform.

Local government believes that a referendum should be held during the next parliamentary term to consider whether a new financial power should be inserted in the Constitution to expressly enable the commonwealth to directly fund councils.

We see this as a bit of a no-brainer and fitting into a broader package of constitutional reform, consistent with the sort of changes currently being flagged by both sides of politics.

It's as easy as amending section 96 – the section which sets out that the commonwealth may grant financial assistance to the states on such terms and conditions as it thinks fit – and simply adding the words ‘and local government’.

When it comes to constitutional change, we understand that the starting position of Australian voters and their politicians is – if it ain't broke, don't fix it.

However this is an example of where it is broken and where it needs fixing.

The current arrangements are nothing but a house of cards.

The consequences of a legal challenge would be disastrous. Not only would a successful challenge invalidate current and future funding, but it would also render all past payments to councils illegal and require the money to be paid back to the commonwealth.

It would bankrupt every council across the country.

It's absurd that one level of government – the federal one which collects the most tax – can't give it directly to the level which collects the least, without breaking the law.

The Rudd government supports a change to the Constitution to clean this up.

So do the Greens, and the Opposition has also indicated its in principle support.

Local government today

And this is all with good reason too, given that the past 50 years has seen an explosion in the size, scope and role of local government.

Whereas once all councils did was pretty much manage and build physical local infrastructure – such as building roads and collecting rubbish, today – as I’ve already said – local government is typically delivering more than 150 services across a huge spectrum of people services.

However, when we talk about local government, we are talking about a range of sizes – such as the City of Brisbane – with a population of more than 1 million people and a budget rivalling the State of Tasmania, while on the other hand – councils like West Pilbara in WA – which is the land size of Japan but has a population of not much more than the number of people in this room.

But regardless of size, their councils are there, quietly working away, around the corner, at the local park, the local swimming pool, the regional art gallery. If you or someone you know has a baby, it is typically the council which provides the first form of government support in that new baby’s life prior to school – first through maternal and child health services and then through kindergarten and preschool.

For our elderly parents or grandparents, councils provide the sort of care and assistance that allows them to remain in their home for longer.

Hundreds of thousands of books are borrowed every week from public libraries run by councils.

This grassroots entrenchment is our point of difference from state and federal government – neither of which have anything like our imbedded presence in just about every single community across Australia.

Now, I'm not suggesting we do it all perfectly – we certainly don't.

But local government has always been there in Australia – right in the thick of it where people live – and it always will be.

And most importantly, it offers locally tailored services and amenities.

Funding

However, while there's been exponential growth in local government roles and responsibilities, there's been no change to the way local government is funded.

Councils are still predominately funded by a property tax – rates – collected in the same way as it was 100 years ago.

There is a compelling case that the way we fund local government today is antiquated and in need of reform and rejuvenation.

While it's still the ratepayer who picks up the tab, the correlation between the people services which councils now provide and property is rapidly diminishing.

Simply – the tax base has not kept pace with the evolution of the local government system itself.

As services have been switched from the state to the local level, state governments have got the benefit of getting service delivery off their books but local government has had to rely on property tax to meet these new costs.

And that's not fair given that these new people services have little to do with property.

It would be much more equitable to meet these costs by a transfer of general tax revenue – such as income and consumption tax – from other levels of government to the local level.

But not only is local government improperly funded – it is inadequately funded too.

At present, local government only receives about 15% of its revenue from general taxation transferred from the other levels of government – predominately from the commonwealth.

Local government is a \$25 billion per annum industry and employs over 170,000 people. Communities have a right to expect a more solid funding base.

In our view this is something that the Henry Tax Review should be considering – not just how tax revenues are collected but – also – how they are shared between the three levels of government for the benefits of all Australians.

Given the substantial growth in service delivery over the past 50 years, local government is stretched to breaking point in meeting these demands while maintaining local infrastructure.

A 2003 parliamentary inquiry demonstrated that the impact of cost shifting by the states onto local government was between \$500 million and \$1.1 billion per year.

That came as no surprise to people involved in local government.

Of course, ultimately all levels of government serve the same common stakeholder who doesn't really care who delivers a service, as long as it's delivered efficiently and effectively.

However, this lack of adequate funding for local government is significantly affecting the sector's ability to meet the needs of local communities and the demands of state and federal governments.

A recent report by PriceWaterhouseCoopers commissioned by local government concluded that as a result of this substantial growth in services delivered at the local level, the estimated infrastructure backlog

across councils was \$14.5 billion which amounts to a funding gap of \$2.2 billion per year.

The report concluded that somewhere between 10 and 30% of the 565 councils across Australia are financially unsustainable.

The \$1 billion for community infrastructure as part of the stimulus package was a great start. However, it's only a first step and more funding is desperately needed if local government is going to be able to meet the broader range of services expected of the modern council.

Planning reform

Now it wouldn't be a speech about local government if I didn't have something to say about planning.

Planning is complex, it is controversial and it is political. And it is often hard to talk about in the national context because it differs in every state and indeed, within states. However, what doesn't change is the basic importance of community involvement in planning.

In recent times though, all over the country, we have seen state government's undermining the community's right to be consulted and have a say in planning decisions.

To the development industry and state government planning officials out there, who believe planning can be done by the application of a simple checklist or a statewide set of principles – I say you are in la la land.

Planning is not a science which can be determined in a laboratory simply by mixing a few elixirs together to come up with a solution. It is inherently political, it is inherently adversarial and it is hard work.

I want to make something very clear here today.

Local government won't roll over on so called 'planning reform' and let clumsy state governments continue their trend of stripping out community involvement from planning processes.

In the past few months we have even begun to see governments talking about planning process reform as the solution for affordable housing. This is utter nonsense.

It may suit governments to talk about action on affordable housing through reform of planning processes – as the Treasurers did in their meeting last week – but this is the biggest fraud going around in Australian politics at the moment and they should be called to account on it.

You can create the most efficient planning system in the world and it won't have any significant impact on affordable housing. Affordable housing is far more influenced by macro economic policies on the demand side of the equation. Things like tax concessions, monetary policy settings and the lending practices of the banks.

A bit of talk about planning processes and engaging in a bit of old fashioned council bashing, doesn't equal tough action on affordable housing.

The problem when other levels of government talk about planning reform is that they almost always start from a position that community involvement in planning decisions and local variance is bad and it ought to be curtailed. Even Ken Henry has recently jumped on board, dismissing local planning policies as a 'maze of regulations' and as 'idiosyncratic'.

Planning reform ought to be directed at process and efficiency improvements, not recasting the whole democratic basis on which planning sits.

We say to state and federal government – do it with us, not to us.

Incentivise it. Subject councils to data and accountability. Reward good performance. We're open to all of that. But don't simply look to the low hanging fruit of hastily and ill-conceived planning reforms.

We certainly don't seek community control of planning, and we do not suggest that neighbourhood objections should always prevail.

But it is a fundamental right to have a say in how one's neighbourhood develops. And if state and federal governments don't heed this message, they might have to hear it at the ballot box.

Perhaps through a local government run 'Your Rights at Home' campaign?

Sound familiar? Similar issues are at stake.

Need for self improvement

In defending community and council involvement in planning, I don't want to send the message that local government sees little room for change or improvement in our processes or in our affairs more generally.

We do.

And that's why we agreed to suspend some planning requirements as part of the ongoing rollout of projects funded under the stimulus package.

Moreover, increasingly, local government is directing more of our statewide and national energies towards streamlining and modernising planning processes.

I am a strong believer in the community having a right to be able to access information on the performance of their public institutions. And local government should be no different.

I support the concept of developing a *MyCouncil* style website so residents and ratepayers are able to compare how their council is performing compared to other like councils.

Data is so important in targeting where reform is most needed. Getting data collection uniform and meaningful across key local government indicators makes sense and ought to be a greater priority. And using it to highlight the most innovative approaches and to target improvement where it is needed, is in everybody's interests.

This is something I want to see local government drive as a sector on a bottom up basis, rather than waiting for other governments to impose it from above.

Conclusion

Let me finish by returning to where I started – with Ben Chifley.

In 1947, in the midst of trying to convince the nation of the need to nationalise the banks, Chifley faced a council election.

He faced a Country Party candidate who campaigned against him on the basis he was too busy taking on Collins Street bankers and had lost touch with local issues. It was a message that resonated with voters and Chifley was defeated.

It must have been a humiliating experience for a Prime Minister.

We now talk about John Howard as the second incumbent Prime Minister to be rejected by his local constituency, but this is not correct. Chifley is in fact the second, although it wasn't his parliamentary seat which he lost.

Local government mattered to Ben Chifley because Ben Chifley appreciated its importance and the grounding and perspective it gave him on national issues.

However, and in my mind – the best part about the Ben Chifley story – was that in the end, even the prime minister is not immune from local issues and local democracy in action.

It is one of the great things about local government which still exists today – direct accountability.

By 1947, Chifley had personally achieved a blending of the local and national that was well ahead of his time.

In different ways, what Chifley pioneered personally, has been built upon by successive governments in recent times, in particular, those led by Whitlam, Hawke, Howard and now Rudd, to a point where local government now has a valuable contribution to make on many important contemporary national issues.

But the world has changed a lot in that time too. And if local government is to continue to meet the needs of local communities – both today and into the future:

1. we must fix the constitutional impediments holding local government back;
2. we must fix the funding base; and
3. we must protect the right of communities and councils to participate in the planning process.

Not only is all of this in Australia's national interest, but much more importantly than that, strong and efficient local service delivery is also in all of our personal interests as well.

Thank you.