

**ROAD SAFETY COMMITTEE**

**Inquiry into federal-state road funding arrangements**

Melbourne — 12 April 2010

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Mr A. Beresford-Wylie, chief executive, Australian Local Government Association.

**The CHAIR** — Thank you very much for being here this morning to assist the committee's inquiry into federal-state road funding arrangements. As you can see, we are recording the evidence taken today. We will provide you with a copy of the transcript as soon as we can, so you can make changes. If you could just start by introducing yourself, we will ask questions as we go.

**Mr BERESFORD-WYLIE** — My name is Adrian Beresford-Wylie. I am the chief executive of the Australian Local Government Association. ALGA is a federated body. Its members are state and territory-level local government associations and the ACT government. I am not here to speak on behalf of Australia's 565 councils. We try to give a view that is an overall federal perspective of issues. I am pleased to be able to come to talk to the committee today. You have received a copy of our submission. I will not go through the submission, but I am happy to address any of the points raised in the submission or anything else that you may think may help the committee.

**The CHAIR** — In relation to allocated funding for road safety, we have had several witnesses appear from both the South Australian Local Government Grants Commission and others who have indicated that the moneys that are allocated towards road safety are actually given to general revenue and they are not dedicated to road safety works. What would you say to that?

**Mr BERESFORD-WYLIE** — Are we talking about federal money here?

**The CHAIR** — Federal money.

**Mr BERESFORD-WYLIE** — All right. As the ALGA submission talks about, there are three elements of road funding provided to local government from the federal government. The black spot funding is really road safety funding; it is not road funding as such. I have included it for the purposes of a comprehensive note, but really that money is provided to local government, allocated to councils and spent by councils on the basis of a road safety return, not on the basis of an investment in roads per se.

There are two other sorts of funding provided to councils. One is the identified roads grants, which are a proportion of the financial assistance grants provided by the Australian government. That is part of an overall transfer of funds from the Australian government to local government; they are attached funds to some extent. But while it is an identified road grant, it is not specifically earmarked for investment in roads or indeed in road safety. Councils are free to spend that money as they see fit. About \$600 million is allocated across the nation in accordance with a predetermined formula, which has been frozen in time since about 1991 when the grants were untied. They used to be tied roads grants; now they are untied.

There is the \$600 million provided across the nation as identified roads grants, and there is also the allocation of funding under the Roads to Recovery program, which is now about \$350 million a year that is, to some extent, allocated between jurisdictions along the lines of the funding formula for the identified roads grants. It is not money that is earmarked for road safety expenditure per se, but it is money that is earmarked for expenditure on roads. Unlike the identified roads grants, councils have to spend it on roads in accordance with the guidelines provided by the federal government. Obviously they can apply that money to investment in roads, bridges and a variety of other things, and they can apply for the purposes of road safety. This will be a priority for individual local governments.

So, yes, you are right to the extent that there are no specific road safety programs from the federal government to councils with the exception, as I said, of the black spot funding. Black spot funding is provided to jurisdictions on the basis of a jurisdiction at allocation. The money is available to spend on local roads. It is also available to spend on state roads. What sort of allocation councils receive from that funding is really a question of the relationship between local government and the state government, and of course the nature of the projects that come forward for road safety funding that are considered by state committees.

**Mr WELLER** — Adrian, in its submission the Western Australian Department of Local Government made an observation that funding for local roads in Western Australia was not increasing at the same rate as the costs were increasing. It also made the observation that local government does not have the resources to pick up the shortfall. Is this common right across Australia?

**Mr BERESFORD-WYLIE** — It is. The size of the national gap is not known, and I am happy to say that the Australian Local Government Association is going to do some work over the next few months to try to

identify what that gap might be in national terms. There are various figures that some states have produced and had a crack at. I have benefited from reading the submissions made by the organisations to your inquiry — and yes, there is a figure in there for Western Australia, I think, which indicates a shortfall of something like \$146 million or \$148 million. We think that there is a substantial shortfall. From memory there is in fact the commonwealth's rough estimation of a shortfall in maybe the 2005–06 national report on local government. I think the national shortfall was estimated at about \$604 million. It is certainly large.

The escalation that the councils face in terms of costs each year to maintain roads really is in line with the construction index. It is probably 7 or 8 per cent of the amount of funding — or the amount of indexation, if you like — that councils look at generally. The amount of funding provided by the commonwealth is escalated in terms of the identified roads grants, but by a figure which is equal to population growth plus CPI. In many years that can be around 3.5 and 4 per cent, so that is the amount of indexation that is provided there.

The Roads to Recovery funding is not indexed. We have been very pleased to see an increase in Roads to Recovery funding from \$300 million a year to \$350 million a year in recent years, but it is not indexed as such, so it is inevitable that the gap is going to get larger.

**Mr WELLER** — What could state and federal governments do to address that?

**Mr BERESFORD-WYLIE** — Obviously an indexation of the identified roads grants, or indeed Roads to Recovery funding, in line with the increasing costs that councils are facing would be helpful. We have called for the Roads to Recovery program to be made permanent. It is a program which has now been in existence for quite some time. It is probably now about nine years that it has been in existence, and it is due to go through until, I think, about 2013 or 2014 under its latest incarnation, but it is quite clear there is a need for that funding at the local level. The identified roads grants are not really, as we have said, in a sense funding provided specifically for roads, but that is certainly funding that councils use for roads. Councils spend well in excess of the amount of funding that is provided by the commonwealth. I think we estimate that councils probably spend \$3.2 billion or \$3.3 billion a year on roads and the commonwealth provides about \$900 million. Something could be done to make the funding permanent and perhaps to index it.

**Mr WELLER** — And index it at a rate for the cost.

**Mr BERESFORD-WYLIE** — Absolutely — at a rate that is equivalent to the cost. Looking a bit further ahead, obviously the concept of road user charging is something that is out there on the horizon. It is something which may come forward in terms of the Henry report.

**The CHAIR** — Sorry, what was that on the horizon?

**Mr BERESFORD-WYLIE** — Road user charging for road pricing. It is something that we at the ALGA are interested in. We provided a submission obviously to Ken Henry's review and talked about that area. A subsequent submission we provided followed some discussions we actually had with Ken Henry's committee in which we talked about infrastructure funding, infrastructure charging and in particular road user charging. The commonwealth and the states, through COAG — and indeed the president of the Australian Local Government Association is a member of the Council of Australian Governments — have looked at doing some work on mass distance location charging for heavy vehicles for freight, and that work is proceeding. The Australian Local Government Association is participating in that work. We are actually also on the Australian Transport Council. I expect to be a member at the end of this month of the project group that is taking that forward under Gary Liddle's chairmanship. I suppose that may present a future mechanism for trying to see roads funds allocated in accordance with road usage.

It was a little bit of a concern for us, and we have spent quite a lot of time talking at the Productivity Commission level and also at the ministerial council level about the importance of making sure that local government is part of any sort of road user charging methodology and system that is put in place, simply because we obviously do not want a situation where there is a two-tiered system of roads — ones for which users pay and others which are perceived as free.

From our perspective it would be inevitable that people would think, 'Let's use the free system instead of the charge system', and at local government roads we would expect to see a diversion of traffic onto those roads. It will be a balance obviously for users in terms of what they see as the, if you like, economic benefits of using

those roads, but I suspect we would see a diversion of traffic onto those roads, and that would not be very helpful for local government.

**Mr KOCH** — I think we saw that cost shift take place 15 or 20 years ago from state to local, and I do not think local government has ever got in front of that burden. You would be aware of that with your own memberships.

**Mr BERESFORD-WYLIE** — Yes.

**Mr KOCH** — I am concerned about indexing that takes place for rural municipalities, particularly on a population basis versus the size of the networks and the cost of maintaining those networks. What is the ALGA doing in that area to try and put some balance back into the argument to allow those rural municipalities with large networks to try and achieve some maintenance particularly and, if they can, the development of their road network?

**Mr BERESFORD-WYLIE** — When I talk about indexation at that population and CPI level I am talking about the broad federal indexation which applies to those identified roads grants; of course they are obviously distributed within jurisdictions in accordance with models put forward by local government grants commissions in each of the jurisdictions. We have got a pretty good relationship with those local government grants commissions, and we are supportive of the structure that has emerged over the past few years which allows a lot of grants commissions to come together on an annual basis and discuss their methodologies. One of the things that was of concern to us and I think of concern to a lot of councils was a lack of consistency in methodologies applied between the jurisdictions. That was certainly prevalent in the 1990s. Now grants commissions meet annually with a conference. I usually attend that conference and generally also speak. Executive officers meet on an annual basis and discuss the methodologies for distributing between councils and smooth out some of the anomalies that they have got. That means that an individual council — and you are right in saying that rural and regional councils are very much — —

**Mr KOCH** — I think your interface councils are also bearing a greater burden than they necessarily should be.

**Mr BERESFORD-WYLIE** — They are too; yes. We certainly encourage the grants commissions to have a discussion about the unique difficulties that are faced by those councils. We did some work a few years ago through PricewaterhouseCoopers to try to identify what we thought was an overall gap in terms of infrastructure facing local government. This includes roads but also a whole variety of different sorts of infrastructure. The PwC figures identified that gap at about \$14.5 billion. That is essentially the renewals gap between what local government has been spending on infrastructure and what was necessary to spend on infrastructure.

We took that forward to the Australian government and articulated over a lengthy period of time for some form of funding to help local councils deal with their overall infrastructure burden. We recognised that there was funding going to roads through the Roads to Recovery program, but there was also an additional cost that communities and local councils were bearing in terms of community infrastructure, and we spent quite a lot of time strongly advocating for a community infrastructure program. In part that is aimed at letting councils then focus on other infrastructure costs if they can get a dedicated community infrastructure program as well, so they are spending some money on roads that they would not otherwise be able to spend because it is being spent on other community infrastructure.

The model we were looking for was something not dissimilar to the Roads to Recovery program. The work by PwC essentially identified that all councils and all local communities face infrastructure backlogs. We were looking for a program which would allocate perhaps \$300 million a year to those communities over a four-year period. I am pleased to say that the Australian government did take up the idea of community infrastructure funding as part of the economic stimulus program. About \$1 billion has gone to councils across Australia over the past 18 months to fund some of this community infrastructure. I am hopeful that has taken some of the pressure off councils who are having to divide their investment between roads and other community infrastructure. It has given them a bit of a breathing space.

**Mr KOCH** — Is that community funding matched or is it not matched when it is in local government's hands?

**Mr BERESFORD-WYLIE** — There was no requirement that it be matched; that is right. Certainly ALGA suggested that the funding model to be followed would be a relatively simple model which minimised administrative costs for the Australian government.

The Roads to Recovery program, from our perspective, is a very positive program. It also costs the government very little. It is administered by just a few officers in the federal department. We have got a good set of guidelines which provide guidance for councils on what they can spend the money on. We have got an established audit process. We have got a whole accountability framework for local government. They are not private businesses, obviously, they are a level of government, so they have a transparent approach to accountability and some fairly favourable results in terms of an Auditor-General's office report into Roads to Recovery funding and how it is going.

We were looking for a similar model for the funding for community infrastructure. We have got a two-tranche approach now from the Australian government. About \$350 million is distributed between councils with a set of guidelines for them on how to spend the money, and they are told to go forth and spend the money.

About \$650 million, however, is set aside for councils to apply for funding for sizeable projects. In that case the Australian government has said that if you provide matching funding, it will be something that the Australian government takes into account in terms of allocating that funding.

While I said that there is not any matching funding, there is not for the core \$350 million program, but for the \$650 million large projects matching funding is what the Australian government has looked for, and it has got a lot of people assessing the applications.

**Mr KOCH** — I was interested to hear this morning from the South Australian local government point of view that 85 per cent of the Roads to Recovery funding went directly to local governments; the balance, 15 per cent, went to special local roads programs. For the matching funding part of that it was one for one for metropolitan councils but it was two for one for regional councils. I would have thought with the pressure on rate bases and the way they have been eroded over recent years, from your association's point of view, that one for one should have been right across the board.

**Mr BERESFORD-WYLIE** — I understand what you are saying, and I am sure that the Local Government Association of South Australia has vigorously taken that issue forward; I would hope they have. At the national level, one of the issues that we try to restrict ourselves a little bit on is commenting on the arrangements reached between state local government associations and state governments.

**Mr KOCH** — I assume you advocate for all, though?

**Mr BERESFORD-WYLIE** — We do, but we do not necessarily get involved in discussions about the distribution of funds between jurisdictions, obviously. We would like to see a large amount of money overall going to jurisdictions and every jurisdiction gaining an additional amount if there is additional funding.

Within jurisdictions, our view is that the state local government associations, which have as their direct members individual councils, are in a position to have a discussion with state governments if they choose to go down the path of having that pool set aside for identified projects.

The South Australian arrangements are not necessarily reflected in every jurisdiction. Roads to Recovery funding is about providing funding direct to councils.

**Mr KOCH** — I appreciate that; I was interested to hear that this morning.

**Mr BERESFORD-WYLIE** — Therefore reaching that position is really a matter for those individual state associations, if you like, and the state governments. There are special arrangements that also apply, for instance, in the Northern Territory, where there are some roads which are local roads which are funded as part of the territory's responsibility.

**Mr TILLEY** — We have mentioned Roads to Recovery a couple of times, and I have noticed in your submission, in relation to the possible constitutional issues, a recent High Court decision of *Pape v. Commissioner of Taxation*. Do you have an opinion that you can assist us with today?

**Mr BERESFORD-WYLIE** — Sure. When Roads to Recovery was created there was a bit of debate around that time about how constitutionally valid the program was. The commonwealth essentially relied on that interpretation of the constitution and said that there is an executive power for the commonwealth and it is able to fund things which it feels are of national importance. Therefore it is going to use a combination of its powers under the constitution to fund directly local governments, even though there is no power to fund local governments directly under the constitution — the states are responsible for local government — and nor is there a power to fund local roads under the constitution, but they relied on this executive power.

The executive power had been touched upon in a number of High Court judgements over about 30 years but really in oblique terms. There was a challenge by a man called Brian Pape last year. Brian Pape is an academic who comes from the University of New England. Brian was a recipient of one of the direct amounts of money that people on incomes up to, I think, \$100 000 received as part of the economic stimulus package. People received \$900 if they were low-income earners, and it was phased out. Brian was the recipient of \$250 and therefore saw that gave him standing to challenge the validity of that payment, which he duly did.

The High Court considered the validity of the payments and said, ‘We think the commonwealth is really restricted in its funding terms to those areas in which it has legislative responsibility; so the areas where it is directly responsible — that is really defence and currency — and the areas where it has joint responsibility under section 51. We think it is restricted to that, but we do think, as a court, that there is an executive power, and we think in this case the commonwealth had the power to make the payments that Brian Pape was challenging on the basis that a global financial crisis really is something that is fairly significant and responding to that is part of the executive power. But the executive power is much narrower than people had previously thought, and so we will leave it at that’.

Having left it at that, we obviously thought it was a bit of a problem for us. We got some advice from a barrister, who said, ‘Yes, I think you have probably got a problem. It is likely that that interpretation of the executive power means that the Roads to Recovery funding probably is able to be challenged and a variety of other funding mechanisms from the commonwealth to third parties would also be challenged’.

Really section 96 says that the commonwealth can fund states, and section 51 gives them quite a lot of powers in quite a lot of areas where they can legislate and where they can happily fund, but in terms of local government it is probably — this is the advice — restricted to those local governments which are trading corporations. The commonwealth has the power to fund corporations or legislate for corporations under its corporations power, and there are instances where councils have been held to be trading corporations, depending on what they are doing in terms of their actual business at the time. But as the High Court said, this is really a matter for individual decision making and not every council, obviously, will be a trading corporation, in fact the vast majority will not be, so under those circumstances it would be difficult for the commonwealth to rely on the corporations power to fund councils and council roads.

Similarly there would be some councils which were at the edges of states and you could argue that perhaps the interstate trade and commerce power could be used to fund council roads where there are connecting council roads running across, for instance, the Murray. In a sense, if you wanted to fund local government and local government roads, it could be done on a bit-by-bit basis, an individual basis, but generally speaking it is probable that the executive power does not extend to general funding of local government and specifically funding of local roads through Roads to Recovery.

That causes us concern, and my organisation has for a number of years talked about the possibility of a constitutional amendment to include local government in the constitution. My board recently made a decision that the nature of that amendment we would seek would be very narrow. It would really be a variation of section 96 to allow the commonwealth to fund local government directly — not to require it to fund local government, obviously, but to give it the explicit constitutional power to fund local government. That would remove any doubt about Roads to Recovery or indeed the community infrastructure program being open to challenge.

**Mr TILLEY** — Thanks, Adrian. That pretty well covered everything I was after.

**Mr LANGDON** — I was involved in a committee many years ago now, and I cannot quite remember the terms of the review we were doing, but we went to regional Victoria, and all the councils spoke to us about road

safety issues that they had. The issue coming through loud and clear from all the councils was that councils, particularly in rural Victoria, do not have the rate base to fund the things they need to do. Many of their bridges were 100 years old, and the size of trucks using the roads had increased et cetera. Some of the councils were also complaining about the amount of Crown land they have through which they have to service the roads.

I certainly got the impression, going back from memory, that they were very keen, and they had long memories — the Bolte government, for example, borrowed a lot of money and spent a lot of money on rural Victoria; that may be why it was in government for so long. It was the start of the Roads to Recovery period, and they were looking more to the federal government than the state government; they were looking ahead. They thought that it was better that funding come from the federal government through Roads to Recovery and what have you. Whether they thought they had a bigger pool of money and a more reliable pool of money, I am not sure. Picking up on what we learnt in Western Australia, those councils there have very large areas and very low rate bases. Your comment on that would be?

**Mr BERESFORD-WYLIE** — My comment would be yes, I can see that it is a very real situation for councils, and of the 565 councils — a very large number — the majority are rural and regional councils. In fact the largest council in Australia is about the size of Japan, and that is the East Pilbara council, and we are talking about a population there of just a few thousand people. Many councils do not have the rates base we talked about. Councils in metropolitan areas have sizeable revenue bases, that is true, but many councils in regional Australia are dependent on financial assistance grants from the commonwealth — more than 50 per cent of their revenue. That really is a major source of funding for councils. There is obviously a balance between — I will step here lightly — the structure of local government and the ability of individual local governments to be financially sustainable. One of the realities is that in our system of government local government has a democratic aspect. If we want to give local communities an opportunity to participate in government at the local level, we have to accept that that means there are some areas where it is difficult to imagine that a local government will be financially sustainable. I know the Municipal Association of Victoria, in Victorian terms, has done work to suggest that a number of councils — I think 14 is the figure I was quoted — may always be financially unsustainable. In a sense it is the penalty you have to pay for having local government, local democracy and the engagement of local communities in determining their own future.

People often talk about restructuring and amalgamating councils as a solution to financial unsustainability. There is a problem there, of course. Many of the local councils we talk about in regional Australia are very large. They are usually next to other councils which are also large but with small populations. Amalgamating two sizeable councils which appear to be financially unsustainable into one very large council which is also financially unsustainable does not really seem to be very much of an answer. I am mindful of the fact that when Queensland went through its recent structural changes and reduced the number of councils from about 153 to about 76 it left many of the western councils in Queensland untouched. The biggest councils in the west of Queensland, the 24 councils, simply were not dealt with because there was not very much you could do to improve their financial sustainability.

If you look at the way revenue is raised in this country today — taxation revenue — more than 80 per cent of it is raised by the Australian government: I think about 83 per cent. The Australian government has by far the majority of the taxing powers in this country. State governments raise a reasonable amount of their own revenue through taxation. Local government has only got one tax, and that is the property tax, and that accounts for about 3 per cent of the taxes raised in the country. But local government does its best to be self-sustaining. It raises revenue through fees and charges, it has moved to cost recovery where that is appropriate and where it is feasible, but it does mean that local government still has a substantial gap in the amount of revenue it needs to raise, and the financial assistance grants and federal government funding is very important.

I think most people do not really necessarily distinguish between which level of government they pay taxes to, whether it is the federal government, the state government or the local government, and they do not really care which level of government provides them with the services that they want, but I think we detect an increasing demand from local communities that they get some of those services at a local level. Their expectation is that some of the money they pay in tax will actually be spent on delivering some of the services that they want at local levels. The majority of the money they pay in taxes will go to the federal government; it is the one most able to make an investment back into communities, and that is one of the things we have been very strong about.

We put that on the table for the Henry committee, talking about the fact that while Henry was looking at tax revenue raising we would like him and his committee to also look at how tax revenue is shared. The Australian system is not unique in having some degree of tax sharing. A lot of federations have tax sharing arrangements, but in the Australian case the amount of funding that is going from the Australian government to local government has been falling. The financial assistance grants used to be around 1 per cent of federal government tax revenue, excluding the GST. Currently they are less than 0.7 per cent.

The federal government's tax revenue has expanded significantly. The financial assistance grants provided to local government have not really grown that much. They are really analogous to the GST that is provided to the state governments, which had its origin in the same way as financial assistance grants. The states had financial assistance grants and so did local government. The decision was made to move to a GST model. Local government's financial assistance grants were taken out of the funding that was provided to state governments. It was a very clear decision that the Australian government made at the time it made a settlement on GST revenue distribution with the Democrats. So any suggestion that local government is after or entitled to a share of state GST is in my view a mistake.

The responsibility for funding local government stayed very clearly with the federal government. Indeed John Howard made that very explicit I think in a press release of May 1999. But the reality is that local government is strapped for funds to meet the requirements of its community. I think that most members of local communities would look at an investment back into local communities very favourably and would not necessarily have seen a \$20 billion surplus being run by a federal government every year as an indicator of great financial management. I think they would have valued a reinvestment in infrastructure much more highly, which is why we have been strong advocates for a community infrastructure program to help those councils address that gap.

There is an alternative: the alternative is that councils make some very hard decisions about reducing the level of services available to local communities. That is a tough decision. In terms of roads it would mean, for instance — —

**Mr LANGDON** — I am not trying to cut you off, but one of the things that councils did say to us at that time was their demands for other services had increased over the years. They were cash-strapped for two reasons: one was the roads factor and the other thing was that local communities in regional Australia expect the same services that city councils can provide. That seems to be one of the problems they were having as well.

**Mr BERESFORD-WYLIE** — It is. In fact if you look at the nature of the services provided by councils to their local communities over the last 30 years, you see they have changed. They have moved into human services rather than just property-based services for probably two or three reasons. First of all, of course, is the decision by the state governments to give local government general competency powers, which really means that instead of restricting it on what it could spend its money on it said to it, 'You have the right to spend your money on services that local communities might desire so long as it is not illegal and it does not conflict with state governments are doing and you feel you have got the resources to do that'. But obviously councils have come under pressure to provide the sorts of services that people want, and they are human-based services.

The second thing we have seen, of course, is that state governments are under immense financial pressure. I talked about local government access to funding reducing as a proportion of the amount of funds that the commonwealth collects through financial assistance grants. I often have debates with my state colleagues in their treasuries about the fact that state government resources from the commonwealth have also declined dramatically and that they are also facing enormous costs in terms of health and education in particular, the infrastructure costs they are faced with, and as a consequence there have been decisions made by state governments across all jurisdictions to draw back from expenditures in local communities, and local governments are picking up those costs.

**Mr KOCH** — No, they are not; that is the problem.

**Mr BERESFORD-WYLIE** — Where they can.

**Mr KOCH** — They were initiated and originally funded with state government streams. The expectation has built up in those local communities, and those state funding streams have been pulled back. So it is a straight cost shift. If you look at somewhere like Victoria, you will see that we have increased revenue in Victoria by 100 per cent in 11 years. Local government has not shared in that success.



**Mr BERESFORD-WYLIE** — I would agree with you there on the cost-shifting side. In fact the Hawker inquiry into cost shifting at the federal level, which reported in November 2003, did accept an ALGA indication that probably cost shifting was between \$500 million and \$1.1 billion a year to local government at that stage. It has probably grown since then; I doubt whether it has decreased.

**Mr KOCH** — It is across all sectors; it is not just for roads funding.

**Mr BERESFORD-WYLIE** — It is; I agree absolutely. We are talking about libraries, we are talking about human services — —

**Mr KOCH** — And I think that has greater blight on smaller municipalities, or municipalities with smaller funding streams — not necessarily smaller in area. It is something I think is terribly important as part of our reference, to try and correct wherever we can in relation to federal-state funding arrangements, and that must be borne out by your own membership nationally.

**Mr BERESFORD-WYLIE** — It is. In fact, one of the things that emerged from that Hawker inquiry was a decision — and we were strong advocates for it — that there be, if you like, a trilateral agreement on intergovernmental expenditure to try and avoid cost shifting. It was signed by the federal government, state government and a local government representative in April 2006, and its purpose is really to say, ‘Look, if you are a state government, you are going to make a decision which will have a financial impact upon councils. Think twice about it, please. Let us know in advance, if you can’. Really, they should not be decisions made to allocate resources or allocate responsibilities to local government without some compensation in terms of additional resources.

I will give you one example from some work we did to provide some advice to the Council of Australian Governments on expenditure across the three levels of government, and that was in New South Wales. We were looking at the amounts of funding being provided by New South Wales to local government in the 1990s, and there was a spike of about \$150 million, \$170 million in one particular year, and as the person who was looking closely at this, I dug deeply into some of the figures available from ABS and it turned out that that grant to local government at that point in time was in fact the transfer of quite a substantial amount of roads to local government.

Responsibility was transferred. In fact, it appeared as a grant because the capital value of the roads was determined and there we are, there is a magnificent grant to local government. No funding came with it, of course. Local government gained responsibility for the roads, but there was no actual funding that came with it, so on the face of it, it appeared like a very generous grant from the state government in terms of funding, and that is what appeared on the face of the figures. In fact, it was a shift of responsibility, an unfunded shift.

**Mr KOCH** — A cost shift.

**Mr WELLER** — Adrian, in your submission you talk about the fact that there could be a ‘need for constitutional reform to ensure that the federal government has the power to fund local government directly’, and then further down you talk about ‘Local government’s objective is to establish permanent funding arrangements for local government which ensure a well-managed and sustainable local road system’. Can you tell me what that actually looks like?

**Mr BERESFORD-WYLIE** — That is almost two bites of the cherry there, I have to say.

**Mr WELLER** — I will have three if you want.

**Mr BERESFORD-WYLIE** — No, I was thinking from us. In terms of the funding that is provided by the Australian government, local government has long sought a transfer of funds, which is the equivalent in a sense of the GST — not part of the GST, but the equivalent of the GST — on the basis that, as I have said, people expect services to be provided at a local level, and it would seem to us to be equitable that the financial assistance grants provided to local government should return to a level which is not dissimilar to that which was around in the mid-1990s.

**Mr WELLER** — When you say it is similar to the GST, that is a growth stream or it is the same amount, like Victoria gets — —

**Mr KOCH** — Same amount; it is a separate bucket.

**Mr BERESFORD-WYLIE** — A separate bucket, but a similar stream of funding, so the financial assistance grants — —

**Mr WELLER** — Of the same size?

**Mr BERESFORD-WYLIE** — No. Probably we are talking there about — if the financial assistance grants now were at a level that they were at in, say, 1996, instead of being around about \$1.9 billion they would probably be around \$2.7 billion a year distributed across the jurisdictions. We have talked about getting a more appropriate share of funding to local government so it can be spent at the local level.

The constitutional issue is a little bit different, and that is that our financial assistance grants at the present time cannot come as a direct allocation of funds from the commonwealth to local government. They come via the states and obviously then a allocation reflects the recommendations of the state local government grants commissions.

That constitutional capacity, however, of the commonwealth to fund local government direct is the thing that is in doubt. We would look for a resolution of that uncertainty. The investment that the federal government makes in local government can be made for a variety of reasons. It can be social reasons or it can be economic reasons.

One of the things that is evident is that investments in roads at local levels bring benefits to the nation as a whole. They produce productive outcomes, and if the Australian economy grows and benefits from these productive investments, that money is not captured at the local level by local communities. It is usually captured at the Australian government level.

It seems to us reasonable that that increase in gross domestic product, if you like, which comes from an efficient use of local roads should be returned in part, or part of it should be captured and returned to those who are making the investment, and that is local councils.

**Mr LEANE** — The formula — and it goes back to 1991, I think you said — as far as the way the federal-local roads grant money gets distributed to the different states and territories, is the LGA happy with that or have you ever had a crack at looking at a different formula?

**Mr BERESFORD-WYLIE** — It is a sensitive area for me because if I was to have a go at a different allocation, there would be winners and losers amongst my members, and my members all like to be winners, not surprisingly. From our perspective, we would look at it and say that the amount of funds being provided is probably inadequate.

Figures that the individual local government grants commissions have come up with suggest that the amount of funds that are provided to local governments — the money actually is provided under a federal government act, and the purpose of the act is to allow everybody to enjoy a standard of local services which really should be, in a sense, the sort of thing provided in Australia.

There is a fiscal equalisation approach behind it which essentially is to try to raise everybody up to a sort of average level. Local government grants commission getting together often have discussions and suggest that the amount of money they get is probably about 40 per cent less than they would need if they were going to address that horizontal equalisation requirement.

We are aware that the Commonwealth Grants Commission looked at the identified roads grant component of the financial assistance grants in 2005. They thought, okay, the interstate distribution has been in place since 1991 when the grants were untied. There have been changes since then. The grants were actually distributed obviously on the basis of an estimate of population, road usage, road length—a variety of different things—and there have been changes over the past 20 years. Some jurisdictions have increased their population.

They have increased the amount of local roads that they have. They have an increase in traffic, and therefore if you had a pool and you were not increasing it, there would be potentially a case for saying it might be distributed differently on the basis of that pre-existing methodology.

They looked at it in 2005, the Grants Commission, and they drew a couple of conclusions. Yes, potentially the shares should change on the basis of what we have talked about there — population, a variety of other things — and therefore some jurisdictions it could be said are receiving less than they might otherwise receive if it had been regularly reviewed. The winners, I think, from memory, would have been New South Wales and Victoria, Queensland, South Australia. The losers would have been Western Australia, the Northern Territory and the ACT.

**Mr WELLER** — Tassie?

**Mr BERESFORD-WYLIE** — Tasmania as well — quite right. And as a consequence the Federal Government at the time looked another way. The Grants Commission did say, ‘Look, there are some real difficulties in terms of the definitions. We have tried to bring together data from all of the jurisdictions’. The jurisdictions, internal to themselves, have different sorts of definitions for what is a local road, the title of the local road, even things like the length of bridge decking, and that meant that there was a degree of uncertainty within the grants commission about the sort of figures they were putting forward.

I have to say now that when the commonwealth made a decision not to accept the Grants Commission report and to keep things as they were, from an ALGA perspective, we thought, well, that is fine, although we would like to see the commonwealth do something about the data. One of the things that came through clearly there was that, as I said, the Grants Commission itself had some real doubts about the quality of the data that was being provided, and it seemed to us that an appropriate thing might have been for the commonwealth to say, ‘We have some uncertainty about that and we are not prepared to act on it, but we might put some mechanism in place to try to improve the quality of data so at least we can get an idea of what the situation is like in each of the jurisdictions’.

From a local government perspective, we would still have argued for an increased amount of funding, but over a course of years it might have been useful to have had that approach to improving the data so that if we had been successful in achieving a large amount of funds, those funds could have been distributed on the basis which reflected a more accurate understanding of what the situation currently is.

**Mr LEANE** — Because that will always be the issue, won’t it, if you increase the claim, there are still going to be arguably winners and losers out of the formula — no-one can really tell us how the formula was produced in 1991, the one that was produced in 1991?

**Mr BERESFORD-WYLIE** — It depends how big the increase was and how the mechanism was introduced — whether it was a phase-in mechanism or not, whether there was a decision made that nobody would be made any worse off. There is a whole series of things that the government could look at in terms of how it took things forward.

**The CHAIR** — Thanks for your time.

**Mr BERESFORD-WYLIE** — It has been a pleasure. Thanks very much for listening.

**Witness withdrew.**