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Initial Submission to House of Representatives Inquiry into Cost Shifting onto Local Government

August 2002

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INTRODUCTION

Lgov NSW (representing the Local Government Association of NSW and the Shires Association of NSW, formerly the Local Government and Shires Associations {LGSA} of NSW) represents the interests of all 172 general purpose councils, the 13 Divisional Aboriginal Land Councils and the majority of special purpose county councils in NSW.

Lgov welcome the long overdue Inquiry into Cost Shifting onto Local Government. The Terms of Reference raise several issues of critical importance, not only to Local Government, but to the future governance of Australia generally. Given the importance of the issues raised, we are disappointed with the short time frame allowed for making submissions. We are also critical of the decision to limit the terms of reference to exclude cost shifting by the Commonwealth Government and the inclusion of the condition that the outcomes will be budget neutral to the Commonwealth. It is not just an issue of cost shifting but also of the failure to shift revenue. Both State and Commonwealth Governments have been guilty of shifting costs and both are guilty of the failure to shift commensurate revenue.

Local Government is responsible for the provision of a wide range of services and infrastructure essential to the welfare and advancement of NSW. If Local Government is to continue to meet the growing needs of NSW communities, it is essential that it has access to the required resources. It is becoming increasingly clear that the current financial base of NSW Local Government is inadequate to meet the growing demands being placed on it.

Local Governments capacity to maintain existing services and infrastructure is already compromised. In many instances councils are already being forced to cut services and defer critical infrastructure expenditure. The deficiency in infrastructure investment across Australia generally, is well documented. This is particularly true at the local level. It is not an exaggeration to warn of a looming infrastructure crisis.

Without a broader financial base and appropriate recognition from the State and Federal Governments, Local Government cannot continue to effectively meet new statutory obligations, deliver new services demanded by the community or to build new infrastructure required to support the development of the state. Local Government will not have the capacity to take on new roles and responsibilities. Basically, the unfunded mandates of the Commonwealth and NSW Governments will be undelivered.

This submission addresses the broader issues of cost shifting and Local Government financial resources from a state wide perspective. Lgov has encouraged individual councils and Regional Organisations of Councils (ROCs) to make separate submissions that emphasise local examples of cost shifting and local resource needs.

Lgov also fully endorses the submission made on behalf of the Australian Local Government Association (ALGA) on behalf of Local Government nationally.

A PROFILE OF NSW LOCAL GOVERNMENT

Since February 2001 the number of general purpose Councils in NSW has reduced from 177 to 172 as a result of mergers. Negotiations for further mergers continue. NSW councils range widely in population size. Five have a population of less than 2000, one exceeds 260,000. Geography is a major determinant of size. On average, each NSW council has a population of about 38,000. This compares to an average of 28,000 nationally and 61,000 in Victoria, which has easily the largest average population per Council but fewer very large Councils than NSW. NSW runs second to Victoria in council population size.

In 1999-00 NSW Local Government had total revenues of \$5.468 bn, up from \$5.126 bn the previous year. Almost half of total revenue came from rates and other annual charges. Grants made up only 15.5% of the total, indicating a very high level of self-sufficiency overall, but with very significant differences between Councils. Sydney metropolitan councils typically sourced less than 10% of revenue from grants while small rural Councils were generally 25-40% grant-dependent, in a few cases, around 50 per cent.

Around 70% of total grants were received directly from the Commonwealth, chiefly in the form of untied general purpose and roads payments. Additional grants are received from the Commonwealth for children's services and aged care.

The level of debt amongst NSW Councils is low and continues to fall. In 1999-00 fifteen Councils were debt free, and only 8 had a debt service ratio of more than 15%.

NSW Councils are a major employer generally and are commonly the largest single employer in rural areas. Councils employ around 45,000 people across NSW. Employee numbers on individual councils vary from in excess of 1,000 on some larger urban councils to less than 40 on a number of smaller rural councils. Local Government has seen a very considerable improvement in the quality and skills of its workforce. A particularly important trend has been the broadening of the recruitment base for professional staff, reflecting the wider range of functions to be performed, the demand for higher order management and corporate planning skills, and the removal of restrictive qualifications requirements. Councils now routinely recruit from outside Local Government.

CURRENT ROLES AND RESPONSIBILITIES OF NSW LOCAL GOVERNMENT

NSW Local Government operates under the NSW Local Government Act (1993). Sections 21-23 of the Act (1993) define councils' functions in the following broad terms:

- s21 - A council has the functions conferred or imposed on it by or under this Act.
- s22 - A council has the functions conferred or imposed on it by or under any other Act or law.
- s23 - A council may do all such things as are supplemental or incidental to, or consequential on, the exercise of its functions.

These provisions are accompanied by a table and by a note listing (but not exhaustively) other Acts under which councils have responsibilities, these are listed in a different section of the paper. Functions under the Local Government Act are categorised into service, regulatory, ancillary, revenue, administrative, and enforcement. They are accompanied by a series of examples under each category. Together the table and note provide a useful snapshot of the wide range of functions which local authorities are empowered to carry out.

The NSW Act stops short of conferring on councils a 'general competence' power granted in some other jurisdictions. Such powers enable councils, within lawful limits, to do whatever may be necessary for the good governance of their areas – or words to that effect. Nevertheless, the broad definition of functions under sections 21 and 22, coupled with the supplementary powers granted by section 23, has much the same effect for practical purposes.

In sections 402 onwards the Act establishes the now commonplace framework for the preparation of management plans, revenue policies, annual reports, and state of environment reports, with extensive requirements for community consultation. In addition, the Regulation requires Councils to prepare community plans.

These provisions build on corporate management practices which a substantial number of councils introduced voluntarily during the 1980s. As well, they provide further recognition of the progressive expansion of Local Government functions which had taken place since World War II, and its potential to play an even greater role in meeting community expectations.

Together with the section 8 Councils Charter contained in the Act, these various measures have established a framework for plan-driven, highly accountable Local Government strongly oriented to the particular circumstances and needs of different local and regional communities.

The principal functions of NSW Local Government may be summarised as follows:

- Construction and maintenance of roads
- Water supply and sewerage (outside the Hunter and Sydney-Illawarra areas)
- Drainage and flood mitigation
- Waste management and minimisation
- Management of parks and community land
- Strategic and land use planning
- Development and building approvals
- Environmental management
- Public health and safety
- Pollution control
- Control of pests and noxious weeds
- Recreation and leisure facilities and services
- Community and cultural development, including facilities and some service provision
- Library services
- Local economic development and tourism promotion.

NSW has a substantial and growing number of quite large councils which have the capacity to make a major contribution to the achievement of both local community and broader State agendas. The average size and financial self-sufficiency of NSW councils is far above that in many other countries. As the scale and functions of Local Government have increased, so too has the quality of its staff. Councils now employ many highly qualified professionals and have expertise across a wide range of professional practice. There is a very solid base on which to build, given the right policy settings. In particular, funding policies.

LOCAL GOVERNMENT FINANCES - OVERVIEW

Local Government finances are under increasing stress. Local Governments capacity to deliver services and to develop and maintain infrastructure are under genuine threat. This is the combined result of restricted revenue raising capacity, cost shifting, increasing responsibilities and rising community expectations.

Rating is the only taxation measure available to Local Government and accounts for approximately 50% of total revenue. This narrow taxation base places a severe restriction on a Local Governments capacity to raise revenue generally. Further, the rating base varies significantly between Local Government areas, an aspect only partially addressed by the Horizontal Fiscal Equalisation (HFE) principles of the Local Government grants process. Unlike Commonwealth and State Governments, Local Government does not have the flexibility to spread its taxation effort over a suite of taxation tools. The situation is exacerbated by the rate pegging system in NSW.

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This problem of Vertical Fiscal Imbalance (VFI) is widely acknowledged and is the primary rationale behind Financial Assistance Grants (FAGs), however, FAGs fell well short of the amount required to redress this imbalance. The degree of imbalance is clearly demonstrated in Table 1.

Table 1: Taxes raised and spent, by level of government, 1999-00

	% of total taxation raised	% of total tax-funded own-purpose expenses	Ratio of % raised to % spent
Commonwealth	77.7	58.9	1.32
State	19.2	36.7	0.52
Local	3.1	4.4	0.69
TOTAL	100.0	100.0	

Source: ABS, 5512.0, June 2001

VFI is most apparent between Commonwealth and State levels of government. In 1999-00:

the Commonwealth raised 78% of taxation Australia-wide, but was responsible for only 59% of total tax-funded own-purpose government expenses; and States raised 19% of taxation Australia-wide, but were responsible for 37% of total tax-funded own-purpose government expenses.

In the same year, the local sector raised 3.1% of taxation revenues and was responsible for spending 4.4% of total tax-funded own-purpose government expenses. All up, therefore, the local sector was responsible for raising close to 70% of the tax revenues expended by that sector on its own-purpose activities.¹ The remaining 30% was largely raised by the Commonwealth (and paid either directly to the local sector or passed through the States).

As Table 2 shows, differences in the relative revenue-raising ability of the levels of government have varied over time.

Table 2: Taxation by level of government

% of total taxes collected by:	1901-02	1929-30	1948-49	1964-65	1974-75	1985-86	1993-94	1999-00
Commonwealth	63.6	54.2	88.2	82.2	80.4	79.9	74.4	77.7
State	18.4	31.5	7.9	11.8	15.7	16.3	21.4	19.2
Local	17.9	14.3	3.9	6.0	3.9	3.8	4.2	3.1
Total taxes as a % of GDP	6.3	13.7	23.8	23.4	28.4	30.7	29.2	31.2

Source: Access 1995 and ABS, 5512.0, June 2001

The restricted taxation base has led to a growing reliance on fees and charges but this recourse is reaching its limitations. User charges are the second largest source of revenue and already represent 27% of Local Government operating expenditure in NSW. ⁱ Through its application of user fees and charges Local Government already achieves a much higher cost recovery ratio than other spheres of government. On a national basis, the cost recovery ratio for Local Government is 36.8% compared to ratios of 4.3% for the Commonwealth and 12.2% for the States.ⁱⁱ This partly reflects the type of services provided by Local Government. However, it also suggests that Local Government is already maximising its use of user fees and charges and that there may be limits to the extent that Local Government can increase its cost recovery efforts. Apart from general community resistance to ever increasing fees and charges, there are important equity and governance considerations. Many council services by their very nature cannot be provided on a cost recovery basis. Further, the opportunities to raise revenue in this way vary significantly between councils. For example parking meters are an option restricted to high density commercial and tourist areas.

Grants are the third major source of revenue for Local Government, with Commonwealth Financial Assistance Grants (FAGs) representing 8.6% of total operating revenue for councils in NSW.

Total grants (including SPPs) to Local Government have continued to decline as a share of GDP over the past 20 years and currently represent around only 0.4% of GDP.ⁱⁱⁱ FAGs now only represent about 0.2% of GDP. FAGs are barely being maintained in real terms per capita with no foreseeable prospect of an increase to meet the growing financial needs of Local Government. The current Commonwealth Government is more likely to argue that State Governments should meet the additional needs of Local Government, particularly considering the revised Commonwealth/State funding arrangements since the introduction of GST.

The Commonwealth Grants Commission has also found that State Government grants to Local Government have progressively declined in relative importance since the introduction of FAGs in 1974-75.^{iv} The Grants Commission data indicates that NSW Government grants to Local Government have declined from around 10% of total Local Government revenue in 1974-75 to around 5% 1997-98. The Commonwealth Government's Local Government National Report 2000-01 indicates that net state grants to NSW Local Government amounted to around \$40 per capita, far less than the national average of \$72 per capita.

Within this constrained financial environment Local Government has had to cope with new roles and increased responsibilities. The Commonwealth Grants Commission has also acknowledged this fact. ABS Government Finance Statistics data^v supports this conclusion, clearly demonstrating a shift in the composition and by inference, an expansion in the range of services provided by Local Government over the past 25 years (refer

Table 4). In that time there has been growth in expenditure on human services, with increases in education, welfare and public safety services.

There has also been an increase in the relative importance of recreation and culture and housing and community amenities. While not highlighted as a separate category in the Government Finance Statistics, it is also clear that Local Government activities in the areas of the environment and planning have also expanded substantially, particularly in recent years. Expenditure on roads remains as a major category of expenditure and continues to grow in real terms, but has declined as a proportion of overall expenditure.

Table 3: Operating spending as a % of GDP, local sector

By major function	1977-78	1982-83	1987-88	1992-93	1997-98	2000-01
General public services	0.17%	0.26%	0.25%	0.28%	0.17%	n.a.
Education, health & public order & safety	0.08%	0.09%	0.07%	0.07%	0.08%	n.a.
Social security and welfare	0.03%	0.04%	0.06%	0.09%	0.10%	n.a.
Housing and community amenities	0.10%	0.17%	0.14%	0.14%	0.20%	n.a.
Recreation and culture	0.19%	0.22%	0.21%	0.21%	0.25%	n.a.
Transport and communications	0.26%	0.25%	0.22%	0.27%	0.20%	n.a.
Other	0.03%	0.02%	0.01%	0.01%	0.02%	n.a.
TOTAL	0.86%	1.05%	0.98%	1.07%	1.03%	0.87%

Source: ABS, Government Finance Statistics, unpublished

The growth in responsibilities has largely resulted from:

- devolution – new responsibilities imposed by other spheres of government
- ‘raising the bar’ – where increased standards or complexity of service provision are imposed by other spheres of government or the community itself
- cost shifting – (1) where Local Government agrees to provide a service on behalf of another sphere of government but funding is subsequently reduced or withdrawn, with Local Government having to maintain the service because of community expectations, or (2) where another sphere of government ceases to provide a service and Local Government is obliged to step in (abrogation of responsibility)
- increasing community expectations.

Legislative imposts and other examples of cost shifting are presented in more detail later in the paper.

The fact Local Government has met these increasing responsibilities while subject to severe financial constraints is evidence of a sustained increase in productivity in Local Government over the past 25 years. Local

Government expenditure has remained constant at around 1% of GDP during this period.^{vi} This also suggests that the scope for meeting further demands in this way, if not exhausted, is likely to be subject to diminishing returns. As one council officer has put it “the hollow logs in Local Government were burnt out some time ago”.

The evidence strongly indicates that the current financial situation is not sustainable in the long run. The situation is one that needs to be urgently addressed by the Federal and State Governments as local Governments hands are tied. Not to act risks serious failures in service and infrastructure provision.

The Federal Government needs increase direct funding to Local Government by increasing Financial Assistance Grants and Specific Purpose Payments. It should also support an allocation of GST revenue to Local Government.

The NSW Government needs to amend the current system of rate pegging to make it more responsive to the genuine needs of Local Government generally and the communities they serve. Secondly, the NSW Government needs to make a provision for Local Government from future GST revenue.

LOCAL GOVERNMENT FINANCE NEEDS – ISSUES

Rate Pegging

NSW is the only State that applies an annual revenue cap on councils general revenue. The system is more commonly referred to as “rate pegging”. Basically rate pegging means that councils may only raise their general revenue (primarily rate revenue) by the percentage determined by the NSW Minister for Local Government annually. Councils may seek increases beyond the limit by making an application for a Special Variation. Variations are subject to rigid criteria and are generally time limited. They are also at the discretion of the government of the day.

Lgov’s objections to rate pegging have been presented to successive State Governments on many occasions. Lgov has argued that the current system is inefficient and inappropriate as it deprives councils of the ability to the respond to the needs of their respective communities and the increasing demands being placed on Local Government by other spheres of government. The Associations have also argued that the current system lacks transparency and is vulnerable to the political expedience of the government of the day.

Lgov has urged the State Government to remove this constraint or to make amendments that would improve the operation of rate pegging in terms of council performance, financial capacity to meet obligations and ability to satisfy community needs.

Lgov has established a Task Force to examine the current situation and to make recommendations to the Minister for a more equitable, responsive and transparent system. One that will prevent excessive and unwarranted rate increases while providing councils with sufficient revenue to meet increasing costs and to properly maintain infrastructure.

Under the current system of rate pegging, there is evidence that the approved percentage increase frequently does not even match wage and CPI increases. For example, the approved increase in general income for 2001/02 was 2.8%. Local Government salary and wage increases in that year were in the vicinity of 4% - 5%. Employee costs typically comprise some 40-50% of Local Government operating costs. Additionally, other cost burdens have been imposed on Local Government in a manner, which does not allow it to recover those costs except to the extent of the 2.8% revenue increase.

The limit announced for 2002/03 is 3.3%. This comes at a time when councils are facing average premium increases for public liability insurance of 30-50% in the current year. There are also many examples of increases beyond this range – in the vicinity of 100% in several cases. Because of the nature of Local Government, public liability insurance is already a significant expenditure item and the increases will have a major impact on Local Government finances. The current increase typically represents between 1-5% of a councils total rate base. This comes on top of premium increases of around 15-20% in the previous year. Industry sources also suggest that that further increases in the range of 30-50% may be expected in 2003.

Some government instrumentalities also have the power to levy a charge on Local Government to fund their own operations. Such organisations include the NSW Fire Brigade, Rural Fire Service, and Resource NSW. These charges are commonly increased by amounts that exceed the rate pegging limit imposed upon councils.

For example, the NSW Fire Brigades have increased the levy on councils by 13.3% in 2002/03 as compared to the rate pegging limit of 3.3%. This will be discussed in more detail as a very clear example of cost shifting in a later section of the paper.

However, under the current regime, one of the most telling difficulties facing the sector is its inability to carry out any significant improvement to the condition of the various components of infrastructure. This infrastructure, in many cases, is aging and includes roads, bridges, footpaths and stormwater drainage. In many cases, the maintenance sums budgeted are not even maintaining the current condition and funds are not available to undertake significant improvement programs. Many council areas have stormwater drainage systems which are over 100 years old. They are in need of replacement because of their deterioration and because the systems need enlarging. The major funding required to undertake this work is not available from recurrent budgets.

Some councils face a further difficulty in that their rating base is too low. For various reasons, some councils have not taken up the permissible increases in the past and the restriction of catch-up sums to two years means that cost increases have outstripped income. Basically, many councils are locked into an inadequate rating base. The current regime makes no allowance for restoring a council's rating base.

Lgov's Task Force is considering a two tiered approach to rate pegging. The first tier is intended to be an annually determined index which will more accurately reflect the increases in costs to local government as a whole which are beyond the control of councils or the industry. This index should be a readily available annual index of which the Minister should take note in making his determination under Section 506 of the Local Government Act (1993).

The second tier component is designed to deal with individual council specific needs and is intended to replace the current special variation requiring approval of the Minister under Section 508 of the Act. It is envisaged this component will be exercised through the Draft Management Plan and community consultation. Any proposal under this tier would normally need to be in accordance with a medium to longer term strategic plan.

The vast majority of councils in NSW have made voluntary contributions to fund this undertaking. The NSW Minister for Local Government offered support by way of participation by the Department of Local Government but declined to make a cash contribution.

(The latter could be considered an example of cost shifting in itself. In effect, the State Government is forcing Local Government to bear the costs of State policy development. This type of behavior is also found at the Commonwealth level.)

GST Allocation to Local Government

The long term solution to meeting the financial needs of Local Government involves broadening its tax base. This would help overcome the problem of Vertical Fiscal Imbalance (VFI) and it would also provide an opportunity to create a stronger nexus between Local Government finances and economic growth.

At the Commonwealth level, Local Government has persistently sought the re-establishment of the linkage between FAGs and total Commonwealth tax receipts. Local Government has been seeking a 1% share. With the new intergovernmental fiscal relationships accompanying GST it is now appropriate to seek an allocation from the GST revenue received by the NSW Government.

A share of the proposed GST was sought as part of the tax reform debate. It was argued that the Commonwealth allocate a fixed share of the GST to

Local Government prior to its distribution to the states. The Commonwealth has since responded that any share of GST revenue going to Local Government would need to be negotiated between the Local and State Governments. Local Government is not in a position to do this. Without Federal direction there could be inconsistent outcomes between states. It is regrettable that Commonwealth did not address this issue at the outset.

The Inter-Governmental Agreement on the reform of Commonwealth-State fiscal relations signed in 1999 stated that the new arrangements provided the States with access to a "robust and growing tax base". Local Government also requires access to a "robust and growing tax base".

Payment of Rates by State Government Business Enterprises

Under the competitive neutrality principles of competition policy, government business enterprises should be placed on the same footing as their private sector counterparts. Among other things, this includes being subject to the payment of taxes and other government charges including council rates.

The question of the payment of rates and other Local Government charges by State Government Business Enterprises in NSW was subject to a lengthy review by the Reciprocal Charges Committee established by the State Government. The committee was chaired by NSW Treasury, and also includes representatives of Lgov, the Department of Local Government, Cabinet Office, the Municipal Employees Union and the Ministry of Energy Utilities. The committee has now completed its final report.

The brief of the committee was to review the reciprocal payment of fees, charges, taxes and rates by State Government Business Enterprises and Local Government Business Enterprises within the context of National Competition Policy. The scope of the committee is restricted to State Government Business Enterprises (Government Trading Enterprises, State Owned Corporations) not other State Government activities. For example, this includes the commercial holdings of NSW State Forests but it does not include National Parks. The committee has met on an irregular basis since 1997. The final report was finally signed off on 20 December 2001 and was to be submitted to Cabinet.

Lgov has strongly advocated full payment of rates and other Local Government charges by State Government Business Enterprises. We are pleased this principle is generally accepted by the committee and it is noted that many such enterprises are already paying rates on commercial premises (for example, electricity corporations, Sydney Water, Hunter Water).

The report recommends a number of policies and principles that, if adopted in full, would establish a fair and efficient reciprocal charging

regime between State and Local Government in NSW. It is imperative the government accept the report in full. Given the extent of the commercial land holdings of Government Business enterprises, this would result in a net gain to Local Government revenue. Councils receive few concessions from NSW Government agencies. However, Local Government is mindful that any such revenue gains may easily be clawed back by cost shifting.

Competition Policy Payments

Lgov is frustrated by the NSW Government's continuing refusal to allocate a share of the states competition policy payments to Local Government. Local Government is making a direct contribution to the reform process and is responsible for a substantial proportion of the benefits expected to be achieved.

A primary thrust of national competition policy involves the reform of government trading activities and Local Government has a significant role in the process. Local Government has accepted the principles of competitive neutrality and council trading undertakings are being restructured along corporate lines. This will be most significant in water and sewerage, as Local Government is largely responsible for the provision of services outside the areas covered by the Sydney and Hunter Water Corporations.

Another key element in the process is regulatory reform, particularly in relation to business regulation, planning and development approval processes. Local Government has been generally supportive of these reforms and is making a considerable investment in the technology and processes required to effect the reforms.

In addition to the organisational costs associated with implementing NCP, Local Government has also suffered direct financial impacts from reforms instituted by other spheres of government. These costs have been disregarded in the reform process. These costs have arisen as a result of NCP driven reforms in the electricity, gas, road transport and water sectors.

Local Government is making its contribution to the reform process but this contribution is not being explicitly recognised.

The stance of the NSW Government is at odds with advice from the Federal Government that suggests a proportion of the NCP payments to each state government is intended to offset any up front costs borne by councils in implementing competition policy reforms which have a lasting benefit.

The position contrasts with the position taken by the governments of Victoria, Western Australia, and Queensland where Local Government has been allocated 9%, 4%, and 20% of their respective competition payments. These governments have recognised the substantial role

played by Local Government in the implementation of competition policy principles. They have also seen the opportunity to promote the reform process by providing incentives to Local Government.

Lgov maintains that Local Government is entitled to a share of competition payments to be received by NSW under national competition policy.

The NSW government received over \$284m in competition payments for the year's 1997/1998 to 1999/2000. The Commonwealth Budget papers show that NSW received a further \$156m in 2000/2001 and is set to receive a further \$241m in 2001/2002. Under current arrangements there will be further increases through to 2005/2006.

It is recognised that Competition Payments are only a temporary measure and that a share of the payments would not provide for a long term improvement in Local Governments financial base. However, a share of payments would have helped compensate for the costs of implementing NCP and potentially could have been applied as an incentive for further reforms.

COST SHIFTING

Legislative Impositions and Unfunded Mandates

The functions of NSW councils have expanded dramatically since World War II. This was reflected in the 1993 Local Government Act which consolidated Councils' broader role and introduced a range of corporate planning and reporting requirements to ensure that their diverse responsibilities are discharged prudently and effectively.

In 1993, the Note accompanying section 22 of the Act (listing other legislation under which Councils have functions) included the following:

- Community Land Development Act 1989
- Conveyancing Act 1919
- Environmental Planning and Assessment Act 1979
- Fire Brigades Act 1989
- Fluoridation of Public Water Supplies Act 1957
- Food Act 1989
- Impounding Act 1993
- Library Act 1939
- Public Health Act 1991
- Recreation Vehicles Act 1983
- Roads Act 1993
- State Emergency Services Act 1989
- Strata Schemes Acts 1973 and 1986
- Swimming Pools Act 1992

Since 1993 there have been some important additions, notably the:

- Waste Minimisation and Management Act 1995
- Protection of the Environment Operations Act 1997
- Waste Minimisation and Management Act the Rural Fires Act 1997
- Companion Animals Act 1998
- State Records Act 1998
- Rural Fires and Environmental Assessment Act 2002
- Occupational Health and Safety Act 2000

At the same time, further or more complex responsibilities have been inserted into existing legislation, such as the Environmental Planning and Assessment Act and the Local Government Act itself.

Increasing costs are also being incurred in areas such as:

- Planning and building regulation
- Street lighting charges
- Total Catchment Management
- Natural Resource Management
- Provision of public health infrastructure and services support, such as facilities and services to attract general practitioners to country towns
- Provision of community law and safety measures, often as a result of public perceptions of increased crime and declining police numbers in country areas.

The corporate planning and reporting requirements of the 1993 Act were themselves a very significant extra function for many councils, and for all the requirement to prepare state of the environment reports was completely new. To these have been added in more recent years responsibilities for the preparation of community plans, and to incorporate special provisions relating to ecologically sustainable development and access and equity into councils' management plans.

Few if any of the additional responsibilities conferred on Local Government over the past few decades have been matched by adequate ongoing funding or new sources of revenue.

Lgov was a strong supporter of a Bill introduced into the NSW Parliament that would have required the government to identify and take account of the potential impact of new legislation on Local Government. The Local Government (Review of Legislation Proposals) Bill 2001 was introduced by the Independent Member for Armidale, Richard Torbay MP.

The objects of the Bill were to:

- establish a joint committee of Parliament to be known as the Local Government Legislative Review Committee
- to enable a Bill that has been introduced into a House of Parliament to

be referred to the Committee for a report on the potential impact on the exercise of functions by local councils (including whether the Bill would be likely to impose any significant financial or other burden on any local council without providing appropriate funding and resources)

- to require the Committee to investigate the potential impact of any referred Bill and then to report that impact to both Houses of Parliament in order to facilitate informed decision making by members of Parliament.

Unfortunately, neither the government or the opposition supported the Bill and it was defeated.

It seems clear that NSW State agencies will continue to respond to pressures on their own resources, and to community demands for action on issues of concern, by amongst other things devolving responsibilities to Local Government. This is a world-wide phenomenon at a time when central governments are seeking to 'do more with less'. The key issue is whether this trend will proceed ad hoc or through a coordinated, consultative process. In particular, there is a pressing need to address the cost implications for Councils when functions are transferred without corresponding financial support or revenue mechanisms.

The point needs to be made, that for many smaller councils in country areas, the provision of basic services such as roads, water supply and sewerage is the top priority and other functions which larger and better resourced authorities can undertake around culture, recreation, and community amenities are simply not an option because of the difficult financial climate, even where councils are enthusiastic about being to be involved in such activities.

Cost Shifting – Examples

As previously noted, there are many other methods of shifting costs onto Local Government apart from legislation. These include under funding, escalation of government fees and charges to Local Government and service deprivation. A number of specific examples of different forms of cost shifting are provided below. This is by no means an exhaustive list, submissions from individual councils will provide many more specific examples.

- NSW Fire Services Funding

NSW has two fire services, the NSW Fire Brigades which service urban areas and the Rural Fire Service.

The NSW Fire Brigades (NSWFB) are funded 73.7% by the insurance industry (fire levy on policy holders), 12.3% by Local Government and 14% by the State Government. The Fire Brigade levy has been increased by 13.3% in 2002-03 and will raise approximately \$42m from Councils. This increase is far in excess of the rate pegging limit of 3.3% and the CPI.

Similarly, the Rural Fire Service levy was increased by around 8%. A number of councils are compelled to pay both levies.

Increases in fire services levies have regularly exceeded the annual rate pegging limit over the past ten years. Table 4 below clearly demonstrates the gap between NSWFB levy increases and the rate pegging limit.

Table 4: NSW Fire Brigade levy increases v Rate Pegging limit

Year	NSWFB Levy Increase %	Rate Pegging Limit %
1993/94	Nom	2.6
1994/95	5.9	2.3
1995/96	8.7	2.2
1996/97	10.5	2.7
1997/98	7.5	3.1
1998/99	12.8	1.7
1999/00	2.8	2.4
2000/01	2.7	2.7
2001/02	5.0	2.8
2002/03	13.3	3.3
Average Annual Increase	6.9 %	2.6 %

The above table presents a very clear example of cost shifting. Councils are not consulted about the NSWFB budget and they have no say in its operations or management but they are legally obliged to meet the increases in the levy. On one hand the Government is approving increases in the NSWFB budget in excess of the CPI while on the other, constraining Local Governments ability to meet the cost of the increases. This inevitably compromises the provision of council infrastructure and services.

Further, as the levy is imposed on councils and not individual property owners, the levy is not readily apparent to the public. The levy is ultimately hidden in council rates with most rate payers unaware that they are funding a State Government agency in addition to their local council.

Insurance companies are the major collector of NSWFB revenue and share related concerns. However, one difference is that the levy on policy holders is clearly identifiable on insurance policies. Nonetheless, it is still an indirect impost.

It could be argued that this lack of transparency is one of the factors that make the current funding arrangements attractive to government.

As noted previously, numerous other agencies have the power to impose levies and fees on Local Government without reference to the rate pegging limit. This include Resource NSW (waste), Rural Fire Service, Environmental Protection Authority, Valuer-General and the Roads and Traffic Authority.

- Pensioner Rate Rebates

In NSW, Local Government is compelled to pay around 50% of the cost of the pensioner rate rebate scheme. We understand that that the scheme is fully funded by the government in other states, at least up to the minimum level. The scheme was originally fully funded by the NSW Government, however this was cut back with the introduction of FAGs. This was a blatant example of cost shifting. In effect the NSW Government at the time raked off a portion of the FAGs intended for Local Government.

The cost of compulsory pensioner rate rebates is a rapidly growing burden in many areas and is affecting the level and range of services that councils are able to deliver. The scheme already costs some individual councils well in excess of \$1m annually. The total cost to Local Government is now in excess of \$72m annually. This is the result of an aging population and, in some locations, the influx of retirees. Many councils are advising that they will not be able to sustain the growing costs in the medium to long term.

Given the limited revenue base of Local Government it is unreasonable for it to be required to fund this form of pensioner assistance. This form of benefit should be funded by from the broader revenue base of the state or federal government. It should be noted that NSW is the only state government that does not fully fund pensioner rate concessions.

- PlanFirst

A recent example of costs imposed by legislation is the introduction of "PlanFirst" by the NSW Government. "PlanFirst" is the review of the plan making section of the Environmental Planning and Assessment Act by Planning NSW. The review proposes many changes to the existing system including the setting up of a regional framework for planning. "PlanFirst" as proposed will prove to be a very resource intensive process of change for Local Government.

Some examples of additional tasks expected to be performed by Local Government will include the ongoing review and potential rewrite of their local plan and also the ongoing provision of resources and staff for the operation and implementation of the outcomes of the Regional Strategy. These reforms may prove to be especially costly to many smaller councils.

Lgov, through a detailed submission and ongoing representations to the State Government, has continuously expressed Local Government's concern about the adequacy of proposed resourcing. It is imperative that Local Government is provided direct access to resources to ensure these reforms are successful.

- Country Towns Water Supply Sewerage and Drainage Program (CTWSSDP)

The NSW CTWSSDP was introduced in 1995 to address an identified backlog of sewerage works in country towns. These were works that needed to be undertaken for health and environmental reasons.

It was estimated that the program would require funding of \$171m per annum over ten years. It was agreed that State and Local Government would each contribute \$85.5m per year for ten years. For several years, the State Government contribution fell to around \$50m per year and by the sixth year of the Program, cumulative under funding totalled around \$120m. The State Government restored funding to \$65m per annum for four years in its 2001-02 budget. While this was welcomed it still amounts to under funding by the State Government of around \$20m per year. When added to the existing shortfall, cumulative under funding of the program in four years (2004/2005) will be around \$200m.

Because of the essential public health nature of these works under funding has meant that many councils have had to proceed with works without the benefit of the State Government subsidy.

- Public Library Functions

Public libraries present another example of cost shifting by under funding. The need for the State Government to significantly increase the funding provided to NSW public libraries continues an issue of serious concern to councils. It is an issue that has persisted for many years, as has been highlighted by Lgov in several submissions to the State Government. The NSW Public Library Network is made up of local public libraries across the state and the State Library of NSW and both components need much improved funding. Councils now provide 90% of the core funding for local public libraries, up from 76% in 1980.

NSW public library services have fallen behind on many key benchmarks. NSW State Government assistance to public libraries has not kept pace with that of Local Government. In 1980, the State funded 24% of the cost of library services; by 2000 it had dropped to 10%. In contrast, the Victorian and Queensland governments provide more than 20% of the total recurrent funding. To rectify this and move nearer the appropriate benchmark required an increase in grants and subsidies of \$19.3m in 2002/03 and \$21.3m per year thereafter. The additional funding was not forthcoming.

Fifty per cent of the NSW population are registered members of public libraries, and many more are regular library users. Surveys show, typically, that 37% are employed, 25% retired, 22% students, 12% home duties/ carer and 4% unemployed.

It is noteworthy that more than 31 million visits to NSW public libraries and the State Library were recorded in 2000 (an average of 4.8 visits for every person in NSW). More than 43 million items were lent from collections.

There are high levels of community support for the public library network, but existing funding levels are putting services at risk. The community has identified a number of critical areas of unmet demand and dissatisfaction with the Network's ability to meet their needs.

The risks of doing nothing include:

- Failure to comply with Library Act 1939, and Library Regulation 2000.
- Reduced capacity to meet current community demand, and increasing levels of unmet demand.
- Fragmentation of the Network, resulting in loss of network advantages, loss of value for money.

By failing to provide adequate funds the NSW Government is effectively forcing Local Government to bear an increasing share of the costs of running public libraries. Councils must respond to the demands of their communities.

- Funding To Develop Responses To Local Government Social/ Community Plans

There is a widespread recognition that there needs to be a genuine whole of government commitment to working on the infrastructure and service deficiencies identified in Local Government Social or Community Plans.

This has been an issue for councils throughout NSW since the introduction of the Local Government (General) Amendment (Community and Social Plans) Regulation 1998, and has grown more serious as virtually all councils have now completed and then reviewed their plans on an annual basis.

Apart from the implementation costs imposed by the regulation, councils have generally recognised that it is a very important and useful process. The Social/ Community planning process has identified many unmet needs and gaps in infrastructure, facilities and services, which can only be addressed by increasing existing initiatives or introducing new ones. These needs have been demonstrated across a range of social welfare, cultural and recreational functions and a variety of population groups.

Councils are taking on the recommendations and funding changes to infrastructure, facilities, services or governance processes where these are wholly Local Government responsibilities. However, individual councils are often not in the financial position to undertake what is required. Or Local Government in general, is not the appropriate agency in terms of mandate or role, to tackle the issue except as an advocate. There are legitimate community expectations that all government spheres acting in co-operation will address these deficiencies. Councils need direct central government assistance when legitimate system gaps are identified, that are beyond council mandate or resources to meet.

Local Government believes there needs to be significant enhancement to the following programs to enable them to play their part in this response. These programs include:

- the Community Services Grants Program (CSGP) (in the Department of Community Services)
- the Home and Community Care Program (in the Department of Ageing, Disability and Home Care and others)
- the Local Government sporting facilities section of Sport and Recreation Development Program, (in the Department of Sport and Recreation)
- the Cultural Grants Program and Western Sydney Arts Strategy Local Government Arts Incentive Fund (in the Ministry for the Arts)
- the Community Housing Program under the Commonwealth State Housing Agreement specifically for Local Government to develop social/ community housing projects, particularly in rural/ regional NSW (in the Department of Housing).

As there are many stakeholders and as needs vary from area to area settling on a figure is no easy matter. Nonetheless, these enhancements need to be at least in the order of 15% above existing commitments for there to be any reasonable level of response in terms of the newly identified needs.

Basically, the NSW Government has legislated that councils must undertake planning to identify additional social and community needs but at the same time it continues to deprive councils of the resources required to meet these needs. The Commonwealth also has an obligation to provide additional funding to meet these needs.

- Local Government Crime Prevention

State Government resourcing for council crime prevention planning, services and programs that aid in crime prevention, has become a significant concern to councils throughout NSW, over the past three years. This is a further example of cost shifting by under funding and failure to accept responsibility.

Councils believe strongly that the State Government has the prime responsibility for crime prevention. However, there are an increasing number of pro-active councils that participate in crime prevention and therefore are of significant assistance to the community at large and to police. Part of this proactive stance has resulted from the independent efforts of council to better respond to the issues that confront their communities. There is widespread community perception that Police services are inadequate and councils are being forced to fill the gap. Part of it has also been driven by the legislative measures imposed by the State Government. Councils believe the State Government should provide funding to assist all councils that are interested in developing Crime

Prevention Plans and implementing strategies to reduce the incidence and effects of crime.

There is also considerable concern there is far from adequate funding available to implement many of the quite sensible strategies that are developed in these Crime Prevention plans. There is also deep concern that even when funding is made available to put in place valuable services the Attorney General's Department Crime Prevention Division cannot guarantee recurrent funding and other agencies seem ill-funded to provide the necessary recurrent funding. It is necessary to recognise that in many areas the 'mainstream' social support system is poorly resourced. The social support system that underpins community wellbeing and offers diversions from crime or antisocial behaviour needs enhancement. This is not a direct responsibility of crime prevention agencies and programs. It is the responsibility of line agencies. For example, the youth development sector has been largely ignored by central governments for the past twenty years and yet it is this sector that all governments look to provide diversionary activities and services for pre-delinquent and anti-social young people! It is time central governments took a serious look at these matters again.

CONCLUSION

There can be no argument with the conclusion that Local Government requires a stronger financial base. The current funding arrangements are clearly inadequate to meet the expanding roles and responsibilities of Local Government. The funding requirements cannot be met increased Special Purpose Payments or other one-off measures. There needs to be a stable long term solution. This involves either permanently increasing FAGs as a percentage of GDP and fixing it as a higher proportion of total Commonwealth tax receipts and/ or providing for a direct allocation of a proportion of GST revenue to Local Government. In NSW the solution also involves reforming the rate pegging system to ensure that councils have access to adequate finance to meet community needs.

Legislation is required to protect Local Government from unfunded mandates and other impositions by State and Commonwealth Governments. State and Commonwealth Governments must be required to identify and quantify the costs of their decisions on Local Government. The legislation must also ensure that adequate funding is available to meet these costs. It is all too easy for politicians and bureaucrats to develop and support legislation that has no direct financial impact on their own domains. Responsible decision making demands accountability and transparency.

Underlying both the finance and cost shifting issues is the lack of the appropriate recognition for Local Government. While ever Local Government is seen as a creature of the State it will be vulnerable to

whims of State and Commonwealth Governments. This requires constitutional recognition of Local Government.

NSW Local Government is generally willing to play a larger role in managing issues that councils are best placed to deal with. They also wish to develop infrastructure and expand services to satisfy unmet community demands. Many councils would like to play a larger role in areas such as:

- regional development
- regional infrastructure management
- natural resource management.

Indeed, NSW councils are actively exploring alternative models for regional cooperation and governance so that are better placed to take on a larger role.

However, the question of an enhanced role for Local Government can only be considered once the issues of finance and due constitutional recognition are addressed.

ⁱ Access Economics “*The Case for Increased Financial Assistance Grants to Local Government*”, prepared for ALGA, November 2001, p 17.

ⁱⁱ Op. Cit, Access Economics, p 18.

ⁱⁱⁱ Op. Cit, Access Economics, p 26.

^{iv} Commonwealth Grants Commission, *Review of the Operation of the Local Government (Financial Assistance)* Access Economics, p 26.

^{iv} Commonwealth Act 1995.

^v ibid

^{vi} Op. Cit, Access Economics, p 12.