

Chapter 5 Administrative arrangements

Introduction

5.1 This chapter addresses the fourth item in the terms of reference:

Examine whether current administrative arrangements have an adequate performance focus, promote effective and efficient use of funds and adoption by States and Territories of best practice, and provide an effective Commonwealth/State interface.

5.2 The Commonwealth provides tied road funding for the national highway system, roads of national importance and black spot road safety projects, and untied funding for State/Territory roads and local roads. The focus of this chapter is on the Commonwealth's administrative arrangements in relation to tied funding.

General purpose (untied) payments

5.3 The Commonwealth's administrative involvement in relation to the untied road funding provided to State/Territory and local government is limited.

5.4 Untied road funding to States/Territories is paid directly to State/Territory Treasuries and is allocated in accordance with State/Territory per capita relativities as determined by the Commonwealth Grants Commission in line with financial assistance grants paid by the Commonwealth to the States/Territories.

5.5 As noted earlier, these funds are untied, however, the then Commonwealth Minister for Transport and Regional Development sought and received an assurance that all untied road funds paid to the States/Territories would be spent on roads (Sub 482, *Submissions* p. 876). The Commonwealth also requires States/Territories to use their untied funds on roads as a condition of receiving funding under the roads of national importance program. As noted earlier, the committee considers that these funds should be provided as tied block grants, rather than untied grants to satisfy the Commonwealth's desire for these funds to be spent on roads.

5.6 Untied road funding for local roads is administered by the National Office of Local Government (Department of Transport and Regional Development) under the *Local Government (Financial Assistance) Act 1995*.

Specific purpose (tied) payments

5.7 The administrative arrangements for tied Commonwealth road funding are provided under the *Australian Land Transport Development Act 1988* (ALTD Act). Additional procedures and guidelines are provided in the *Notes on Administration* which accompany the ALTD Act. The administration of the Commonwealth's road program falls under the portfolio responsibilities of the Minister for Transport and Regional Development. The Minister's department has a daily involvement with the States/Territories which act as the Commonwealth's agents in the delivery of its road program.

5.8 The administrative role of the Department of Transport and Regional Development includes the determination of a national highway strategy, the selection of projects to support that strategy, the scrutiny of projects presented to the Commonwealth by the States/Territories for approval by the Minister for Transport and Regional Development, and the payment of funding in line with State/Territory progress on projects. This activity is undertaken in consultation with the States/Territories. The department undertakes a similar process with roads of national importance projects.

5.9 A great deal of the evidence presented during the inquiry related to the interaction of the Commonwealth and States/Territories in the administration of the national highway and roads of national importance programs. This chapter addresses the efficiency and effectiveness of the Commonwealth's existing administrative arrangements for its road program and their applicability to the strategic road funding role identified for the Commonwealth in chapter 2.

Commonwealth road funding legislation

5.10 The current Commonwealth road funding legislation was introduced in January 1989 as the *Australian Centennial Roads Development Act 1988*. This act was amended in 1991 to include additional road funding categories and was retitled the *Australian Land Transport Development Act 1988* (ALTD Act).

5.11 The main features of the Commonwealth's road funding legislation include: project approval by the Minister for Transport and Regional Development, the establishment of a trust fund into which a portion of fuel excise is deposited as a road user charge, the requirement for tendering amongst other conditions and the requirement for implementation of measures to improve the efficiency of the State/Territory road authorities (Sub 482, *Submissions* p. 867).

5.12 It was proposed that the ALTD Act be replaced with a national highway act when the legislative life of the ALTD Act trust fund expired on 31 December 1993. However, the government of the day decided not to pursue new legislation and, instead, amended the existing act to extend the life of the trust fund beyond its original expiration date.

5.13 The ALTD Act provides for the funding of national highways, national arterials, provincial cities and rural highways, local roads, mainline rail, urban public transport and black spot road safety projects. The Commonwealth is presently funding national highways, roads of national importance and black spots under the ALTD Act. The roads of national importance category was introduced as a Commonwealth road funding category in 1996 but is not referred to specifically in the ALTD Act. The approval of projects under this category is carried out via the national arterial provisions of the ALTD Act.

5.14 A number of the provisions of the ALTD Act have either fallen into disuse or have been superseded. For example, the daily operation of the trust fund is at variance with that specified in the ALTD Act; the provisions relating to tendering requirements may be superseded by the provisions of the National Competition Policy (discussed later in this chapter); and the provisions of the Act requiring States/Territories to introduce quality management systems and pavement management systems have been fulfilled, these systems now represent universal practice by State/Territory road authorities. Further if Recommendation 19 is adopted, then the hypothecation provisions need to be removed from the ALTD Act.

5.15 The committee considers that the ALTD Act should be reviewed to ensure that its provisions are still relevant and, in addition, adequately provide for the increased strategic role recommended for the Commonwealth in chapter 2.

5.16 Recommendation 22

The committee recommends that the Commonwealth revise the *Australian Land Transport Development Act 1988*:

- **to repeal hypothecation provisions,**
- **to remove any other superseded or inappropriate provisions, and**
- **to ensure its provisions adequately support the adoption of a strategic role for the Commonwealth as recommended in this report.**

Further, the committee recommends that amendments to existing legislation or new legislation be introduced into Parliament during 1998.

Notes on Administration

5.17 The *Notes on Administration* (1992) which accompany the ALTD Act provide a set of administrative procedures, standards and guidelines which amplify the administrative provisions of the ALTD Act and 'aim to establish rules for the interface between the Commonwealth requirements and State [and Territory] administrative arrangements.' (Sub 482, *Submissions* p. 867) The *Notes on Administration* were last revised in July 1992, however, subsequent administrative requirements introduced since then have been promulgated in correspondence to the States/Territories.

5.18 Evidence was presented stating that the 1992 *Notes on Administration* were out of date and failed to cover changes in administrative arrangements, including the move to national highway maintenance performance agreements and environment assessment agreements between the Commonwealth and the States/Territories, and the introduction of the roads of national importance category. The view was put that the *Notes on Administration* should be reviewed regularly and updates periodically distributed in a quality assurance format (Sub 686, *Submissions* p. 1684).

5.19 A quality assurance approach would involve the treatment of the *Notes on Administration* as a controlled document. This would require that the Department of Transport and Regional Development maintain a register of those officers/organisations holding uniquely numbered copies of the *Notes on Administration* with revisions issued accordingly.

5.20 The view was also expressed that the promulgation of revised or new administrative procedures by correspondence made it difficult for State/Territory road authority staff to be informed of the latest information on administrative procedures (Sub 686, *Submissions* p. 1684).

5.21 The Australian National Audit Office noted that the 'documentation of decision making and administrative processes is necessary to facilitate program implementation, management and review.' (Sub 425, *Submissions* p. 182) The committee considers that it is imperative that the most up to date information on the administrative procedures relating to the Commonwealth's road program be readily available to Commonwealth and State/Territory staff involved with the administration of the road program and that appropriate procedures exist for the dissemination of the information.

5.22 The *Notes on Administration* need to be reviewed and then should be regularly updated and distributed to relevant Commonwealth and State/Territory officers in line with quality assurance procedures as a controlled document.

5.23 Recommendation 23

The committee recommends that the *Notes on Administration* which accompany the *Australian Land Transport Development Act 1988* be reviewed and regularly updated to reflect current administrative requirements.

5.24 Recommendation 24

The committee recommends that the revised *Notes on Administration* and subsequent updates be distributed to relevant Commonwealth and State/Territory agencies as a controlled document.

Existing administrative arrangements

5.25 The committee received a considerable body of evidence critical of the Commonwealth's administrative arrangements relating to its road program. States/Territories, in particular identified: the lack of an agreed national highway and broader roads strategy, the lack of certainty due to an annual funding approach, and the use of cumbersome and overly detailed project approval procedures which lack an outcome focus and often lead to significant delays in gaining project approval.

5.26 The lack of an agreed strategy for the national highway system and the lack of an outcome focus is discussed in chapter 2. As noted, the committee recommends that a national highway strategy be developed as part of broader strategic transport planning to be undertaken by the Commonwealth in consultation with appropriate parties and in the context of Australia's road network as a whole. The need for certainty was discussed in chapter 4 with the committee recommending that the Commonwealth introduce a rolling three year program for Commonwealth road funding to increase funding certainty.

Project approval

5.27 Individual national highway construction projects and roads of national importance projects require approval by the Minister for Transport and Regional Development under the ALTD Act. The Minister's decision to approve a project or otherwise is based on supporting information contained in submissions put forward by the Department of Transport and Regional Development on each proposed project. The Department's submissions are based on its analysis of project information provided by the States/Territories.

5.28 The *Notes on Administration* provide for a three stage approval process for construction projects. The Department of Transport and Regional Development noted that this procedure, which has been in operation since 1989, takes account of the long gestation period for construction projects, particularly major projects and acts as a mechanism to ensure that accurate project cost estimates are developed (Sub 482, *Submissions* p. 869). National highway maintenance funding is administered under individual performance agreements developed with each State/Territory and is discussed later in this chapter.

Stage 1 Forward strategy report

5.29 At stage 1, each State/Territory submits to the Commonwealth a forward five year strategy report containing suggested projects (and information supporting the projects) to be funded by the Commonwealth. Following consultation with States/Territories, the Department of Transport and Regional Development develops a five year rolling program of projects which is submitted to the Minister for endorsement.

5.30 The Department of Transport and Regional Development noted that in developing the rolling program it gives priority to projects across States/Territories according to economic priorities, in which benefit cost analysis plays an important role (cost benefit analysis is discussed later in this chapter). Other factors taken into account in preparing the rolling program for the Minister's endorsement include:

- compliance with the Commonwealth strategy for the corridor,
- safety factors including the accident record,
- the effect of not building the project,
- regional impacts, and
- the availability of funds in the current year and in out years. (Sub 482, *Submissions* p. 868)

5.31 Costs incurred by States/Territories in undertaking planning studies to develop project costs at stage 1 may be recovered from the Commonwealth should a project proceed to stage 2 (*Notes on Administration* 1992, p. 8). Some limited funding may be provided, however, prior to stage 2 approval being sought to undertake broad planning studies for major projects to develop project concepts.

Stage 2 Preconstruction

5.32 States/Territories may submit projects identified in the rolling program, as endorsed by the Minister at stage 1, to the Commonwealth for stage 2 approval for preconstruction activities which may include:

- costs incurred in stage 1 and not reimbursed,
- detailed investigation and design, including [environmental impact statements to determine final route and] preparation of tender documents,
- supply contracts,
- land acquisition,
- fencing, utility adjustments and construction of access tracks. (*Notes on Administration* 1992, p. 8)

5.33 State/Territory submissions at stage 2 must include a detailed project proposal report setting out cost estimates, the basis for estimates, the economic and social justification for the

project and the physical details of the project. Stage 2 approval is only provided for projects expected to proceed to construction at stage 3, however, the granting of stage 2 approval does not commit the Commonwealth to fund construction (*Notes on Administration* 1992, p. 8).

5.34 States/Territories may bypass stage 2 and submit a project for stage 3 construction approval, providing all necessary information required under the *Notes on Administration* is provided in the stage 3 submission.

Stage 3 Construction

5.35 Stage 3a approval commits the Commonwealth to fund the total estimated cost approved for the project. The *Notes on Administration* state that State/Territory submissions for stage 3 construction approval must include separate cost estimates for:

- preconstruction activity not previously funded under stage 2,
- the contract components based on the [State/Territory road authorities'] estimates,
- supervision and [State/Territory road authorities'] administrative overheads,
- allowance for rise and fall in accordance with contract provisions,
- previously approved funding on the project. (*Notes on Administration* 1992, p. 9)

5.36 The *Notes on Administration* provide for a once only variation (stage 3b) to the total approved cost of a project on the awarding of the first contract, however, in practice total cost variations are considered on a case by case basis with States/Territories as they arise.

Appropriateness of project approval procedures

5.37 As noted, there was widespread criticism of the Commonwealth's administrative procedures relating to the approval of construction projects, particularly amongst State/Territory road authorities. The view was expressed that the road authorities are experienced road managers and possess the skills and detailed technical knowledge necessary to efficiently deliver the Commonwealth's road program on its behalf without the Commonwealth becoming involved in detailed administration and project scrutiny pending approval.

State/Territory position

5.38 The NSW Government noted that the project approval process for national highway construction works is cumbersome and is the cause of significant delays in commencing construction works and should be reviewed at the Commonwealth level. NSW considered that 'some of this delay relates to DoTRD [the Department of Transport and Regional Development] getting unnecessarily involved in technical detail, some relates to the multi-stage approval process, some relates to DoTRD requiring Ministerial approval for individual projects and stages of projects, and some relates to the one year funding focus.' (Sub 686, *Submissions* p. 1682).

5.39 The Victorian Government noted that 'it is desirable to restructure administrative arrangements away from the detailed project level to focus more on achievement of national

objectives, performance outcomes and more effective Commonwealth/State partnerships.' (Sub 689, *Submissions* p. 1740)

5.40 The Queensland Government noted the Commonwealth's 'present involvement in both administrative and technical aspects of projects causes unacceptable delays through the multi-stage approval process, where the project can be held up for indeterminate periods at any of the stages.' Queensland noted that the delays can lead to extended construction timings often into the wet season, leading to extra costs and further delays (Sub 643, *Submissions* p. 1282).

5.41 Main Roads Western Australia described the Commonwealth's administrative processes as 'overwhelmingly detailed' (Sub 468, *Submissions* p. 649) and noted that 'there is a need to move away from the watchdog mentality towards a partnership approach.' (Sub 468, *Submissions* p. 655)

5.42 The South Australian Government said that the Commonwealth's administrative arrangements were 'broadly appropriate', but noted the need to avoid duplication and expressed a desire for a more formal stage 1 approval including reimbursement of costs at that stage rather than at stage 2. South Australia also suggested that a national highway system administrative arrangements working group be established comprising representatives from the Commonwealth and each State/Territory to consider changes required to improve administrative arrangements (Sub 423, *Submissions* p. 164).

5.43 The Tasmanian Government noted that 'the stage approval process, while sensible, is clumsy in application and does not adequately support program management by the Commonwealth.' Tasmania noted further that 'general ... administrative responses [by the Commonwealth] are very slow, averaging some fifty days in Tasmania's case.' Tasmania noted that there appeared to be 'a lack of delegation on administrative matters to DOTRD [Department of Transport and Regional Development].' (Sub 664, *Submissions* p. 1513)

5.44 The Northern Territory Government noted that the 'current NHS [national highway system] administrative arrangements are inefficient and do not encourage accountability by the States and Territories', and that the Commonwealth should move 'away from processing approvals to focusing on outcomes.' (Sub 645, *Submissions* pp. 1322–3)

5.45 The ACT Government noted that while it had no real problems with the administrative arrangements, it noted that it had difficulty in 'obtaining feed-back on progress with funding bids, and in obtaining early project approvals.' (Sub 658, *Submissions* p. 1631)

5.46 In summary, the criticisms by the State/Territory road authorities in relation to the Commonwealth administrative arrangements focus on:

- lack of a strategic approach to road funding,
- lack of certainty in funding,
- use of cumbersome project approval procedures which often contribute to significant time delays,
- excessive involvement by the Commonwealth in checking technical detail of projects,
- need for ministerial approval for individual projects and stages of projects,
- scope for duplication of administrative effort between the Commonwealth and States/Territories,
- arrangements which fail to encourage accountability by the States/Territories, and
- arrangements which focus more on process than outcomes.

Commonwealth department's position

5.47 In response to the concerns expressed about administrative delays in achieving project approval, the Department of Transport and Regional Development noted that at times projects sent by the States/Territories to the Commonwealth for approval did not form part of the forward national highway program endorsed previously by the Minister and this led to delays (*Transcripts*, p. 730).

5.48 Secondly, some project proposals submitted by the States/Territories for approval were 'defective', requiring considerable liaison with the particular road authority or even a visit to the State/Territory to speak to people 'on the ground' and to see the particular project to gain an understanding of the works proposed (*Transcripts*, p. 730).

5.49 In addition, the Department noted that the nature of the Commonwealth's road program meant that projects are submitted to the department for consideration late in the project's development life, consequently it was 'difficult to inject some sort of Commonwealth priority or input into the project at that stage.' The department noted that it is endeavouring to increase its involvement in the planning process earlier in the project development 'so that when the actual project proposal reaches us, there has been a lot of preparatory work done and any input that we want to make or need to make has already been made in that initial planning process.' (*Transcripts*, p. 730)

5.50 The Department of Transport and Regional Development noted that the Commonwealth's project approval procedures do not discriminate between the size of projects or the size of allocations provided to States/Territories, consequently all States/Territories and all projects are treated the same under the present administrative arrangements regardless of obvious differences between States/Territories and projects (Sub 482, *Submissions* p. 869).

5.51 This uniform approach results in the situation where a larger State, such as NSW, which manages over \$300 million of Commonwealth road funds is treated in the same way as a smaller State, such as Tasmania, which manages about \$25 million. Similarly, small construction projects, such as an overtaking lane which may cost a few million dollars are treated administratively the same as a major project such as the Western Ring Road in Melbourne which costs many hundreds of millions of dollars (Sub 482, *Submissions* pp. 869–70).

5.52 The Department is considering the scope to replace this uniform approach 'with tailored administrative arrangements for each jurisdiction to more effectively mesh State [and Territory] processes to the Commonwealth requirements' as was done in the case of the Pacific Highway Reconstruction Program agreements with NSW and Queensland (Sub 482, *Submissions* p. 870).

Technical scrutiny of projects

5.53 The Department of Transport and Regional Development assesses proposed projects from a national perspective and considers the technical details of projects for compliance with the standards and guidelines contained in the *Notes on Administration*. The department considers economic criteria, objectives, strategy, priorities, affordability, and project staging options and advises the Minister accordingly (Sub 482, *Submissions* p. 875).

5.54 State/Territory road authorities considered that the existing administrative arrangements for the Commonwealth's road program, particularly in relation to project approval, fail to recognise the States/Territories' managerial skills built up through the efficient administration and delivery of each jurisdiction's own road network (Sub 468, *Submissions* p. 654).

5.55 The NSW Government considered that 'the Commonwealth does not add value in getting involved in the technical detail of individual projects.' NSW noted that 'the Commonwealth's role should be to ensure that the right strategy is implemented from a national outcomes point of view and that relevant mechanisms are in place to report on the achievement of these outcomes while also satisfying the Commonwealth's audit and environmental requirements.' (Sub 686, *Submissions* p. 1658)

5.56 The Department of Transport and Regional Development argued that its scrutiny of national highway projects is warranted and cited as an example the project proposal for the duplication of the Federal Highway around Lake George in NSW which included a total cost of some \$210 million when initially submitted for Commonwealth funding. As a result of the department's technical assessment of the engineering solutions contained in the proposal, and extensive liaison with NSW over a number of months, the total cost of the project was reduced by some \$80 million, to around \$130 million (*Transcripts*, p. 730).

5.57 As noted earlier, the State/Territory road authorities act as the Commonwealth's agents in the delivery of its road program and the committee recognises that road authorities possess extensive technical knowledge of the road network and have close contact with the community and the road transport and construction industries. The Department of Transport and Regional Development acknowledged that it is impossible and unrealistic to replicate that level of experience and expertise spread around the country with a staff of approximately thirty officers based in Canberra (Sub 482, *Submissions* p. 875).

5.58 The committee recognises the expertise of the State/Territory road authorities in the management and delivery of road programs. However, it considers that it is reasonable that a degree of scrutiny be undertaken of the projects put forward for Commonwealth funding if the Commonwealth's need for accountability in the expenditure of its road budget is to be satisfied. In this regard the committee considers that it is appropriate that projects are evaluated to ensure proposed works are technically the best solution, represent value for money, and are consistent with Commonwealth objectives.

5.59 In this regard, the committee considers that the inclusion of some level of scrutiny in project approval procedures is desirable, providing the procedure is adding value and not contributing to delays and additional costs in the implementation of the road program.

5.60 To minimise the scope for delays which may occur at the project scrutiny and approval stage, the committee considers that States/Territories should involve the Commonwealth earlier in the life of projects which are being developed for Commonwealth funding. Additionally, the Commonwealth and States/Territories should clearly define their respective responsibilities in the approval process.

5.61 The committee considers that the Department of Transport and Regional Development should institute a system to track project approval submissions to monitor response times from the time of submission by the State/Territory to the time of approval by the Minister for Transport and Regional Development or his delegate. The results of this monitoring should be regularly evaluated and action taken to address inadequacies as required.

5.62 Recommendation 25

The committee recommends that the Commonwealth work with the States/Territories to define the responsibilities of all parties in ensuring an efficient project approval process, including:

- the tailoring of approval procedures to match individual State/Territory needs and circumstances, and**
- the setting of performance targets for the submission and processing of projects.**

Further, the committee recommends that the Minister for Transport and Regional Development report to the Parliament on the changes implemented under this recommendation by 30 September 1998.

Program accountability

5.63 The States/Territories' calls for less administrative involvement by the Commonwealth in the delivery of the Commonwealth road program must be weighed against the need for adequate program accountability by the Commonwealth in the expenditure of its road budget, some \$800 million per annum.

5.64 The Australian National Audit Office (ANAO) noted that 'programs involving the Commonwealth, States and external agencies require arrangements that balance the efficient achievement of the desired outcomes with the need for public accountability of the use of taxpayer funds.' (Sub 425, *Submissions* p.185) ANAO considered that this could be achieved through risk management noting that it is the 'key to achieving proper program outcomes efficiently while, at the same time, ensuring proper public accountability.' (*Transcripts*, p. 819)

5.65 ANAO noted that 'currently, as it stands, the Commonwealth has some responsibility for looking at each project, and we would see that it would need to have some role in monitoring each project in order to fulfil its responsibilities and accountability requirements.' (*Transcripts*, p. 820)

Maintenance performance agreements

5.66 National highway maintenance funding accounts for approximately half the total annual national highway budget. Since 1995–96, the Department of Transport and Regional Development has administered the maintenance component of the national highway program via performance agreements with each State/Territory (excluding Western Australia in 1995–96).

5.67 These arrangements focus on maintenance outcomes in terms of road pavement condition and the efficiency of maintenance operations and provide States/Territories with flexibility to achieve agreed levels of performance against indicators within the constraints of the approved funding. Under this arrangement, the Commonwealth approves each jurisdiction's national highway maintenance funding as a single item, rather than as individual projects, saving considerable administrative effort on the part of the Commonwealth and the States/Territories.

5.68 For each link of the national highway system, road condition indicators including roughness and smooth travel exposure (an indicator which relates roughness to traffic levels) are monitored against agreed targets. In addition, each States/Territories' maintenance expenditure performance is monitored via efficiency indicators including road maintenance effectiveness (the cost per kilometre to maintain the targeted pavement condition), routine maintenance cost per square metre per lane kilometre, the rehabilitation cost per square metre, and resealing cost per square metre.

5.69 The Department estimated that the maintenance performance agreement arrangements would deliver an efficiency dividend of about 20 per cent over four years (Sub 482, *Submissions* p. 869). In line with this estimated efficiency gain, the Commonwealth has reduced (from 1996–97) the maintenance funding allocations to States/Territories by five per cent per annum and will continue to do so up to and including 1999–2000 (Sub 645, *Submissions* p. 1302).

5.70 The Department of Transport and Regional Development noted that the performance based concept reflects the outcomes focus advocated by the National Commission of Audit in its June 1996 report, and is supported by the ANAO and the report of the House of Representatives Standing Committee on Transport, Communications and Infrastructure; *Driving the Road Dollar Further* (Sub 482, *Submissions* p. 869).

5.71 States/Territories generally supported the maintenance performance agreement arrangements (Subs 468, 643, 686, *Submissions* pp. 652, 1282, 1683) apart from the Northern Territory and Tasmania. The Northern Territory Government noted that the five per cent efficiency dividend will make it impossible for States/Territories to meet the nominated performance targets for asset preservation (Sub 645, *Submissions* p. 1302). The Tasmanian Government considered the agreements to be 'ineffective' noting that 'the preservation performance targets were not set at levels to achieve the required outcomes but were best estimates of what would result if preservation expenditure were kept constant.' (Sub 664, *Submissions* p. 1513)

5.72 The Department of Transport and Regional Development noted that the maintenance performance agreement arrangements are being further refined as more experience is gained with their operation. The Department also noted that these arrangements, for the first time, provide the Commonwealth with a strategic view of the condition of the roads that make up the national highway and in time will provide for a comprehensive picture of trends in road condition. The department expects that as the strategic picture becomes better developed, the knowledge gained will represent a significant input to decision making for future road investment (Sub 482, *Submissions* p. 869).

5.73 The committee considers that performance agreement arrangements provide an effective mechanism to strategically deliver the Commonwealth's objectives in relation to the national highway maintenance program. Given that maintenance comprises nearly half the total national highway budget, the performance agreement arrangements accrue significant administrative savings to the Commonwealth and the States/Territories.

5.74 However, concerns have been expressed that the Commonwealth's imposition of the five per cent efficiency dividend in annual maintenance allocations to 1999–2000 may be detrimental to road maintenance. The Tasmanian Government noted that scope for further efficiencies in maintenance to cover the five per cent reduction are limited, as it already fully tenders out maintenance works and has noted that 'a reduced expenditure could only be managed by reducing the maintenance standard rather than accessing efficiencies.' (Sub 664, *Submissions* p. 1509)

5.75 Recommendation 26

The committee recommends that the Commonwealth undertake an evaluation of the effectiveness of the maintenance performance agreements, including the effect of imposing the five per cent efficiency dividend on efficiency and on maintenance standards in each State/Territory.

Scope for construction performance agreements

5.76 The view was expressed that construction performance agreements should be introduced along the lines of the maintenance performance agreements (Sub 686, *Submissions* p. 1684).

5.77 The introduction of construction performance agreements would entail the allocation of construction funding in the form of a block grant arrangement, with agreed performance measures and targets determined in line with an agreed investment strategy. A block grant arrangement would dispense with individual project approvals. As noted earlier, the committee considers that a degree of project scrutiny by the Commonwealth is appropriate to ensure program accountability.

5.78 In addition, as a block grant arrangement would be based on States/Territories receiving a fixed share of available funding, the Commonwealth would have limited capacity to direct project construction in line with national objectives and priorities. Further, such an arrangement would be inconsistent with the Commission of Audit's preferred approach of having States bidding for funding of capital works, as is currently the case (National Commission of Audit 1996, p. 203).

5.79 The Department of Transport and Regional Development noted that such an arrangement would present difficulties for smaller States/Territories in undertaking larger projects as their cash flows would be restricted to their fixed share of funds year after year.

5.80 By way of example, the department noted that South Australia's share of funding has been increased to allow the construction of the Mt Barker Road project at the most efficient rate. The department noted that the increased funding was provided to South Australia on the clear understanding that when the project is completed South Australia's share of funding would decline as a proportion of the total funding available. Similarly, Victoria's share of funds is declining as major projects are completed and other higher priorities are identified in States such as Queensland and Western Australia. The department considered that this flexibility would not be possible under block grant arrangements (Sub 482, *Submissions* p. 871).

5.81 For the national highway system, the committee does not support the introduction of construction performance agreements utilising block grants. However, the committee considers that there is scope to introduce a project based construction agreement which could provide for performance targets and measures in relation to the following:

- the performance of the States/Territories in delivering projects in terms of cost and time,
- cost of construction,
- administration costs,
- the performance of the Commonwealth in approving projects, and
- the performance of the States/Territories in providing timely and accurate information.

5.82 Recommendation 27

The committee recommends that the Commonwealth work with the States/Territories to determine the scope for construction performance agreements for Commonwealth projects which retain Commonwealth project approval provisions.

Contract requirements

5.83 The ALTD Act requires that all construction projects be put to competitive tender. This requirement has been in place since 1982 and was extended in 1994 to cover maintenance projects. The committee considers that competitive tendering is fundamental to achieving greater value for the road dollar (tendering is discussed further in chapter 6).

5.84 The Department of Transport and Regional Development noted that the requirements for tendering for the Commonwealth roads program preceded the development of a National Competition Policy which has now been agreed by all States/Territories. The department noted that it is monitoring the implementation of the National Competition Policy with a view to discontinuing ALTD Act requirements for tendering in favour of the more general competition principles contained in the National Competition Policy (Sub 482, *Submissions* p. 872).

5.85 The department advised that the consideration of contracting requirements under the National Competition Policy principles rather than the ALTD Act would relieve the Commonwealth and the States/Territories of a significant administrative burden in relation to granting tender exemptions and approving contracts won by road authorities (Sub 482, *Submissions* p. 872).

5.86 Under the ALTD Act, States/Territories may seek an exemption from the Commonwealth to call tenders where the works are:

- urgently required by reason of an emergency, or
- of such a minor nature that the invitation of tenders for those works would involve undue additional cost, or
- of a kind for which it is not practicable to prepare adequate tender specifications, or
- of a kind for which competitive tenders are unlikely to be received. (*Notes on Administration* 1992 Appendix B, p. 3)

5.87 To seek the exemption, States/Territories must prepare a submission for the Commonwealth's consideration and approval.

5.88 Additionally, under the ALTD Act administrative arrangements, should a State/Territory road authority bid for and win a construction contract, the State/Territory must prepare a submission for the Commonwealth's consideration and approval indicating:

- details of the work involved,
- apparent tender price,
- advice of tender prices received and reasons for passing over other tenders if the [road authority] or other government instrumentality is not the lowest tender,
- basis of the recommendation to the Minister, and
- [Departmental] project number. (*Notes on Administration* 1992 Appendix B, p. 9)

5.89 The Tasmanian Government described the requirement to seek Commonwealth approval of a State/Territory won contract as the 'worst feature of the current arrangements.' Tasmania noted that this requirement can result in delays of up to sixty days and can subsequently result in 'works [being] forced into the winter period with correspondingly poor product.' (Sub 664, *Submissions* p. 1511)

5.90 The committee notes that the guiding principles under the National Competition Policy stated that legislation (including Acts, enactments, ordinances and regulations) should not restrict competition unless it can be demonstrated that: the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the legislation can only be achieved by restricting competition. All legislation is to be reviewed by the year 2000 in this regard.

Decision making

5.91 As indicated in this chapter, the Department of Transport and Regional Development applies a series of checks and conditions when setting priorities and approving projects for Commonwealth funding.

5.92 The main decision tool used by the Department in establishing the order of priority for projects across all States/Territories is benefit cost analysis. Other factors considered include:

- compliance with the Commonwealth strategy for the corridor,
- safety factors including the accident record,
- the effect of not building the project,
- regional impact of the project, and
- the availability of funding in the current year and future years for the project (Sub 482, *Submissions* p. 868).

5.93 In addition, Commonwealth funded projects are subject to the *Environment Protection (Impact of Proposals) Act 1974* and, in some cases, the *Australian Heritage Commission Act 1975* and the *Endangered Species Act 1992* (Sub 652, *Submissions* p. 1463).

Benefit cost analysis

5.94 The Commonwealth has moved away from the allocation of funds on a fixed State share basis in favour of an approach based on establishing national priorities according to economic factors, in which benefit cost analysis plays an important role.

5.95 Benefit cost analysis is a tool that may be used to assess the net social benefits of a road infrastructure project. It is possible to compare the benefit cost analyses of different road projects as an aid in setting priorities for investment decisions. It is also possible to compare the benefit cost analyses of road projects with non-road projects.

5.96 An ideal benefit cost analysis would account for all of the benefits and costs to society as a result of undertaking a project. However, it is difficult to assign a value to some benefits and costs, particularly non-market factors. The Australian Bureau of Agricultural and Resource Economics argued that judgments on which factors to include in a benefit cost analysis 'are matters of dispute in both a conceptual and a practical sense.' (*Transcripts*, p. 873)

5.97 Benefit cost analysis of a project is potentially misleading to the extent that it fails to account for some factors. In addition, a benefit cost analysis also may be misleading where the included factors are valued and weighted incorrectly. In this sense, there is a trade-off between the completeness of the analysis and the accuracy of the included factors.

5.98 Another shortcoming of benefit cost analysis is that it does not measure the distribution of benefits and costs. For example, a project may have a high level of net benefits for the community, but the distribution of benefits and costs may be such that the benefits all accrue to one group and the costs accrue to another. The distribution of benefits and costs would not be measured by a benefit cost analysis, but may be relevant to the investment decision.

5.99 The Department of Transport and Regional Development noted that a significant shortcoming in the use of benefit cost analysis in determining funding investment priorities is that of the potential for inconsistency between States/Territories. 'The Commonwealth relies

on the State [and Territory] road authorities to undertake the calculations, with the Commonwealth role limited to one of auditing.' (Sub 482, *Submissions* p. 868) The Department noted that while it requires the States/Territories to follow AUSTROADS' benefit cost analysis guidelines, there can be variations in the determination of input values between jurisdictions (*Transcripts*, p. 728).

5.100 Despite the shortcomings of benefit cost analysis, the committee considers that such analysis can be an important tool in determining which road projects are economically desirable. The committee considers that the usefulness of benefit cost analysis for road projects may be enhanced by:

- ensuring that there is consistency in the factors that are included in benefit cost analysis to allow comparability across States/Territories;
- ensuring that there is transparency in the calculation of benefit cost ratios;
- recognising the potential shortcomings of benefit cost analysis; and
- further research and agreement on what externalities to include and how to value them.

5.101 Recommendation 28

The committee recommends that AUSTROADS further develop its guidelines on benefit cost analysis to engender greater consistency between States/Territories.

Data requirements

5.102 The Industry Commission noted that 'coherent information on the condition of the existing road network is central to good asset management and investment appraisal.' (Sub 416, *Submissions* p. 109)

5.103 The Australian Automobile Association (AAA) considered that the information holdings on road condition and use is inadequate in Australia to support informed decision making compared with other countries such as the United States and even compared with the information available in Australia in the 1970s through the Commonwealth Bureau of Roads (Sub 646, *Submissions* p. 1390).

5.104 ARRB Transport Research Ltd noted that road data holdings at each level of government are variable. States/Territories generally employ a number of data systems, including pavement, maintenance and bridge management, traffic data and road inventory, however, ARRB considered that the main deficiency relative to best practice as described in Organisation for Economic Co-operation and Development and World Bank publications was a general lack of integration between data systems (Sub 654, *Submissions* pp. 1472–4).

5.105 For the Commonwealth to successfully adopt a more strategic role and for it to move to an asset management approach to road infrastructure investment, there is a need to develop a national centralised road data base, particularly for the national highway. The Department of Transport and Regional Development noted that its ability to develop, maintain and analyse a national road data base is limited and further noted that the Bureau of Transport and Communications Economics does not maintain ongoing data bases in relation to roads (Sub 482, *Submissions* p. 876).

5.106 The Bureau of Transport and Communications Economics noted that when compiling a road data base for research undertaken for the National Transport Planning Taskforce in 1994, it encountered significant gaps and errors in the data sets provided by the States/Territories. Typical problems with data included:

- data missing: including critical items such as traffic or commercial vehicle numbers
- highways with long lengths missing
- information missing on recently completed work, such as bypasses of towns
- unexplained differences in traffic levels reported for adjacent sections on different sides of state borders. (Sub 655, *Submissions* pp. 1485–6)

5.107 The Department of Transport and Regional Development considered that a national data base could be developed and maintained by a body such as ARRB Transport Research Ltd, which could also undertake analysis to assist in the development of forward strategies and enable the adoption of an asset management approach to the funding of the national highway system (Sub 482, *Submissions* p. 877).

5.108 Recommendation 29

The committee recommends that the Commonwealth, in conjunction with States/Territories, examine the scope for the development and maintenance of a national road data base to support the Commonwealth's strategic role in road funding and determine an appropriate organisation to develop and maintain such a data base.

Alternative administrative structures

Federal Roads Corporation

5.109 The Australian Automobile Association (AAA) proposed that Commonwealth establish a Federal Roads Corporation to fund road projects on an expanded road network which it referred to as the Australian Road Network for Economic Development (ARNED).

5.110 The AAA envisaged that such a corporation would fund nationally important projects selected on the basis of explicit economic and other criteria with funding generated from a 'petroleum based Federal road user charge, paid directly to the Corporation, which would replace a corresponding amount of the current Federal petroleum products excise.' (Sub 646, *Submissions* p. 1337) The AAA considered that the petroleum based road user charge would ultimately be replaced by an electronic charging system over time.

5.111 The Federal Roads Corporation would be managed by a board accountable to the Commonwealth Minister, with the Commonwealth exercising strategic control over the activities of the Corporation via a 'statement of intent.' (Sub 646, *Submissions* p. 1368)

5.112 The AAA noted that the expanded ARNED road network would include many State/Territory arterial roads and therefore it envisaged that the Federal Roads Corporation budget would include all or part of the untied road funds currently paid to the States/Territories by the Commonwealth. Commonwealth untied local road funding arrangements would remain unchanged (Sub 646, *Submissions* p. 1370).

5.113 The AAA noted that the major benefits of the Federal Roads Corporation include:

- a provider–customer link between the Corporation and road users,
- road investments undertaken in accordance with economic and other objectives with less political influence in investment decisions,
- revenue based on clearly identified road user charges not seen as hypothecated tax revenue,
- facilitation of private sector involvement in infrastructure provision,
- incorporation of its rolling corporate plan with annual public reporting against specified objectives,
- three year funding plans would allow for the efficient funding of larger projects over several years, avoiding the restrictions of an annual funding approach, and
- greater transparency and accountability in decision making and performance (Sub 646, *Submissions* p. 1369).

5.114 The Business Council of Australia (BCA) also called for the establishment of a corporatised road agency to manage Commonwealth road funding responsibilities. The BCA envisaged that such an agency would allocate funds for construction and maintenance in accordance with economic criteria and road user needs, with funding drawn from road user charges. The BCA envisaged increased private sector involvement in the provision of road infrastructure (Sub 649, *Submissions* p. 1412).

5.115 Both the BCA and the AAA considered that funding for non-economic roads should be considered as community service obligations and drawn directly from consolidated revenue rather than from the road agency budget (Subs 646, 649, *Submissions* pp. 1368, 1414). The committee would be concerned if the funding of socially significant projects as 'community service obligations' were judged as secondary to economic needs. This would be inconsistent with the committee's view that the national highway system caters for the needs of both industry and the community.

5.116 The committee notes that the proposed Federal Roads Corporation would require major changes in the existing relations between the Commonwealth, States/Territories and local government. In particular, the proposal, through increased centralisation of road responsibilities, would expand the Commonwealth's role and influence. Further, in taking responsibility for an expanded road network including the national highway and a number of State/Territory arterial roads, a Federal Roads Corporation could limit States/Territories' flexibility in considering alternative transport solutions such as rail or innovative traffic management solutions in relation to their own transport networks. The Federal Roads Corporation proposed by the AAA would tend to cut across the States/Territories' responsibilities in relation to transport infrastructure provision and land use planning, particularly in major cities.

5.117 The committee notes that the AAA referred to the New Zealand model in relation to the proposed Federal Roads Corporation (Sub 646, *Submissions* p. 1368). The considerable constitutional differences between the two countries would make it difficult for Australia to adopt the New Zealand model. Australia's federalism, with its States and Territories, makes the structure of government very different from New Zealand.

5.118 The committee considers that the proposed corporatised road agency approach has merit as an alternative mechanism to provide accountability, transparency and efficiency in Commonwealth road funding.

5.119 However, the committee considers that these outcomes can be achieved effectively within the current road funding structure, subject to recommendations in this report, without the need to establish another administrative body.

Conclusion

5.120 The committee considers that the Commonwealth should revise the *Australian Land Transport Development Act 1988* to ensure that its provisions are relevant and support the adoption of a strategic role for the Commonwealth. The committee also considers that the *Notes on Administration* should be reviewed and updated to reflect current administrative arrangements.

5.121 The committee acknowledges the technical expertise of State/Territory road authorities in managing road services. However, the Commonwealth must remain accountable for road funding programs that are a direct Commonwealth responsibility by undertaking some scrutiny of project proposals. The committee considers that the Commonwealth should work with the States/Territories to ensure that project approval processes are efficient, possibly through increased use of performance targets.

5.122 The committee considers that effective decision making for road programs requires accurate and consistent information. In particular, the committee considers that benefit cost analysis of road projects needs to be consistent and transparent, and that the development of a national roads data base will be valuable as an input to decision making.