



# LOCAL GOVERNMENT, THE CONSTITUTION AND FUNDING

CURRENT FUNDING, CONSTITUTIONAL IMPORTANCE AND THE HIGH COURT'S PAPE DECISION

## FUNDING ISSUES

Local government raises its own revenue through rates (local government's only tax), fees and charges. For the past decade, local government has raised around 3 per cent of Australia's total taxation revenue. Although local government generates around 80 per cent of its revenue, funding from the Commonwealth Government through grants is an important source of revenue, particularly for regional and remote communities.

General purpose funding from the Commonwealth accounts for around 7 per cent of total local government revenue. This funding is in the form of Financial Assistance Grants (FAGs) which assist local government to perform its functions.

General purpose funding from the Commonwealth to local government has diminished over time in real terms, leaving many councils struggling to provide the level of services required by the community and threatening the long-term future of other councils.

An independent report by PricewaterhouseCoopers in 2006 estimated the impact of under-funding of local government was a \$14.5 billion backlog in repairing ageing infrastructure such as roads, swimming pools, libraries and town halls. The Commonwealth Government's Regional and Community Infrastructure Program provided \$1 billion in the 2008/09 and 2009/10 financial years for infrastructure renewal, but much more funding is needed to reverse the decline.

In the absence of greater funding from Commonwealth and state governments, local government faces the choice of reducing services, further delaying repair work, or trying to raise more local revenue (from local

communities already paying their fair share). Funding certainty is critical to the short and long-term planning of councils, particularly in rural and regional areas where there is a greater reliance on external funding.

In response to community demand, local government has become involved in much wider areas than the traditional property and roads infrastructure, such as recreation, health and welfare, with growing demand for more services. This means local government is currently providing a greater range of services to fill a gap that should be funded by other levels of government.

## THE NEED FOR CONSTITUTIONAL CHANGE

Although the Commonwealth Government has provided direct funding to local government for many years, a recent High Court decision has challenged its power to do so.

The 2009 High Court case of Pape v Commissioner of Taxation has found that the Commonwealth does not have power to directly fund areas such as local government. It can only spend money where it has a specific power under the Constitution.

The decision presents a compelling reason to include local government in the Constitution. Without Constitutional recognition, direct Commonwealth funding of local government, through programs such as Roads to Recovery, may be technically invalid. Local government needs certainty and security of funding in order to provide the range and level of services expected by the community.

