

Mr Trevor Rowe
Secretary
House of Representatives Standing
Committee on Economics, Finance and
Public Administration
Parliament House
CANBERRA ACT 2600

T Rowe
Dear Mr Rowe

House of Representatives Standing Committee on Economics, Finance and Public Administration: Inquiry into Local Government and Cost Shifting

I refer to your letter of 18 September 2002 seeking responses to questions following this Department's appearance before the House of Representatives Standing Committee on Economics, Finance and Public Administration (the Committee) at its public hearing on 4 September 2002, regarding its inquiry into Local Government and Cost Shifting.

During the hearing, I undertook to provide further information to the Committee. The Committee also sought answers to additional questions, which were not asked at the hearing.

On 25 October 2003, I forwarded for the Committee's consideration, answers to 17 of the 25 questions. I now enclose answers to the remaining eight questions.

Yours sincerely



Mike Mrdak
First Assistant Secretary
Territories and Local Government
16 December 2002

House of representatives Standing Committee on Economics, Finance and Public Administration	
Submission No:	334
Date Received:	18/12/02
Secretary:	<i>Boydell</i>

**QUESTIONS TO THE DEPARTMENT OF TRANSPORT
AND REGIONAL SERVICES**

**HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON
ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION:
INQUIRY INTO LOCAL GOVERNMENT AND COST SHIFTING**

Question No. 2

Mr King asked Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Are there examples of State enterprises not paying rates? Is it prevalent in some States in particular? (pages 50-51)

Mr Mrdak - The answer to the committee's question is as follows:

Yes. Local Governments in all States and the Northern Territory regard this as an issue but it appears that this manifests itself in varying degrees of tension between States and Local Government.

There are a number of legal, administrative and technical valuation factors preventing the application of the full range of local government taxes (rates) to many State enterprises. This is further complicated by the application by some States and Territories of the National Competition Policy especially the Competitive Neutrality principle.

State enterprises range from National Parks, public utilities (such as water and electricity authorities) to Government owned business enterprises and housing commissions. These enterprises are established and administered under different State legislation and as a result entitled to varying exemptions from local government taxes in those States and in the Northern Territory.

National Competition Policy

The application of the National Competition Policy and the payment of local government rates by State enterprises appears to vary from State to State.

Under the Competitive Neutrality principle of the National Competition Policy, State enterprises should pay all taxes. This is to ensure that public ownership does not derive an advantage in the market place by being exempt from taxes, which are normally paid by competing private sector enterprises. However, there is no consistency in the way this is applied in States and the Northern Territory.

In the Northern Territory, the Government Owned Corporations Act, section 33 (2) states that a Government Owned Corporation must pay the equivalent of local government rates to the Consolidated Revenue Account of the Northern Territory Government. However, this revenue is not passed on to local government. The Darwin City Council considers this loss of revenue as an issue.

A similar situation is found in South Australia and Western Australia where State enterprises pay the equivalent of local government rates to their respective State treasuries which are not passed on to local government and therefore represent a loss of revenue from local government's perspective.

However, these issues are being addressed in NSW, Queensland and Tasmania. In NSW, land is rateable as a result of the corporatisation of a State Owned Corporation that has been specified under the State Owned Corporations Act 1989. For example, State enterprises such as the Sydney Water Corporation and energy corporations pay rates.

In Queensland, a Government entity will have to pay rates if it is a non-exempt Government Owned Corporation (GOC). A number of GOCs in the ports, rail and electricity sectors have been declared recently as non-exempt GOCs and are now paying rates.

The Tasmanian Government is currently addressing some of these issues under the State-Local Government Financial Reform Project (SLGFR) and in NSW it is being addressed by the State Government via the Reciprocal Charges Committee.

Crown Land and Valuation

All States own large areas of Crown land which are non-rateable. In Victoria and Tasmania, the non-valuation of land owned by State enterprises by the respective State Valuer General often prevents local councils from levying rates on these enterprises.

In Victoria, properties, which are public, educational, religious or charitable in use or ownership, are exempt from council rates in accordance with section 154 of the Local Government Act 1989. The Melbourne City Council in a motion at the November 2002 ALGA General Assembly in Alice Springs, called *inter alia* to make rateable those exempt bodies which have clearly evolved into commercial ventures (eg, the commercial arms of the tertiary institutions, commercially owned and operated hospitals and government superannuation funds). The motion argued that the exemptions have been a constant source of contention and litigation for councils resulting in a raft of case law and precedent.

In Tasmania, the valuation and rating of Crown land has historically been an area of contention between State and local government. Recently, this was demonstrated by a Supreme Court challenge launched (subsequently withdrawn) by the Derwent Valley and Central Highlands Councils against the State Government in relation to the non-valuation of certain types of Crown lands and therefore non-payment of rates.

The Tasmanian Government's valuation policy is embodied in the *Valuation of Land Act 2000* and the power to exercise discretion in implementing that legislation is vested in the office of Valuer-General. We understand that the existence of this discretionary power has led to considerable pressure being applied to the Valuer-General by local government to value all Crown land. The legal challenges launched (and subsequently withdrawn) by the Derwent Valley and Central Highlands Councils against the Valuer-General reflected the extent of this pressure. The official list of all lands, which have been assigned a value by the Valuer-General, is termed the 'Valuation Roll'.

Forestry Tasmania and Hydro Tasmania are both governed under the Government Business Enterprises (GBE) Act 1995 (Tasmania). GBEs are not exempt from land tax but this can only be applied on the basis of an official valuation (ie they should appear on the Valuation Roll). In the case of Hydro Tasmania, currently its offices, workshops, switching yards (land only) and various structures housing minor plant items, are valued. However, its major assets including dams, power stations, access roads and vacant Crown land vested in Hydro Tasmania have not been valued.

Local government in Tasmania has queried the potential treatment of certain Hydro Tasmania assets in any valuation process, in particular those which are classed as 'plant' (and therefore not valued)

and which would be deemed to be 'structures' (and therefore subject to valuation). However, the majority of land holdings of both entities are unvalued within the context of Valuation Roll. The absence of such a formal valuation is the only factor preventing a wider application of land tax to these GBEs.

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Question No. 8

Additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Local Government Grants Commissions

Is the department satisfied with the current funding arrangements via the Local Government Grants Commissions? What net value do you think the Local Government Grants Commissions add to the distribution considering the observation of the Commonwealth Grants Commission on their performance?

Mr Mrdak - The answer to the committee's question is as follows:

With any grants distribution process, there are strengths and weaknesses inherent in the process of allocating the grants. However, on balance the Department is satisfied with the current funding arrangements using Local Government Grants Commissions to determine grant allocations.

The current arrangements have considerable strengths. These include having members of the Local Government Grants Commissions:

- with detailed knowledge of individual council circumstances in their State/Territory;
- with detailed knowledge of State/Territory Local Government legislation;
- with experience of the environment in which councils are operating;
- with detailed knowledge of State/Territory funding programmes; and
- that have regular contact with councils to explain the methodology and to listen to concerns about the treatment of individual councils.

However, the arrangement relies on independent grants commissions being established in each State. It also relies on the appointed commissioners having:

- an understanding of the grant allocation principles and the associated grant allocation methodology; and
- the ability to make appropriate decisions that will affect council funding.

States appoint Commissioners. There may be the perception that Grants Commissions are not independent from the State government — given that State public servants are Commissioners in some States — and from councils — when current elected members or current employees of councils are Commissioners in some States. We are not aware that the States assess prospective Commissioners on their ability to understand the distribution principles or allocation methodology.

The Commonwealth Grants Commission found that generally the current arrangements are achieving the Commonwealth's objectives. The Commission made no assessments of the performance of Local Government Grants Commissioners. However, the CGC was able to provide Local Government Grants Commissions with the benefit of insights it had gained in the allocation of grants using equalisation principles.

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Question No. 9

Additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Natural Resource Management

In terms of Natural Resource Management, the recent COAG statement endorsed the participation of local government in NRM arrangements but does not refer to funding for local government to implement the activities of the regional bodies (p. 34). Are you confident that appropriate funding will find its way to local government to enable local action? Who will be monitoring this matter?

Mr Mrdak - The answer to the committee's question is as follows:

Funding under national NRM programmes such as the National Action Plan for Salinity and Water Quality (the NAP) and the extension of the Natural Heritage Trust (NHT2) will be guided by Integrated Catchment / Regional Natural Resource Management Plans (INRM Plans). Local government representatives are members of the Regional Catchment Bodies that are preparing these INRM Plans.

Each Regional Catchment Body will prepare an Investment Strategy that will outline specific actions that have been recommended to meet the targets specified in the INRM Plans. The Investment Strategies will identify the specific stakeholders that will be involved in their implementation. Both investors and local governments will thus be certain about which actions local governments will be responsible for implementing. This will enable both local governments and the Commonwealth to monitor and ensure that funding will be directed to individual councils and shires when they have been identified as the responsible agency for implementing the recommended actions.

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Question No. 14

Which is additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Roles and responsibilities of local government

What scope does the department see for the rationalising of roles and responsibilities between the levels of government when clearly local government is 'at the crossroads' to quote an academic in the field of local government? Who should drive this agenda?

Mr Mrdak - The answer to the committee's question is as follows:

We would like to see rationalising the roles and responsibilities between the levels of government as an ongoing activity and perhaps driven by Ministerial Councils.

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Question No. 15

Which is additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Roles and responsibilities of local government

You note on page 48 of your submission that the Commonwealth could look at State/Local government partnerships as a potential model for two or three sphere agreements. Do you intend to pursue this work?

Mr Mrdak - The answer to the committee's question is as follows:

To date, our work has involved gaining an understanding of the partnership process in the States where this is being applied. At this point in time, we intend to monitor further developments of this process in the States and, where appropriate, to suggest to Federal agencies that they consider the approach when developing arrangements that involve them working cooperatively with local government.

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Question No. 16

Additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

National Principles

Under the actions required for National principles on page 57 of your submission, you describe the Relative Need Principle which includes the term "standard effort". What is standard effort and how is it defined?

Mr Mrdak - The answer to the committee's question is as follows:

The LGGCs must assess the expenditure councils would incur in providing a standard level of service (see Question 18 for an explanation of this process) and the revenue they could access using the "standard effort" of all councils across the State.

Policy and non-policy factors will influence the revenue that councils actually raise. For example, policy factors would include the rate in the dollar at which councils set their rates for each of the types of properties from which they collect rates. A non-policy factor would be the assessed value of properties within the council's boundaries.

When assessing revenue, the task of the LGGCs is to assess the revenue councils would obtain by applying the average of the policies of councils within the state. To do this they must remove the influences of Council's policy choices to ensure that Council's are neither rewarded nor penalised by the policies they choose.

For example, if councils in a State raise revenue from a tax on residential property values, one way of obtaining the standard effort is to first determine the average rate in the dollar that councils in that State charge. If the value of residential properties across a State is \$6 billion and councils in the State raise \$600 million from rates on these properties, then the average rate is 10 cents in the dollar. If a particular council's residential properties are valued at \$45 million, then using this average rate in the dollar the LGGCs would assess the councils rate revenue from residential property applying "standard effort" would be \$4.5 million, that is, $0.1 \times \$45$ million. If this council sets its residential rates at 12 cents in the dollar, the council would be applying greater than standard effort.

Different approaches are used in assessing revenue capacity. Chapter 13 of the CGC's Working Papers for the Review of the *Local Government (Financial Assistance) Act 1995* outlines these approaches.

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Question No. 22

Additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Distribution of FAGs

It was estimated by the Local Government Association of South Australia (Submission No. 223) that distributing General Purpose Grants based on population rather than need is costing South Australian councils in the order of \$20m to \$30m per annum. Would you like to comment?

Mr Mrdak - The answer to the committee's question is as follows:

Distributing the general purpose grants on an equal per capita basis between States means there is less funding going to the States where councils may be more disadvantaged than councils in other States. However, there is no agreed methodology for determining "need" across States. Therefore, DOTARS is unable to comment on the amount estimated by the Local Government Association of South Australia.

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Question No. 24

Additional to that asked of Mr Mike Mrdak, the First Assistant Secretary, Territories and Local Government Division, upon notice, on 4 September 2002:

Alternatives to FAGs

What alternative funding models has the department considered?

Mr Mrdak - The answer to the committee's question is as follows:

The Department has examined the proposal of the Commonwealth Grants Commission to split the general purpose component of the financial assistance grants into two pools. This is discussed in section 6 of the Department's submission. We accept that this would improve the transparency of the current arrangements although, of itself, may not change the total grants that council's receive under the current arrangements.

The Department has examined the findings of the Commonwealth Grants Commissions in relation to the technical aspects of the methods currently employed by Local Government Grants Commissions.

The Department has also undertaken a preliminary examination of the approach used by the Department of Education, Science and Training in its needs-based funding model for non-government schools. This method uses a measure of the socio-economic status of the school community to determine allocations of general recurrent funding for non-government schools. This preliminary examination showed that this approach is not appropriate for determining general purpose funding to local government in accordance with the requirements of the Act. However, Grants Commissions could consider using such an approach when assessing revenue-raising capacity of councils for some categories of user charges such as those applying to the community services currently provided by councils. There is also the potential to make use of this approach to assess the expenditure needs for these services as well.