HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON BANKING, FINANCE AND PUBLIC ADMINISTRATION

Reference: Aspects of the national competition policy reform package

CANBERRA

Thursday, 26 October 1995

(OFFICIAL HANSARD REPORT)

CANBERRA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON FINANCIAL INSTITUTIONS AND PUBLIC ADMINISTRATION

Members:

Mr Hawker (Chair)

Mr Albanese	Mr McMullan
Mr Anthony	Mr Mutch
Mrs Bailey	Dr Nelson
Mr Causley	Mr Pyne
Mrs Gallus	Mr Willis
Mr Hockey	Mr Wilton
Mr Latham	

Matter referred to the Committee:

The aspects of the national competition policy reform package. The major issues the Committee has been requested to inquire into are:

(1) the appropriate means, including review processes, for applying the 'public interest' tests included in the Competition Principles Agreement:

These tests are a critical feature of this Agreement. They are described in Principle 1(3), which provides that:

without limiting the matters that may be taken into account, where this Agreement calls:

(a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or

(b) for the merits or appropriateness of a particular policy or course of action to be determined; or

(c) for an assessment of the most effective means of achieving a policy objective;

the following matters shall, where relevant, be taken into account:

(d) government legislation and policies relating to ecologically sustainable development;

(e) social welfare and equity considerations, including community service obligations;

(f) government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;

(g) economic and regional development, including employment and investment growth;

(h) the interests of consumers generally or of a class of consumers;

(i) the competitiveness of Australian businesses; and

(j) the efficient allocation of resources.

(2) the impact of competition policy reform on the efficient delivery of community service obligations including an assessment of:

(a) existing government policies relating to community service obligations and

(b) options for the delivery and funding of these services;

(3) the implications of competition policy reform for the efficient delivery of services by local government, including arrangements that have been developed between State Governments and local government authorities for the implementation of the Competition Principles Agreement.

WITNESSES

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON BANKING, FINANCE AND PUBLIC ADMINISTRATION

National competition policy reform

CANBERRA

Thursday, 26 October 1995

Present

Mr Simmons (Chair)

Mr Bradford	Mr Martyn Evans
Mr Braithwaite	Mr Latham
Mr Cunningham	Mr Somlyay

The committee met at 10.42 a.m.

Mr Simmons took the chair.

CHAIR—I declare open this public hearing of the House of Representatives Committee on Banking, Finance and Public Administration inquiry into aspects of the national competition policy reform package. This is the third public hearing the committee has held during the course of this inquiry. What has become obvious from the submissions received, and from the hearings and discussions the committee has conducted, is that there is a great deal of concern in local government over the impact of the competition policy reform package. While the implications of competition policy reform for the delivery of services by local government represents only one aspect of the inquiry's terms of reference, it is apparent that this will be a major focus of the inquiry.

There appear to be three major areas of concern to local government: firstly, the application of the Trade Practices Act to local government; secondly, what might be done by state governments in applying the competition principles agreement; and, finally, payments to local government to compensate for the cost of competition policy reform.

I expect that these matters and many others will be canvassed at today's hearing, and indeed at future hearings, with representatives of local government.

SANSOM, Mr Graham, Chief Executive Officer, Australian Local Government Association, 8 Geils Court, Deakin, Australian Capital Territory 2600

CHAIR—Welcome. This hearing is considered to be part of the proceedings of the parliament and, accordingly, any attempt to mislead the committee may be regarded as a contempt of the parliament.

The committee has received the submission from ALGA and it has been authorised for publication. Do you wish to make an opening statement to the committee?

Mr Sansom—I will make a few brief comments to highlight some of the key points of our submission. I begin by giving an apology on behalf of Councillor John Campbell. He is one of our national executive members and was to be here today. He could not make it due to problems with aircraft connections. Councillor Campbell has asked that, when he appears before the committee in Brisbane as representative of Brisbane City Council, he might perhaps add a few comments from a national perspective at that time.

CHAIR—Sure.

Mr Sansom—The first point that I would like to stress to the committee is that our views derive from a very fundamental proposition, which is that local government is government and the way in which national competition policy is implemented must reflect that fact. Whilst councils are constitutionally authorities of the states, they are not a series of egg marketing boards or state rail authorities. They are there to deliver an integrated package of services to local communities. Competition policy implementation must take that factor very much into account. We are particularly concerned that we do not get into a situation where what you might term purist approaches to matters—such as structural separation, competitive tendering or tax equivalent regimes, and so on—result in inappropriate outcomes in terms of delivering services to communities, and result in unwarranted disruption of the activities of local government. Section 3 of our submission is really highlighting those concerns.

We are also very much of the view, and this is the reason that we welcome this committee's inquiry, that the Commonwealth needs to retain a strong interest in what happens henceforth. There are a number of reasons for that. First of all, the Commonwealth retains the ultimate say on exemptions from the provisions of part 4 of the Trade Practices Act. Obviously, it has a very strong continuing financial interest in the quality of services that are delivered to local communities. Above all, of course, the Commonwealth instigated the changes that we are talking about now and we believe it has a responsibility to continue to monitor the effects of those changes.

As an association, we are particularly concerned about the attitudes which have been expressed by some Commonwealth agencies during the course of the work of the micro-economic reform working group of COAG—for instance, that the Commonwealth's responsibility ends when it signs up with the states for competition policy to be applied to local government. We believe that is a constitutional fiction and, for the reasons that I have given, the Commonwealth must retain a strong interest. This point is emphasised in the concluding sections of our submission.

At this stage it is impossible for my association or any other representative of local government to inform the committee precisely as to what the impact of competition policy will be. That is because we are engaged in a process of negotiating the so-called clause 7 statement under the competition principles agreement with state governments. Until that process in completed we will not know in any detail how competition policy might apply.

We remain very strongly of the view that, once those clause 7 statements are completed and once we are all in a position to assess the potential economic benefits which might accrue from local government

applying competition policy, the Commonwealth should reopen discussions with local government on making specific competition payments to local government. We remain extremely concerned that the processes which were followed in the lead-up to the April COAG meeting, with the Industry Commission inquiry, did not adequately assess the contribution which local government would make to the national economic benefits flowing from competition policy. In our view, as soon as possible after June 1996, when the clause 7 statements are completed, that matter should be reopened and appropriate negotiations should take place.

Mr Chairman mentioned in his opening remarks that we also will continue to press for further amendments to the Trade Practices Act—amendments which we sought in the lead-up to the COAG meeting but could not get approved, amendments to remove any threat of pecuniary penalties being imposed on local government. We accept that the likelihood of that is low—we have discussed the matter with what is still currently the Trade Practices Commission—but we believe as a matter of principle that there should be no threat of pecuniary penalties to local government, except when we are talking about defined business operations. Of course we accept that a defined business operation should be open to the full gamut of penalties under the act.

Similarly we will continue to press for a further amendment to extend to local government precisely the same definition of non-business activity as was granted to the states. We simply cannot fathom the reasons for the opposition, expressed principally by Treasury, to extending that definition. We would draw the committee's attention to the fact that, even with the same definition applied to local government as is applied to the states, there remains an enormous grey area as to what does or does not constitute business. We are concerned that troublesome litigators could attempt to use the lack of precision of definition of business to initiate actions or to threaten to initiate actions to achieve competitive advantage, for example by threatening action to prevent a council from granting development approval to a rival commercial enterprise. We have examples of that occurring in the past, where environmental legislation has been used in a similar way. We believe that there is now scope for the same thing to occur in the Trades Practices Act, and that that needs to be monitored very carefully.

I would just conclude by saying that what we say in our submission is that we still remain supportive of the thrust of competition policy; what we are looking for now is sensible implementation of that policy. We want it implemented in a staged way rather than by just leaping in at the deep end. Our approach to that is set out in part 5 in our submission. We are very concerned that the costs—the potential costs as well as the benefits—are thoroughly examined. There has been a tendency, I think exemplified by the Industry Commission report and some of the interpretations of that report, to just focus on the billions of dollars which may flow into GDP as a result of these reforms. But there is a possibility of localised costs outweighing those benefits in many local communities.

Finally, I draw your attention to that part of our submission which suggests that there are many other reforms going on in local government, reforms which my association generally supports, which could probably deliver efficiency and productivity gains equal to or greater than those flowing from national competition policy. So again we would just stress that we do not want people to go overboard in assuming that purist application of competition policy is the answer to all the ills in local government.

CHAIR—Thank you for your submissions and comments this morning, Mr Sansom. You may be aware that the committee had some informal discussions when we visited the Albury-Wodonga area recently. It seems to us that there is a great deal of confusion at the individual council level as to what the national competition policy is all about. I guess you could point the finger at the Commonwealth, states or, indeed, the Local Government Association but, for the record, what sort of communication has ALGA had directly with the 870 or so local government authorities in Australia?

Mr Sansom—I think we are down to 770. We have circulated a couple of newsletters directly to all councils on this matter. Also, since we are a federal body we have kept our state associations up to speed with developments at the national level and they in turn have issued regular circulars or put pieces in the journals to inform councils as to what is going on.

CHAIR—Do you have copies of all those newsletters not only from ALGA but from the state associations that it would be possible to pass on to the committee? It would be useful so that we have some indication what has been going out.

Mr Sansom—I will get that to you as quickly as I can.

CHAIR—Thank you. You mentioned also in your submission on page 3 that Peter Emery from South Australia was conducting a study for ALGA on the whole issue on the scope and intensity of national competition policy reform on local government. Where is that study up to?

Mr Sansom—We expect to receive a draft report from Mr Emery within the next week or two, and the intention at this stage is to finalise the study during November.

CHAIR—Would it be possible for the committee to have a copy of that when it is completed?

Mr Sansom- Certainly.

CHAIR—That can be made available so the committee can publish it if necessary, or would you prefer to have it on a confidential basis?

Mr Sansom—I would have to check on that. The study is being financed through the local government ministers conference. We would have to check with the various state ministers that it was acceptable to be published, but we can certainly provide a copy to the committee.

CHAIR—The other issue you raised in your comments today related to the issue of consultation or, as we have been finding out in some cases, lack of consultation with local government and the states. I understand in Queensland at least there does seem to be some progress and we have been told in a submission from the Brisbane City Council, which we will be meeting in a couple of weeks time, that the council and the LGA of Queensland are both represented at the senior level on the working group convened by the Premier to look at the question of the clause 7 agreement. Could you outline what is happening in each of the other states and territories as far as that process is concerned?

Mr Sansom—I will do my best. I cannot guarantee completely accuracy. Our understanding is that discussions are proceeding quite well in New South Wales and, like Queensland, they are moving towards a draft clause 7 statement in the reasonably near future.

CHAIR—In our discussions in Albury we were left very much with the impression that there was not any great consultation occurring between local and state government. Whether that is a communication breakdown with the local government association in New South Wales and the individual councils I do not know, but certainly I think the members would agree that message was coming through.

Mr Sansom—The difficulty we are facing in all states is that these sorts of issues have to be handled initially on the basis of discussions between state local government associations and the responsible state ministers and departments. Certainly I do not think there has been in any state a systematic approach to full consultation at this stage with individual councils.

CHAIR—The impression I had was that they were not even aware that there were these working groups taking place between the association and the state government, if I am not misrepresenting their point. That was the impression I got at that meeting in Albury. I am not sure if any of the other members had the same impression.

Mr BRAITHWAITE—Except you had that extraordinary circumstance where the Minister for Water Resources was, as I understood it, prepared to give exemptions to local councils on water matters, in any

case.

Mr Sansom—I would like to make a couple of points. Firstly, I think there is as much confusion in a number of state governments, as to relationships between different state agencies and how this should be followed through, as there is in local government circles. We are in new territory for a lot of people and a lot of agencies have got to come up to speed with what all this means and how it might be applied.

I am conscious of the fact in a number of states that whilst, for example, the local government department might be having useful discussions with the state local government association or with individual councils, it is not yet clear whether the local government department has firmly established principles with the other relevant state agencies. There are problems of communication within state governments, in my view. The other thing is that I do know that the New South Wales association in just the last week or so, as part of its regular circular, produced quite a detailed statement on this in the New South Wales context. Maybe that has corrected some of this lack of communication.

CHAIR—What about the other states? I guess there are particular problems in Victoria because of the amalgamation issue there. Do you know what is happening there with the clause 7 agreements?

Mr Sansom—I am not aware to date of any systematic discussion between the state government and the Municipal Association of Victoria on these issues. As you say, it is caught up in the whole amalgamation and other change processes. There is a tendency to confuse the application of national competition policy with the introduction of compulsory competitive tendering. The two are related but, of course, they are not the same. There is some way to go in Victoria in drawing a distinction between the two and focusing clearly on national competition policy as such.

CHAIR—There are some amalgamation processes occurring in South Australia, aren't there? So is that a problem there also?

Mr Sansom—They are talking about what the process might be. My understanding is that South Australia, and similarly Western Australia, are very much awaiting the outcome of Peter Emery's work and his advice to the local government ministers and LOGJOG, before pursuing the matter in detail. Tasmania are having discussions. They have some sort of working group set up. There it is somewhat confused with the discussions that are going on about the restructuring of water supply and sewerage undertakings in Tasmania.

CHAIR—And what about the Northern Territory?

Mr Sansom—I am not aware. My impression is that things are at a very early stage.

CHAIR—Are there any emerging problems so far with the whole debate and discussions with state government on those clause 7 agreements?

Mr Sansom—No, it is too early to say. I do know that in New South Wales—the point I was making previously—there has been some problem in different interpretations between, for example, the New South Wales treasury, cabinet office and their local government department which have needed to be sorted out. Generally speaking, with the exception of Queensland, which we regard as an excellent model for how to go about this, the process simply is not sufficiently advanced to know whether there are problems or not.

Mr BRAITHWAITE—You can't expect that from a Queenslander.

Mr Sansom—We regularly now hold up Queensland as an excellent model of state-local government relations across the board.

Mr BRAITHWAITE—We have been trying to do that a long time down here.

CHAIR—There is a little bit of bias coming forward. Are there any questions other members have at this stage?

Mr MARTYN EVANS—I spent many years in local government in South Australia—some 10 years or so, including four years as mayor of my local council. I have a strong interest in local government and

regard it very favourably, but when you commented in your opening statement about it not being a series of electricity supply authorities and so on, to some extent it is, because you have to separate out—as you would be well aware—the regulatory true government functions from the business undertakings. An awful lot of what local government does, although it varies around the country a lot, is very much related to those service oriented functions, where it is providing a particular facility to ratepayers and people in the area.

When we look at the government side of the function, the regulatory side of the function, it is quite clear that is a separate issue. But when we look at the business undertakings and the services, they are very much in the model of the electricity supply authority. Just how much is the association separating those two areas out in its thinking about this? And are you being quite bold enough in the area of the business undertakings with regard to your concern about exposure to competition policy? I can appreciate that, in some of the country areas where there is not ready access to alternative sources of supply and so on, it is a real problem, but then many of the issues of competition policy do not apply so much when there is no available competition. But in the city areas, in the metropolitan areas, should the association be taking a bolder approach about throwing open the processes here? I detect a fair degree of reticence about moving forward on this.

Mr Sansom—I think that the reticence which you detect comes from a couple of sources. One is the point that we have already discussed this morning, that we are still in a situation of not knowing precisely how competition policy might be applied. Certainly, on the part of some people in state governments, there has been a suggestion of what I would describe as a very purist approach, which could be damaging to the capacity of councils to deliver an overall package of services.

Certainly, we would in no way suggest that the large business undertakings of local government, such as you see with Brisbane City Council or major water authorities in New South Wales and so on, be excluded from the application of policy. But there is a scale effect in local government which, of course, is very different to the situation with the major state authorities. When you are talking about a fairly small water and sewerage supply operation in a rural council in Queensland, you really have to ask yourself the question, what public purpose is going to be served by requiring that that operation be separated structurally from the rest of the council, which perhaps may mean employing additional staff to create a separate administration.

There is the whole question of community service obligations in local government. I mean, a purist approach to community service obligations would require local government, from its general rate revenues, to find the resources necessary to subsidise those sections of the community which could not pay the full commercial cost of providing water or sewerage.

Local government operates from a very narrow revenue base and if you insisted in all cases, in relatively small councils, that they go down the route of structural separation of business activities, of applying full tax equivalents to the operations of those business activities and then, from general rates revenue, meeting community services obligations to those sectors of the community which could not meet the inevitably increased price of those services, you are in a complete no-win situation.

So that is where the reticence comes from. How are these concepts, which were developed with a view to major electricity or rail authorities in a state government context where there is a much broader revenue base than local government enjoys, going to apply in reality to local government at a greatly reduced scale? And what will the downside be? Our point is that, at no stage in the lead-up to the COAG meeting, did anybody seriously sit down and think those issues through. We are only now beginning to think them through, and that is why you have so many people in local government confused and expressing concern.

Mr MARTYN EVANS—Do you think some of that confusion does in fact result from the compulsory competitive tendering processes at the moment? For whatever merit that process may have, it

does not derive directly from the competition policy model and it is being coincidently applied to local government currently along with rate capping and/or reduction, along with compulsory or near compulsory amalgamations, which all seem to have come coincidently together at the same point. Do you think to some extent local government is suffering from a degree of sort of overload in these areas and those who are one step removed from the process may well be letting all of this combine in their minds, and perhaps some of the elements of it are not being properly separated out?

Mr Sansom—I think you are absolutely right. Obviously, lots of people in local government are looking at what has been happening recently in Victoria and feeling threatened by that. As I said earlier, there is this confusion between competition policy and compulsory competitive tendering which is not helpful. I am not saying that local government should be given some special exemption from the rapid changes which are affecting everybody at the moment.

Mr MARTYN EVANS—But it means that they have to be well explained.

Mr Sansom—They do have to be well explained and you need a good factual basis from which to work. I think the problem is that we just have not had the factual basis. As part of the Emery consultancy we are doing, for the first time, a proper national survey on local government business activity. The data just is not there. We need to get the facts straight before we can sensibly move forward.

Mr CUNNINGHAM—With the Municipal Association of Victoria, how well is it performing as an affiliate of your organisation now? Does it have the capacity to do the sort of work in the present structure in Victoria that you are talking about to get this information up, or is it also under some stress because of the structural change that is taking place?

Mr Sansom—I think the work of the MAV has been disrupted by the changes in Victoria. The MAV itself has been under intense pressure to downsize and restructure its operations. They have just appointed an acting chief executive to continue that process, so I think the capacity of MAV to deal with these issues has been reduced somewhat, but MAV remains a very substantial organisation and, as far as their contribution to our national network is concerned, they still make a very valuable contribution.

Mr CUNNINGHAM—With the compulsory competitive tendering process in Victoria at the moment, my experience of the local governments in the area is that they are going in all different directions. In particular, in a lot of the community service obligation areas, the delivery of Meals on Wheels and other community service operations, some are going to hospitals, some are being taken over by council. Does your organisation, the MAV affiliate in Victoria, have a developed position on this at the moment or are they just feeding information to you as to what is happening in Victoria to try to assist the national body work into the whole COAG process? Who are you relying on to get your information from Victoria—MAV, the state departments? I think it could be changing on a daily basis according to commissioners' decisions at the moment.

Mr Sansom—Indeed. As we said, we are a federal body and our constitution obliges us to go through MAV in dealing with Victorian local government, and that is what we do, so we rely on MAV. I think your observation though is correct and that is that the prevailing attitude in Victoria is that it is up to the individual councils and their commissioners to sort out how they will apply these things, subject to meeting the overall target that the state government has set. As you say, the different groups of commissioners are handling it in different ways and I believe that MAV's position is that that is the way the process has been set up and the way it will continue.

Mr CUNNINGHAM—You said before that Queensland is a model from your national point of view. How does that Queensland model look in comparison to what is happening in Victoria? Will there be a blending eventually across the nation or do you think it is a completely new model that we are going to get

in Victoria?

Mr Sansom—I do not know that I would like to comment on where Victoria might go. We have elections for about one-third of the councils there next March and I think we will need to wait and see what happens when there is a return to elected control of councils in Victoria, and how the incoming councillors see the situation.

The point I was making about Queensland in relation to competition policy is that Queensland took action in setting up a high-level working group, bringing together all the key players—the state association, Brisbane City and the relevant state department. They seem to have done an excellent job in ensuring that the different state agencies involved—the premier's department, the treasury, and the local government office—are all working together. There is a consistent policy direction. I think that is reflected in the fact that they have been able to get to the point of having a draft clause 7 statement put together. It has been a cooperative exercise between state and local government and within state government there has been a consistent approach across the different agencies.

Mr CUNNINGHAM—What work are you doing from the national level to try and blend that type of operation through the MAV in Victoria? Is it possible that something like that will come through fairly quickly to be part of the whole COAG process?

Mr Sansom—I think, as our submission suggests on page 10, what we hope is that the report that Peter Emery is putting together will sketch out a framework which the other states could apply in addressing these issues. Clearly the experience in Queensland, because they are so far ahead of everybody else, will guide that framework and we would hope that a broadly similar approach would be adopted in all states. That is the position that we have put.

Mr BRADFORD—Just in this context of competitive neutrality, in your submission you refer to the agreement between the Commonwealth and state governments that tax equivalent payments to be made by state authorities be retained by each state, and you want that principle extended to local government. That is the point you make, is it?

Mr Sansom—Yes, our concern is that if, for example,—I think Councillor Campbell would have wanted to speak to that—the Brisbane City Council floats off its water and sewerage operation as a completely separate business undertaking, and then, under the provisions of the agreement, applies a full tax equivalent regime to that undertaking, the revenue thus raised would be retained within the Brisbane City Council, rather than taxes being paid by that business undertaking to the states and the Commonwealth.

We understand that that approach has been agreed between the Commonwealth and the states for state enterprises, so, where there are in future separated large local government business enterprises, we see the parent council as being the recipient of any payments.

Mr BRADFORD—What would be the purpose of that?

Mr Sansom—The purpose of retaining any tax equivalent payments is simply to ensure that that money remains in local government hands and is able to be used, for example, for community service obligation payments.

The other answer to your question, I suppose, is that we are not fully convinced that the whole notion of tax equivalent payments is necessarily appropriate because it will increase the price to consumers of services and may do nothing to promote competition. The point was made earlier that, especially when you get outside the major capitals, the likelihood of some other competitive provider coming in and saying it will run a rival water supply operation to the council's is very remote. If there is going to be no competition, why increase the cost of services to the consumer by suddenly loading on notional extra taxes?

Mr MARTYN EVANS—But wouldn't that diminish Brisbane's case for competition payments for

the Commonwealth? You could not keep the tax revenue and demand compensatory payments, because a lot of the compensation is based on a transfer of revenue to the Commonwealth through taxation.

Mr Sansom—The competition payments are not compensation. They are the Commonwealth sharing with other governments the increased tax revenues which it will obtain from the growth in domestic product and economic activity which is predicted to flow from us all being more competitive. To that extent, it would not diminish the case at all. Provided the activities were being conducted in a more efficient way, and that could be shown to contribute to national economic growth, then the case for competition payments would remain. But we take your point; that is why we have said that we cannot sensibly sit down and negotiate competition payments to local government before these clause 7 statements are complete and we know exactly what local government will be doing.

Mr MARTYN EVANS—Yes.

CHAIR—Do you think, by the way, that the deadline of 30 June 1996 for the negotiations on the clause 7 agreements to be concluded between the signatories to the COAG agreement is a problem?

Mr Sansom—No. The local government statements can be completed comfortably by that date, provided—as I said earlier—that we make sure that we have the necessary basic data to work on, and that is what the Emery consultancy aims to do.

CHAIR—The other issue that comes through—and I notice that it is part of you submission, both in its written form and in your opening comments today—is concern about the application of part 4 of the Trade Practices Act. To the best of our knowledge, there seems to be a misconception about the application of part 4 of the act. Even before the COAG agreement, local government had a wider exposure to part 4 of the Trade Practices Act than perhaps has been generally appreciated by local government.

Mr Sansom—Yes. That is a difficult issue. Our view on that is that we accept that local government was notionally subject to part 4. The only occasion on which that had ever been tested was the so-called Rockdale case. Of course, before the current round of changes, only defined public trading corporations were subject to the full weight of part 4, and the Rockdale case found that the local council concerned was not a public trading enterprise nor a corporation within the meaning of the act. Our view is that that same conclusion would have been reached for the overwhelming majority of councils in Australia.

Our view and our legal advice was that, prior to the current round of changes, local government, whilst notionally subject to part 4, in all likelihood would not have been caught, in nearly all specific instances. The changes now being made remove the requirement that you be defined as a trading corporation and, therefore, potentially everything that a local government does that could in any way be construed as a business—whether it be running a car park or a leisure centre or whatever—is now subject to part 4. So we believe there has been a significant change in the practical operations of part 4.

CHAIR—There is some debate about this, and I guess that it is something that the committee will have to take on board during its deliberations. The other issue that you briefly touched on was the notion of community service obligations, which is indeed part of our particular terms of reference. On this whole notion of community service obligations with respect to local government, do you have any views that you would like to emphasise to the committee?

Mr Sansom—I think it goes to a couple of things that I have said earlier. One is that we do see local government as being there to deliver a package of services to local communities. The reality is that in the past, many councils have achieved that by cross-subsidising from what might now be termed business operations to their general revenues. They have been able to top up their general revenues from their business operations and therefore deliver more services than might otherwise have been the case.

CHAIR—That has not always necessarily been the case, though. For example, a general purpose

council that operates its general accounts would normally have a separate trading operation and levy a separate rating for water and sewerage, wouldn't it?

Mr Sansom—That is correct.

CHAIR—I think there was no cross-subsidisation allowed, for example, in New South Wales, under those proposals where you had a general purpose council that was required to set separate rates for each of those three areas.

Mr Sansom—I would have to check on that. My understanding from some discussions recently is that some councils, whilst levying a separate water and sewer rate, did in fact then transfer some revenues across to their general accounts. Certainly, though—putting aside the things that are more easily defined, like water and sewerage—there would be a whole range of other minor business type operations, like car parks, leisure centres and all the rest of it, that in the past have contributed directly to the general revenue stream of the council.

CHAIR—Often, of course, it goes the other way too—

Mr Sansom—Sometimes, yes, there are deliberate decisions—

CHAIR—For example, swimming pools—

Mr Sansom—That is right.

CHAIR—Leisure centres tend to be a subsidy out of general rates anyway, because they are often loss-making enterprises.

Mr Sansom—Indeed. I think that is our point. Whichever way the subsidy has flowed, the councils concerned have taken the view that they are there to provide the overall package, and that is the best way of achieving it, given all the constraints that might exist, for example, within New South Wales with rate pegging and so on.

Our view is that you see in many councils, especially smaller councils, a delicately balanced approach to delivering a package of services. As we say in the submission, we would suggest that you really have to be very sure that the national economic benefits of going in and restructuring that operation in a major way are going to be very significant, before you would take any steps which might disrupt that fairly delicate balance.

As I said earlier, our other point about the whole question of community service obligations is the narrowness of local government's general revenue base. Therefore, the fact is that councils would have difficulty in meeting community service obligations from that general revenue base if they were no longer able to cross-subsidise within their business operation. If one class of water users was no longer subsidising another class of water users, most councils would not be able to make up the difference from their general revenues.

Mr CUNNINGHAM—I want to get back to the Queensland-Victoria situation, where Queensland has very large councils and very small councils.

Mr Sansom—Yes.

Mr CUNNINGHAM—What you are saying about the need for those small councils to be able to continue to operate very similarly to what they are doing at the present time, will not be occurring in the states that have gone for large councils, such as Victoria—and they have not gone for the real big ones either.

Mr Sansom—No.

Mr CUNNINGHAM—Where does your national body sit in relation to this policy difference between one state and another in the competition policy basis? If a council is a particular size, then the competition has more chance of operating. If it is a particular downsize, you are seeing real problems. Where is your input in regards to that at the moment?

Mr Sansom—This is a particular matter that we have asked Peter Emery to look at. I think a few preliminary thoughts are alluded to in our submission. Essentially, I think our position is likely to be that you set a threshold size for, say, the turnover of a business operation. In Queensland they are talking about some tens of millions of dollars. Then, irrespective of the size of the host council, you would say, 'If the local government business operation exceeds that turnover threshold, it should be subject to the various subclauses of the competition principles agreement.' If it falls below the threshold, the likelihood is that the benefits of applying the principles are unlikely to outweigh the costs and therefore you do not do that. If we operate on that basis, if we look at a threshold size for the business operation, it removes the problem that you are referring to of differential size of the parent council, because you are then just focusing on the scale of the business activity.

Mr CUNNINGHAM—I look forward to seeing the document. It will be very interesting.

Mr LATHAM—Mr Chairman, local government competition policy matters are very close to my heart and mind, so I am sorry I could not have been here earlier. I would just like to make one observation, to flush out also the attitude of the local government association nationally. That is to do with the focus of local government reform. I know, having a New South Wales background, I have always been amazed that so much of state government legislative reform has been about staffing matters by and large. We have not picked up the potential for corporatising certain council functions, where there are some very clear trading responsibilities, and I would have thought this national competition model provides a framework within which corporatisation is ideal, that is to take trading areas, identify rates of return on capital investment, transparency on community service obligations—not to wipe them out, but just to make them clearly identified in council budgets.

I would have thought that even in country areas, where the potential for competition is limited, the corporatisation model has benefits in that it leads to a better quality of information about council budgeting, about council responsibilities and resource allocation in general. My personal experience in local government always was that you cannot make quality decisions without quality information. I would have thought that at least the step forward with the corporatisation model would have some benefits for the quality of the decision making process. Is that something that the LGA is willing to endorse and advocate?

Mr Sansom—Our general approach from the outset of this is that we have broadly supported the thrust of competition policy, and that includes the approach you have mentioned. As our submission says, it is simply a matter of the manner in which the policy is applied. I think we would agree that it is entirely appropriate for councils to do the sorts of things that you have mentioned to make it transparent as to the nature of their business activities, the revenue streams, subsidies that are being made and so on and so forth. I do not think there is any argument about that at all. The question, though, that many councils are asking is whether then under the competition principles agreement they would be forced to the next step, which is to structurally separate those operations, apply full tax equivalents and potentially then, as I was saying earlier, have difficulty in meeting what would then become community service obligations.

It all depends on how the notion of tax equivalents is applied, where the money thus raised goes, whether it is retained in the council, whether it is passed on to states and Commonwealth, whether you are required to corporatise in a way which involves setting up a completely separate administrative structure or whether you do it as an accounting exercise within an overall administrative structure—all those sorts of questions are the ones which councils, especially the smaller councils, are raising with us.

As I said earlier, the problem we face at the moment is that, until we have got all these clause 7 statements out on the table and we can see exactly how the different states propose to go about applying the policy, we cannot give a blank cheque support for the policy itself. It has placed us in a very, very difficult

situation. We are not opposed to reform in local government, nor are we opposed to the competition policy, but we have to ensure on behalf of our members that the policy is sensibly applied. At this stage we just do not know if it is going to be sensibly applied.

Mr LATHAM—I would urge you to promote successful models and, with your indulgence, Mr Chairman, I might just mention my own experience of Liverpool City Council, where I corporatised the works division. This was somewhat of a revolution. The outcome now is that those staff, former staff, in the north of my electorate are actually winning contracts outside of council work, so there is a chance of public sector expansion. They are winning contracts with the army, doing works, winning the road maintenance contract from neighbouring Bankstown council, so the work force is growing by virtue of the competitive edge which they have developed over time. The works division now returns, I think, a $400,000 or $500,000 dividend to the central council budget every year. It is a dividend that is used to fund council responsibilities of a welfare nature, in the broad sense of welfare and community services.

That seems to me to be the perfect model for local government to adopt. I think there is great scope for states to move forward in that direction—not by a slash and burn approach, but to give local government its fair chance to compete to expand if it can and to use the proceeds of successful competition to fund other essential services.

Mr Sansom—One of the possible projects that we are discussing with Minister Howe at the moment under the new local government development program is in fact to have some sort of national best practice network on implementation of competition policy and related initiatives. We are very keen to do that, and obviously Liverpool city will be high on the list of best practice.

CHAIR—I will interrupt at this stage. I understand there is likely to be a division in the House, which will cause quorum problems. There may be other questions that members wish to raise, in which case we would like to have the opportunity to submit further questions to you in a written form.

Mr Sansom—Certainly.

CHAIR—On behalf of the committee, I thank you for your attendance here this morning. We thank you for your submission and look forward to further cooperation in receiving answers to subsequent questions, a copy of the Emery study and that other material that we have requested.

Resolved (on motion by Mr Martyn Evans):

That the committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

CHAIR—I thank you for your attendance and declare the hearing closed.

Committee adjourned at 11.35 a.m.