



# HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON BANKING, FINANCE AND  
PUBLIC ADMINISTRATION

**Reference: Aspects of the national competition policy reform package**

**BRISBANE**

**Friday, 10 November 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**

<b>CAMPBELL, Councillor John Holt, Deputy Mayor and Chairperson of Finance Committee, Brisbane City Council, GPO Box 1434, Brisbane, Queensland 4001 .....</b>	<b>175</b>
<b>HALLAM, Mr Gregory John, Executive Director (Economist), Local Government Association of Queensland, 60 Edmondstone Road, Mayne, Queensland .....</b>	<b>190</b>
<b>McHUGH, Mr John Denman, Manager of Finance, Brisbane City Council, 69 Ann Street, Brisbane, Queensland 4000 .....</b>	<b>175</b>
<b>PENNELL, Councillor James Elmslie Crawford, President, Local Government Association of Queensland, 60 Edmondstone Road, Mayne, Queensland .....</b>	<b>190</b>

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ADMINISTRATION

*Aspects of the national competition policy reform package*

BRISBANE

Friday, 10 November 1995

Present

Mr Simmons (Chair)

Mr Cunningham

Mr Somlyay

The committee met at 9.04 a.m.

Mr Simmons took the chair.

**CHAIR**—I declare open this hearing of the House of Representatives Standing Committee on Banking, Finance and Public Administration's inquiry into aspects of the national competition policy reform package. The committee has so far conducted three hearings in Melbourne, Sydney and Canberra. This past week we have had a number of wide ranging and very useful informal discussions with local government bodies here in Queensland.

More than 50 submissions have been received, a good number of them from local government representatives. Judging by the degree of interest shown by local government in this inquiry, the impact of the competition policy reform package is a matter of some concern. While the committee will also obviously be giving its attention to the other aspects of the terms of reference, the implications of the reforms for local government are clearly going to be the major focus of the inquiry.

The three main areas of concern to local government are: firstly, the application to local government of the Trade Practices Act; secondly, what might be done by state governments in applying the competition principles agreement; and, thirdly, payments to local government to compensate for the cost of competition policy reform. No doubt these will be among the matters canvassed at this hearing. In order to give ourselves time to address these issues thoroughly, I now begin today's proceedings.

**CAMPBELL, Councillor John Holt, Deputy Mayor and Chairperson of Finance Committee, Brisbane City Council, GPO Box 1434, Brisbane, Queensland 4001**

**McHUGH, Mr John Denman, Manager of Finance, Brisbane City Council, 69 Ann Street, Brisbane, Queensland 4000**

**CHAIR**—On behalf of the committee, I would like to welcome Councillor Campbell, the Deputy Mayor of Brisbane, who is appearing on behalf of the Brisbane City Council, and Mr McHugh, who is the finance manager of the Brisbane City Council. I advise you that the evidence you give is considered to be part of the proceedings of the parliament. Any attempt to mislead the committee may be regarded as contempt of the parliament. The committee has received a submission from the Brisbane City Council. It has been authorised for publication. Before we begin our questioning, would you like to make an opening statement?

**Councillor Campbell**—Yes, I would like to do that. The Brisbane City Council supports the generalities of the submissions that you have received from the Australian Local Government Association and the Local Government Association of Queensland, which I understand are also making a presentation. However, there are a few individual aspects of the Brisbane City Council that I would like to draw to your attention. We are the largest council in Australia. We feel that means that the national competition policy will have the greatest impact on the Brisbane City Council.

The Brisbane City Council covers a large area of Brisbane and has a number of features, including that we operate a public bus system and our water supply and sewage system is the largest local government run water and sewage system. Because of Queensland legislation, the Brisbane City Council has a high degree of involvement in planning on a regional basis, which is different to other councils interstate. Also we have significant other business activities.

There a number of things that concern us. In relation to the national competition pool dividend to local government, the April 1995 COAG meeting agreed to the development of a national competition pool dividend of some \$200 million. At COAG there was basic discussion about how local government would get access to that. There were general commitments given that local government would be looked after and that we would not miss out.

As a result of the actual agreement between the federal government and state governments, we will be looking to the federal government to be the honest broker in ensuring that local government does not miss out on the dividends provided to the states. As I understand, there is no guarantee under the current arrangements that local governments, whose businesses have been affected by the national competition policy and that have added to what is seen as the performance dividend of national competition policy, will necessarily get a fair share of that.

In Queensland the local government runs the water supply and sewage system and in Brisbane we have a public transport involvement and we believe that we will have a significant impact on the implementation of the national competition policy in Queensland. We will be seeking some sort of honest brokering on behalf of the federal government, through the federal parliament, to see that the states deal with local government appropriately. We feel that there has not been adequate consideration given to ensuring that we get our fair share of the performance dividend.

I would like to refer to the public benefit test. I think in our submission we went into some detail as to our concerns regarding public benefit tests. In simple terms, what we are concerned about is the possibility that other levels of government may force a community service obligation on what we see as a sovereignly

elected local government and force us to pay that community service obligation.

We believe clearly that if a level of government determines that there should be a community service obligation for public benefit then they should be the ones carrying the can and paying for it. We believe that we are elected democratically. There are certain areas, for example public transport in Brisbane, where we have concerns. You would have seen in the air this morning if you were looking out that there is a higher than usual degree of air pollution in Brisbane. Brisbane faces dramatic challenges in the future in terms of retaining its air quality. As a council, we have made a commitment, using ratepayers' money, for a community service obligation towards protecting the air quality through support of public transport and through a number of mechanisms.

We are committed to that and we are prepared to put money to that. However, we do not believe that we should be responsible financially for implementing other levels of governments' community service obligations. Sections of the council are being commercialised, but still we have to bear community service contributions. We believe that, if we are to bear that cost, we should be the ones making that decision not other levels of government. We should not just be simply implementing those decisions. So if through the public benefit process governments determine that there should be a community service obligation, a subsidy or a public contribution to a particular process, that is fine, but they should be the ones bearing the cost of it. I should not be imposed on us at another level of government.

I would like to refer to the proposal that under commercialisation of organisations there be a tax imputation. Basically, state and federal government organisations will be making tax equivalent payments. We believe that that will apply logically to our larger organisations and corporations that are affected by a national competition policy. That is fine, but we believe that just as in federal corporations where the money will be retained by the federal government and in state corporations where those tax equivalent payments will be retained by the state in local government organisations those tax equivalent payments should be retained by local government. If there is any suggestion that another level of government should be getting those tax equivalent payments, we would be extremely and totally opposed to that as it would be unfair and discriminatory.

Our concern is, for example, that it is possible that the method of implementation of this policy could be determined by the states. It is possible under the arrangements that a state government may—and I am not suggesting that there has been any proposal to do it—choose to simply take those tax equivalent payments and say that they are a contribution to the state treasury. There should be protection against that. We are seeking that the federal parliament should oversight that to protect local government from such a discriminatory practice if it were to occur.

I draw to your attention that we are committed in the Brisbane City Council to the spirit of national competition policy in that we believe that services should be provided at the best value for dollar for ratepayers. We are committed to the provision of community service obligations and we think that is a fair and transparent way to approach it. We are restructuring our council at the moment. For all the significant commercialised areas, commercial operating activities, we are setting up the sorts of structures that will comply with national competition policy.

However, we draw to your attention, as I am sure many other local authorities have, that there should be a cost benefit analysis and you should not require small trading operations to go through this structural separation, separation of books, reporting, et cetera, unnecessarily. I point out that we think implementation of this policy should differentiate between the smaller councils where the costs of doing all those things would outweigh the benefits, whereas we accept that in Brisbane's case there would be some of our larger operations—particularly water supply, sewerage, transport and perhaps some of the others—where that



separation is totally appropriate. We are voluntarily implementing that.

The effects of this commercialisation process implementing the national competition policy is having an effect on us. In actual fact we are negotiating through our enterprise bargaining agreement with the unions that we cover to take account of the fact that we are moving to this commercialised environment. That has been basically the primary thrust of those negotiations. I think it has been accepted at the highest levels of the unions that that is why we are proceeding along to make us a competitive, effective organisation and are not going down necessarily the Victorian path of open competitive tendering immediately.

We are basically developing a competitive structure but are giving our internal organisations a fair time to adjust. We are picking winners. We are not setting up people to fail. We are basically trying to take our work force along with us on this journey so they do not see it as a threat to their livelihood but in actual fact, through an agreed process, see it as just providing better services to our customers because we also give customer service as our primary objective. Thank you, that is the end of my opening remarks.

**CHAIR**—Thanks, Councillor Campbell, for your remarks. Mr McHugh, would you like to add in any way to Councillor Campbell's opening remarks before we begin our questions?

**Mr McHugh**—I would just like to reinforce one particular point that we have been dealing with in introducing the competition principles into the council—that is, what we are calling the X factors in the context of competitive neutrality. We talk about establishing level playing fields for public enterprise moving into the market place. We have identified that there are some disabilities in actually being government owned for an organisation to perform effectively within the private market place. We are attaching a title to that disability—we are calling it the 'X factor'—in the way that the competitive neutrality principle asks us to identify tax equivalent regimes and debt equivalent costs.

There are some costs that are borne by an organisation by being owned by the government. We have to be leading edge in a whole range of areas, such as safety in the workplace, et cetera. So we become a front runner in all those sorts of changes whether they are benefits to the environment, or whatever, and we have to be a model corporate citizen in everything we do.

We are looking at identifying and doing some scholarship on the X factor, as we call it, and actually allowing that to be a serious consideration in demonstrating competitive neutrality. We are quite happy to accept that in doing that we have to look at the areas of taxation equivalence, equivalent debt costs, et cetera, but we feel that in order to ensure that level playing field some recognition is also given to the fact that organisations that are wholly government owned do carry with them some costs of that ownership whether it is flexibility, et cetera.

We are looking at ways of recognising that, and we are probably going to identify that in our analysis as some reduction in the dividend that would otherwise be payable if that organisation was able to operate as if it was privately owned. So a dividend that might be acceptable for a totally privately owned business could be in the order of, say, 10 per cent, but we might see a public owned enterprise being able to return only eight per cent. That would be the sort of thing that we would think in reality would reflect very much the sort of outcome that you could expect, given that it would be totally government owned.

That is probably the only added point that I would make. We are quite happy to see the development of competitive neutrality, provided there is some recognition given to the fact that organisations that are totally government owned do wear some costs that, if they were totally privately owned, they would not have to wear.

**CHAIR**—We understand from evidence given to the committee a couple of weeks ago at our public hearing in Canberra by the chief executive of the Australian Local Government Association, Mr Sansom, that in this state there is a high level working party involving the LGAQ and the Department of Premier and

Cabinet that seems to be well advanced in terms of working through the requirement of clause 7 of the competition principles agreement to consult with local government. Has that been taken a step further in the case of Brisbane City Council being such a unique body, the special relationship that you have with that working committee, or are you just working through the LGAQ?

**Councillor Campbell**—We are working with the LGAQ. In actual fact Mr McHugh is a member of that working group within the Local Government Association of Queensland, of which we are members. Mr McHugh is operating with the executive director of the local government association on that review. I think it is also driven by the local government department with Treasury representation.

**CHAIR**—For the purposes of the record, Mr McHugh, without necessarily breaching any confidentiality that might be involved, is it possible for you to give an outline as to the progress you see in terms of coming up with the public statements that are required under the competition principles agreement by 30 June? Is that target date likely to be reached in your view?

**Mr McHugh**—Yes, I think I could be quite confident in saying that the work that is being done by that committee is identifying the issues and in fact starting to resolve some of the problems of making the national competition policy principles fit within the local government environment within the state of Queensland. So I am quite confident that by June next year we will have very useful guidelines in place for local government in this state to run with the spirit of the competition principles agreement.

**CHAIR**—Councillor Campbell mentioned in his opening remarks that in fact a large organisation such as the Brisbane City Council that has water and sewerage undertakings may be in a somewhat different position from that of a smaller shire council with a similar undertaking, or indeed one of the provincial areas to the north of Brisbane that may have water and sewerage undertakings to their provincial city. Do you see a situation where it is possible in those published statements to have a differentiation by way of a scale of council operations that would still fit the spirit and philosophy of the principles agreement?

**Mr McHugh**—Yes, Mr Chairman, I think that the model that we will come up with in this state will recognise that there are differences associated with different scales of operation and that in some circumstances the overall efficiency and effectiveness of service delivery is best left within the vehicle that it is currently within. Whereas in larger set-ups such as Brisbane City Council we would see a very distinct advantage in getting a discrete focus on service delivery and the business operation.

We are looking at ways of making that sort of judgment call in the working group and we have already come up with, if you like, sizing mechanisms to identify those businesses that would be subject to the most stringent competition principle and competitive neutrality requirements, including the tax equivalent regimes, et cetera. Perhaps we could move to full corporatisation as businesses have a turnover in excess of a particular figure. That figure has not been finalised yet but it is of the order of \$15 million plus for most of the businesses.

For smaller water supply and sewerage undertakings with a turnover of around about \$7½ million, we would see almost the same frame of reference being applied, but not perhaps for the corporatisation push, et cetera. And for things less than that—smaller again—we are looking to another reference base which would include a code of competitive behaviour to make judgments about the way those smaller delivery mechanisms are brought in touch with the principles of competition. It is a case of getting the best fit for the different organisational structures. I think the model that has been developed within that working group will prove to be quite a resilient one and will work well in Queensland.

**CHAIR**—Does that discussion also cover the broad issue of concern that I know is out there in local government, the feeling that they are going to be left out of the action; that instead of getting some of the bickies they will just get the crumbs as they fall off the table in terms of this pool dividend that may be

available?

**Mr McHugh**—I think that local government is going to be faced with quite a lot of adjustment as a result of this. Just speaking for my own organisation, we are involved in significant rebuilding of the culture, turning the whole organisation around to a commercial focus. We would think that the benefit that will flow through to the community from that process is that the federal government is going to be paying over these contributions to the states. But in Queensland, at least 20 to 25 per cent of that should be flowing through into the local government arena.

**CHAIR**—What should the mechanism for that be—through financial assistance grants or some other separately identified but perhaps untied component that would go directly from the Commonwealth to local government?

**Councillor Campbell**—If I may answer that, because that is a political side of things: we would be opposed to it being part of financial assistance grants. Maybe the board could be used, but they should not be linked or mixed in with financial assistance grants. They should be separately allocated to those organisations that have—this is the Brisbane City Council's position—made the greatest contribution to competition policy.

**CHAIR**—So it should be in perhaps the same vein as the financial assistance grants? As the financial assistance grants include a component separately identified for road funding but untied, are you saying there perhaps should be another element as part of that package that would go, or are you talking about something completely discrete from the financial assistance and road funding components?

**Councillor Campbell**—I think it has to be clearly separated but we would not be fussed about the institutional arrangements as long as they are absolutely clarified and not mixed into and confused with financial assistance grants generally. But if they use the structures and institutions I do not think that would concern us.

**CHAIR**—What is the state government's view of those sorts of payments given the fact that state governments, irrespective of their political persuasions, have historically treated local government with a great deal of disdain?

**Councillor Campbell**—Their position would be that they are taking into account our concerns and have not determined their position. So you would have to ask them what their position is; we have not been advised. But we certainly are making our views known, particularly through the local government associations.

**Mr SOMLYAY**—See if I can get this clear. You want the state government to pay you the competition dividend and not the federal government?

**Councillor Campbell**—Our understanding is that under the institutional arrangements the money will go from the federal government to the state government. What we would like is for the federal government and parliament to take a supervising role to ensure through pressure, overview or whatever, that they distribute that within Queensland on an equitable basis and that local government does not miss out.

**Mr SOMLYAY**—We had that concern expressed in Longreach and Roma yesterday. Their main concern is competitive tendering for roadworks. Does the Brisbane City Council tender for roadworks with Main Roads or the federal Department of Transport?

**Councillor Campbell**—It may in future. It has not been a basic part of our business, no. We have got enough roadworks in our large council anyway to keep our people busy. We may tender in the future but it is not the same issue because small councils need that work to retain that critical mass. We do not have that issue because we have enough of our own work to retain a critical mass. But I might add that our commercialised road building sections are becoming very competitive. We are competing very well and out-competing the private sector. So we are setting them up as business units and winning contracts. When they are not busy doing our work they are getting private work. So we do not have the issue that the smaller

councils out in the country have for those roadworks which are an essential part of keeping their critical mass.

**Mr CUNNINGHAM**—In that circumstance do you openly tender for the works in your own system as well as tendering up for the ones outside? Do you open them up at this stage to a competitive tendering situation?

**Councillor Campbell**—Yes.

**Mr CUNNINGHAM**—I just want to bring the Victorian position in, to get a bit of a feel for what you are putting. As you know, the way that Victoria is going at the moment it is very much down the privatisation road. Even though at the moment major power stations, for instance, are declaring profits, they are also declaring publicly what their state company tax would be—36c in the dollar. Corporatisation moves to privatisation and that money moves from the state directly to the Commonwealth. How is the argument going to be sustained if a corporatised body is using the same process in New South Wales? For instance, when the power stations start declaring profits, their company taxes no doubt would go to the state government. Are you then flowing that on to your council saying that if a corporatised section of your operation makes a profit, even though you would show, perhaps, in figures, that you had a corporatised tax liability of, say, 36c on your profit, you would see that being maintained in your own structure and not having to go through a process, either state or federal?

**Councillor Campbell**—We believe that if it is good enough for the state and federal governments—the Federal Airports Corporation is exempt from rates for most of its area so there is a whole lot of revenue that we miss out on as a result of the crown taking unto themselves certain exemptions—the same rules that apply to federal and state corporations should apply to us. We are a level of government. We are operating. We have similar problems of missed revenue through various crown land exemptions. We should not have a drain on our potential revenue as a result of changing to a corporatised structure.

**Mr CUNNINGHAM**—So your profits, whether they be declaring them and showing what is going on, would be retained by the operation.

**Councillor Campbell**—We would want that, yes.

**Mr CUNNINGHAM**—Or the equivalent amount of money?

**Councillor Campbell**—Or retained by the business equivalent.

**Mr McHugh**—Yes. We would identify separately the organisational issue and arrange for a tax equivalent to be paid to the city council so it would become revenue of the city council to be used for civic government purposes. It would not be retained in the business. So the business would continue to operate as any other business and pay its tax obligations.

**Councillor Campbell**—So business would make a contribution to our general revenue—our equivalent of a treasury.

**Mr McHugh**—So we are asking that all the tax equivalent arrangements that apply between the Commonwealth and the states apply to local government. That would require an amendment to the Income Tax Assessment Act to specifically include local government as part of the group that is currently exempt—that is, the state-owned enterprises which have recently been exempted under the Income Tax Assessment Act. We would just like to add in there state and local government owned enterprise.

**Mr CUNNINGHAM**—What is your view of how negotiations are going, taking into account that Victoria will be in a position of transferring 36c in the dollar of all profitable organisations that they privatise across to the federal government? Would they be looking for an agreement to get a different slice of the cake back? How is it all going to pan out across the nation?

**Councillor Campbell**—I suppose that is the challenge for you; that is not our problem.

**Mr McHugh**—Is this a business that—

**Mr CUNNINGHAM**—I am talking about all the privatisation of so much of Victoria's operations.

**Mr McHugh**—Yes, but the privatised businesses are no longer owned by the state, so the deal is off as soon as the ownership changes. We are only talking about while the ownership remains 100 per cent within the public sector.

**Councillor Campbell**—Presumably, they have taken that into account when they decide to privatise. On that privatisation issue, a decision has been made at the Brisbane City Council that we are going down the public ownership commercialisation process and make our organisation competitive. We are not looking at privatising, and that is part of our undertaking with our staff through enterprise bargaining. So we are looking at having a different model to the Victorian model, which is compulsory competitive tendering which is leading in a lot of ways to privatisation. We are trying to say that we believe the public sector, in our case and in the vast majority of cases, can be competitive. That is what we are endeavouring to do.

If it is subsequently proven that our work force and our organisation cannot be competitive, then we will have to adjust. But we are going to give a real opportunity to our internal service providers and internal commercial operations to take the challenge and give them an opportunity to meet that challenge, to be genuinely competitive organisations.

**CHAIR**—Your submission does not really traverse the area of part 4 of the Trade Practices Act. This has been an issue that has been raised with the committee on a number of occasions. The concern that has been expressed relates to the extent of possible involvement of local government with part 4 of the Trade Practices Act.

What has been council's experience with the application of part 4 of the Trade Practices Act to its activities to date? Do you envisage that the extension of coverage as a result of state competition legislation would make any difference to council's operation and liability through part 4 of the Trade Practices Act?

**Mr McHugh**—Yes, I think in the context of marketing products and services, we are obviously going to have to be a lot more aware of the requirements of the Trade Practices Act. We are already operating to the requirements of that act in a whole range of service delivery areas. By way of a very recent example, we have changed all our superannuation arrangements with our staff, so we had to make offers to those staff. All of that process had to be conducted, having due regard to all of the provisions of the Trade Practices Act in terms of offers, construction of prospectuses, et cetera. So we are fairly sensitive to those requirements.

We are not concerned in the sense that we are not looking for exemptions from trade practices provisions, except for those parts of our business which we would see as being outside of the marketplace. The government service areas we see as being outside of the trade practices regime, and rightfully so. But where we are in there trading and doing it in a competitive context, we have no concerns with complying with the trade practices provisions.

We would like to make sure that the provisions regarding access and so forth are in the context of the competition principles agreement and fully explored. The artificial local government boundaries which exist at the moment are in fact real boundaries to marketplaces at the present time and we would be looking to see that sort of artificiality removed. We would be quite happy to see the Trade Practices Act and the access regime provisions that have recently been added to it made to work effectively there.

We think that is going to probably require some significant change in mind set, because the delivery of these services over many years has been conditioned on the basis that the marketplace stops at local government boundaries or state boundaries. A lot of the framework and legislative provisions within which we work still have that characteristic to them.

So all of that has to be unbundled, and I think the legislative review process, which has until the end

of this decade to complete, will go a long way to addressing all of those issues, unbundle some of those non-competitive practices and allow our corporatised business units to operate with a free hand in the same way that any privately owned operator would be able to operate and not be restricted by artificial local government boundaries or the like.

**Councillor Campbell**—If I may add just briefly to that, we would be concerned that the state governments have the ability to exempt areas they see as ‘business’ and not ‘trading’, whereas there is going to be somebody else making the decision on that for local government. We seek at the federal level some sort of scrutiny to ensure that there is a fairness in application, that there is not a whole range of activities that the state exempt, which they can as I understand the arrangements. But we do not have that same discretion as we are also popularly elected. I think it should be clear that if there is some exemptions applying to state activities that are considered core non-trading activities, then there should be an extension of that principle to local government as well.

**CHAIR**—One of the issues that is tied up with that last point is this question of independence or dependence, as local government often sees its relationship with state government. What I would like you to do is to expand on your views and address the issues as to how the general community interest that the state represents is being accommodated and expand on any sort of suggested mechanisms for determining public interest issues, including any review mechanisms that you think would be appropriate. If it is possible, perhaps you might like to outline the views of the state government with respect to that sort of issue of the relative independence of local government, in particular, the Brisbane City Council.

**Mr McHugh**—The issue of public benefit is addressed in our submission. I think I picked up on the point that you are questioning.

**CHAIR**—Specifically the public interest and the question about state oversight of public interest issues.

**Mr McHugh**—We feel that generally there is a reasonable position being taken in Queensland with regard to that matter. However, we would like to have some more clear statement that public benefit issues can be decided by local government in the context in which the debate associated with them may be taking place. We are a little concerned that public benefit, public interest, community service obligation-type arguments could be propelled into another arena and dealt with one step removed from the community that is being impacted by those decisions. That is a valid concern.

We would like to make sure that, in the mechanisms that are finally brought together, that public interest or public benefit deliberative process is effectively accommodated within the local government area so that local government has its own powers and processes to seriously consider public interest issues. That would be in the context of being one step removed from the commercial process. If a CSO problem develops as a perceived problem, the resolution of that problem should be by the government closest to the delivery of the public benefit, which in the most part for us is the local council.

If we are moving to decide prices in terms of the delivery of transport bus services across Brisbane, the council has to make decisions about how much and in what direction community service payments or obligations should be met. We have developed policies that say that we will move to directly cost those community service obligations. We have policies that say that we will develop those understandings on what we call an ‘avoidable cost basis’. So that policy work has been done.

We will be working over the next three to five years to define the community service obligations that we have as a council into the delivery of public transport in Brisbane. Once those decisions are taken, that will give rise to pricing decisions that flow out of that in order for the business to make a profit. So the business will be running as a business. It will be looking to provide a dividend to its owners. As part of its

revenue streams, it will have the CSO revenues to take into account. Those CSO revenues will be negotiated regularly. If a disagreement or some sort of public debate develops around that issue, we are of the view that that public debate should be resolved by the local government, not propelled into another arena. That is our concern.

**Councillor Campbell**—The bus service is a very good example of there being different roles. The state also provides a CSO. The state government provides subsidies to both privately owned and publicly run bus services. They are doing that basically to support pensioners and students, et cetera, using the public transport system. Separate to that, Brisbane City Council has their own community service obligations. So I think that is an interesting case.

We will not determine on what basis the state gives their CSOs. We would therefore expect that they respect our processes for determining our community service obligation and not take that decision away from us as the popularly elected local authority that represents the interests of the people of Brisbane as to how their rate revenue and other revenue is allocated. So there is a possibility in what we are detecting in other states that there may be an attempt to uniformly apply these CSO obligations across state governments. We would be very much opposed to that.

**CHAIR**—Are those CSOs very transparent, or are they just within the internal machinations of the financial arrangements of the Brisbane City Council?

**Councillor Campbell**—They are very transparent in our budget. In the last budget, we set up Brisbane Transport as a separate body. We have a transparent allocation of our community service obligations. Our understanding is improving, as our manager has pointed out, on the mechanism for applying it. We have a contract between the Department of Transport and the council, as the owner, and this will be developed further. We are setting up a board structure to run Brisbane Transport so that it is totally transparent. It is a lump sum. We are developing our understanding of what will be exchanged and the basis of that exchange of money in the future.

**Mr SOMLYAY**—I suppose the bottom line with the whole Hilmer process is that there is big picture about the benefits for the country and about the benefits of competition to provide an infrastructure for Australia to become competitive in the international market. What benefit do you see in this process to the ratepayer?

**Councillor Campbell**—Even if there was not a Hilmer report and a national competition policy, we would have been moving through our customer focus and our concern for value for money. The rate dollar is so much harder to extract from ratepayers for a range of reasons than the tax dollar is possible to extract from taxpayers. I think that process was already operating. The national competition policy has allowed us to focus and actually pool the wisdom nationally on how you go about setting up structures. There was already an existing value for money lobby; it was already out there. We would have moved in that direction anyway. It has allowed us to have clearer thinking and move in that direction.

We think it is also a benefit from the point of view of our contribution to microeconomic reform and lowering the inputs into our export business in Brisbane. That is good value. We see that we are making a contribution to that national agenda. At the local level, it is having the additional impact of allowing us to push the idea of getting value for money. In dealing with our work force, the union leadership understands what is happening nationally and what the objectives are. We are getting a greater understanding of the ideas. It makes it easier for us to bring our work force along with us in the new competitive philosophy. So it has given us benefits in that regard. I would argue that we were probably moving in some of those directions anyway.

**Mr McHugh**—Research done on the whole question of the public sector and value-adding activities

suggests that there is a very strong potential to eliminate non-value-adding activity. Figures of up to 35 per cent have been thrown up in some of that research work. If you could look to eliminate out of our business processes even 10 per cent of that, that would mean a significant amount of money on the table, which we would then redirect into the community to provide needed services.

In the final analysis it is the elimination of wasteful practice and targeting our spending so that of every dollar that we spend a lot more of it is value adding. In other words, it provides a direct benefit to the customer and we cut out as much as we can the non-value adding activity within these various organisational structures—right through and including the delivery of government services. We are not just stopping just with the commercial areas; we are looking at the government service delivery as well.

**Mr CUNNINGHAM**—In the last two days the smaller councils have made it quite clear that they have been doing that for a considerable time. Most of their core businesses are now profitable and they are not interested in them. There are a few swimming pools, perhaps, which they subsidise, but in most of the other areas road funding has become a major factor because of the need to maintain the town and the population. In your circumstances, what are your criteria where you will continue to run a publicly owned operation versus having it privatised or tendered out? How much of the X factor comes into that?

**Mr SOMLYAY**—Can you expand that to things like childcare and welfare services?

**Councillor Campbell**—With our current activities we are going through a process review of identifying our costs and doing a costing process. Our internal accounting process, through adopting accrual accounting, has identified real costs far better. We are going through a process and we are going to bring along our work force in reviewing all our activities to make them competitive. We are going to benchmark across the range and if, after a period that is still being negotiated, they do not meet benchmarks we will say, 'Well, we will have to review whether or not it is appropriate for us to continue on to provide that service.' But we are going to go through a process and rather than saying, 'Tomorrow you are going to be involved in competitive tendering', we are saying, 'Let's do a work review. Let's benchmark through a cooperative process review'. We are working at what is a reasonable time and we are restructuring the organisation to gain that separation of planning and delivery. We have a large range of activities. We are commercialising. We have been very successful with our city fleet in the purchasing and delivering of our fleet management.

Basically, we are looking seriously at actually setting up companies for provision of construction services. In the works department we are separating the process of planning from the company that has the construction business. We are doing that across the board. Queensland is different from Victoria and in Brisbane we only run two child-care centres, but we are basically setting them up and looking at making them competitive and reaching benchmark standards.

We are interested in the idea of benchmarking. We benchmark ourselves wherever possible with other capital cities and other larger authorities to see whether or not we are meeting those standards. I think that is the general approach that we are applying. With regard to the things we are doing now we are saying, 'Let's try and continue to do them, but they have to reach benchmarks. We have to give you a reasonable time to move there.' We are picking the ones that we think will be most competitive and most successful to go into those full commercialised structures. We are giving those that may be a little bit behind the eight ball a bit more time to get ready. We are saying clearly the whole competitive approach is going across the board and we are looking at meeting benchmarks so that our ratepayers are not subsidising far more than any other ratepayer in Australia.

**Mr SOMLYAY**—I have just one more point on council debt. I do not know the level of debt of the Brisbane City Council, but how does debt servicing affect your capacity to be competitive? We have spoken to shires that have no debt and we have spoken to shires that have huge debts. In the growth areas they tend



to have more debt than the shrinking areas. How does it affect your capacity? Do you spread the burden of debt servicing across the board?

**Mr McHugh**—I would like to comment on both those questions because there is a joiner there. I think the question was whether or not private ownership versus public ownership would be involved. We are exploring the idea of the private sector being involved in part of our service delivery and we have actively encouraged discussion and debate and inquiry into a whole range of opportunity there. But we are looking at that in the context of extension and expansion of service. We are not looking at it in terms of selling off the silver. We are not in that position. However, we do see that if we want to achieve appropriate levels of investment and reinvestment—particularly new and expansionary investment—we may need to go beyond our own resources and we may need to encourage the private sector into investment in some part of our infrastructure in particular areas where it suits our business, suits their business, and suits the overall economic well-being of the community.

That is our tactic at the moment and we are quite active and open about that. We are not sort of super-sensitive about this ownership issue. What we are looking for is the best economic resolution and, as Councillor Campbell has pointed out, we are not going to trade one position off for another just blindly on the basis of a quick buck. That is not what we are on about. We do have a capital constraint, like any business. We have our own independent standard and cause rating as an organisation. We rate AA-plus, independent of the state, and we are quite jealously protecting that rating because it provides us with a very strong argument to have access to lower cost of funds.

To achieve and maintain that sort of rating we have to adopt certain financial strategies, and that includes recognition that an organisation has a capital constraint and has to work within that sort of framework. We will be probably be looking for some sort of partnerships on an infrastructure basis into the future which will allow and see private sector investment in infrastructure, but it will not be selling and swapping in that context—swapping in and out.

As far as the commercialised businesses are concerned, again it provides us with a great opportunity to do the right and sensible thing in setting these businesses up. We will set them up from afresh as viable businesses, and again, as John said, we are not setting them up to lose, we are setting them up to win. Each of the commercialised business units that we will set up will be a winner and will have a capacity and a revenue stream associated with it and will have the right amount of debt and equity in its capital structure to pay a dividend based on our valuation of the business. Our bus business, for instance, has a capacity now to pay us a dividend. It is not a business out there losing \$60 million a year. It is in fact a business that can pay a dividend and that dividend is one of the financial measures that we apply to the management of that business.

The CSOs are a separate issue altogether. What we pay into that business by way of community service obligations is independently determined and costed separately. Then the business has got to manage within that. In setting that business up, we have identified what were the appropriate debt-equity ratios and we have associated with that business a certain amount of debt. In the case of transport, it is roughly 60/40—40 per cent equity, 60 per cent debt. When we are finally finished this development of the several businesses we will have basically parceled our debt across the businesses in the appropriate debt-equity mix suited to the nature of the business. We would expect that, generally speaking, that will give rise to a good outcome for the city generally. It puts a sharper focus on the management of that debt. It provides a business focus for the existence of the debt as distinct from a political focus, and it sets all the right sort of benchmarks and financial parameters for managing it into the future.

**Mr CUNNINGHAM**—Are you establishing boards? Have you got any management boards in place

at the moment that take responsibility in this corporatised equity situation?

**Councillor Campbell**—We have not established one, but we have intentions of establishing an advisory board for our transport very shortly. We also intend to set up a board for our water supply and sewerage. I think we will require changes to the City of Brisbane Act and the Local Government Act to make them equivalent to state corporatised or federally corporatised entities. There is no provision, as I understand, for doing this. We are setting up advisory boards which will, I suppose, be getting close to de facto equivalents, but legally there will not be separate legal structures until we get appropriate amendments to both the City of Brisbane Act and the Local Government Act.

**Mr CUNNINGHAM**—Will you require changes to legislation before you would be able to bring in a private sector capital injection as part of the operation and place on the board? How do you propose to get to that point?

**Councillor Campbell**—To the board, yes.

**Mr CUNNINGHAM**—Even to the advisory board at the moment. Is it within the capacity at the moment in this competition structure to have your structure sitting beside an opponent? For transport you will not have an opponent—you will, I suppose, in some sectors, yes. How do you propose to get to that point? What laws need to be changed? How much of that comes into the competition policy issue?

**Mr McHugh**—We are looking at changing the City of Brisbane Act to allow us to develop two models. One is the commercialised business unit model, which allows the council to delegate with full power and authority certain functions to an advisory board or to a board sitting over a commercialised business unit. We are also looking for another model which would be a fully corporatised statutory corporation, if you like. We want the powers to allow us to incorporate as well.

So I understand that the act will be changed to accommodate both of those models. We see them as being very useful models because the first one will probably not have as much of the trappings of separation that would be associated with the fully corporatised and incorporated model and can provide a very useful transitional process as well if you are wanting to transition from being totally part of the city to a commercialised business unit and eventually to a statutory incorporated incorporation.

So that legislation needs to be put in place for us to manage these separations. At the moment the council has not got a capacity to delegate in that way. It must make all of the decisions itself and it has all of the responsibilities and accountabilities attached to it.

**CHAIR**—Any final remarks you would like to make before we conclude?

**Councillor Campbell**—Only to again say that we are very pleased that this process is going ahead. I think the local government was concerned that they were out there on their own, as it were, and were very much an afterthought in this whole national competition policy process, whereas for some of our communities the impact on local government will probably bear the greatest impact of national competition policy.

So we urge your committee to draw to the attention of the government and the parliament that in actual fact we are an important part in the national economy and that, as service deliverers for our local communities, there has been a tendency to think of us as very much small fry and not part of the big game as it were. We think there should be a focus and we would have hoped that in the earlier stages there would have been greater consultation with local government as to its possible impacts.

We appreciate that the federal government and the state governments are realising that there are significant impacts going to occur to local communities and to their local government. We congratulate your committee for taking the initiative of being involved and giving us an opportunity to draw our attentions and our concerns to you. Hopefully, you will make recommendations appropriately to bolster up that consideration of the impacts on local communities. Thank you.

**CHAIR**—I can assure you local government has got a few friends in Canberra still.

[10.20 a.m.]

**HALLAM, Mr Gregory John, Executive Director (Economist), Local Government Association of Queensland, 60 Edmondstone Road, Mayne, Queensland**

**PENNELL, Councillor James Elmslie Crawford, President, Local Government Association of Queensland, 60 Edmondstone Road, Mayne, Queensland**

**CHAIR**—I reconvene the hearing. I welcome the witnesses from the Local Government Association of Queensland. Before beginning, I advise you that evidence given in the public hearing today is considered to be part of the proceedings of parliament and, accordingly, I advise you that any attempt to mislead the committee may be regarded as contempt of parliament.

I appreciate this opportunity to meet with you because over the course of the last few days we have had a chance to have a number of informal meetings with local government authorities in three centres. From time to time they have raised and we have raised the name of the association in terms of the appropriate organisation with which to work through some of the concerns. This morning may be a very good opportunity for us to bounce off the association some of the concerns that have been coming to us.

Perhaps in a national sense I could put to you that there are, in fact, three major strands of concern coming through on the part of local government Australia-wide. Firstly, there is how the Trade Practices Act, in particular part 4 of the Trade Practices Act, may impact on local government in the competition policy reform package. Secondly, there is what might be done by state governments in applying the competition principles agreements by that state government. Thirdly, and a very important one to local government, there is their sharing of the compensation for the cost of the competition policy reform. We had the opportunity to pursue these and other issues with representatives of the Australian Local Government Association in Canberra a couple of weeks ago. Perhaps before I begin you may have some opening remarks that you would like to make to the committee.

**Mr Hallam**—Thank you very much, Mr Chairman. Certainly we welcome the opportunity to appear before the committee. We congratulate the government on setting up a committee to address these issues, principally on the basis that we believe the COAG process did not have proper regard to either the spatial consequences of the decisions of COAG and to the implications for particularly the lower paid sector of the work force. We think that is significant, and we certainly hope that your committee of inquiry will have regard to those matters.

In terms of our opening ambit, I think the important thing we would want to say in respect of Queensland local government, and I suppose one hears this whichever state you might be in, is that we are significantly different. You may well have picked that up in your discussions and travels over the last few days. I emphasise the point by way of providing the following figures. Last year the Queensland local government spent \$3.2 billion. It is a matter of record—that is by the ABS.

We have the greatest exposure in the country in terms of trade enterprise. Again, for the record, Queensland spends about \$1.6 billion in that ABS classification of trade enterprises. That is a historical consequence of local government in Queensland having the functional responsibility for water and waste water, water and sewerage. As you would appreciate, that is not the case in any other state. In other states, some of the authorities have responsibility, but in this state local government has the entire responsibility for water and waste water. I have to say that, again, that accounts for one half of council's outlays in local government in the state.

The other function I think we need to reflect on is that of all the various state jurisdictions around the

country, local government in Queensland has the most integrated operation; that is, we have the full planning responsibility as well. The operation of what may well be classed as trade enterprises very much relates to the planning function of the local government, which is not necessarily the case in all other states. So I also emphasise the integration issue.

Without doubt, the Local Government Association of Queensland has probably been the most vociferous of all the state and local government bodies in relation to national competition policy, going back as far as April last year; the reason being that our members, of course, have the greatest potential exposure to competition policy reform. We are on the record any number of times in submissions we have made to COAG and other bodies that we are not opposed to reform, indeed we welcome competition. However, we believe it should be done in a pragmatic way and having regard to the special circumstances of rural and regional Australians—in particular rural and regional Queenslanders—and the implications, particularly in rural areas, for the local government work force, the external work force.

We would simply ask your body to have regard to those matters. In the broad sense we are satisfied with the level of consultation we are having with the state government, indeed we have been delighted. We want to have that placed on the record. The processes we are working through in terms of developing the clause 7 agreement have been exemplary. We have had absolute cooperation and full consultation. While there is not a final determination, certainly there is a fair bit of accord as to what the final position might be. That is a matter that the cabinet will determine in a number of weeks and there will be—I think on the 20th of this month—an issues paper distributed to every council in Queensland setting out those sorts of matters, particularly in relation to the competitive neutrality aspects.

**CHAIR**—We would be very anxious to get a copy of that paper when it is available.

**Mr Hallam**—Fine, we will make sure that happens. The other issue I will just quickly touch on before we get into the more substantive issues is that while we are largely satisfied with where we are at with the Queensland government, there are a range of other non-Queensland government activities, or non-local government activities, which will significantly impact on our councils and the communities they represent. I understand from my colleagues that some of those matters have been raised with you in the last couple of days in Roma and Longreach, but I will just elaborate for a moment.

The national highway is not just a ribbon that runs up the coastline; the national highway runs through the south west, as you will appreciate, the central west and the north west. There was a lot of activity in those areas where councils have enjoyed restricted access to Commonwealth works—and they are significant in the sense that not only do they maintain a work force, a base in those communities and obviously a multiplier effect in those small places, they also enable the council to have a level of skill in plant and expertise that would not otherwise be available. We note that.

Again we reflect that Queensland is different. The geography of Queensland is immense: Victoria fits into Queensland six times; we have shires half the size of Victoria. Some of these people are very remote. It is not uncommon, as you may have picked up, for councillors to fly to council meetings or certainly to drive two or three hours in some of those places. We are talking about a vast area of the state. We are also only one of two states in the Commonwealth that has total incorporation; that is, the entire land mass of Queensland is covered by local government.

Obviously, the compensation issue is a critical one for us. I have certainly read at length the Industry Commission report on growth and revenue implications for a national competition policy. It has been made very clear in that report that it is indeed the state and federal governments which will benefit. We do not accept the sorts of very rosy predictions that have been made by that Industry Commission report. It is flawed logic. If you go through the report it makes it very clear that it is a house of cards on which the assumptions

are built. It assumes no changes in monetary policy, no changes in government outlays. All sorts of other extraordinary assumptions are built into that model. We certainly do not accept that there is going to be a five per cent increase in GDP as a consequence of reform. Having said that, we think there will be some advantages.

The point I make is that it will only be the Commonwealth and state governments that will gain, through their various forms of business taxes—either straight out income tax or sales tax—and the states are able to tap into those revenues via things like stamp duties. Rates and charges simply are not a measure of turnover in the economy or indeed the business community. Local government simply will not be a beneficiary of any additional funding in that respect.

Obviously, and without pre-empting the decision of cabinet, there will be a number of the larger councils in Queensland that will go through either corporatisation—that is, full structural separation in terms of the business undertakings—or commercialisation, the formation of business units. There will be some substantial costs involved in that process. As you would have heard in various places, one of the things that local government has been completely locked out of is access to funding.

The COAG decision in Darwin in April last year was to provide for local government. A pot of money—for want of a better word—has yet to be put aside. There is no specific fund there for local government. Quite clearly, we believe that we have to argue a cogent case. We have to be able to prove the cost. We are about to do that. We have actually spoken to the councils that may potentially be affected. We are getting them to give us, as best they can, estimates of what the actual transitional costs will be to go from where they are now to corporate models that comply with the legislation.

In terms of the trade practises legislation, we have taken substantial advice from ALGA, Minter Ellison and our own legal people, King and Co. We are not overly concerned with the application of part IV. I think you would realise that this is a moot point. It has been argued—and probably correctly so—that that is already applied anyway. The Rockdale case is cited in relation to those matters.

What we are contemplating with the state government—and working towards this very minute—is a system where those councils that are not formally caught in the Hilmer net will have a voluntary code of conduct which will be for contestable business. Even if it is a \$50,000 business—it might be a council caravan park or quarry where there is a potential competitor—we will put in place a voluntary code of conduct.

We certainly believe that the application of the trade practices extension to part IV is not a major issue. It is more the intergovernmental agreement, the competitive neutrality, the pricing mechanisms, the third party access regimes and those sorts of issues that we are concerned with. We have made countless submissions to various bodies in relation to those sorts of matters.

**CHAIR**—Mr Pennell, would you like to add to that submission?

**Councillor Pennell**—I did not come here prepared to make a submission. I left that to Mr Hallam, but there a few matters which I would like to add to. I would like to refer to the concerns which have been expressed—and I am sure you would have heard them yesterday in Roma—in relation to the employment base of local authorities in rural areas. The fact of life is that in Queensland our rural areas are tending to depopulate and the coastal strips are tremendously increasing in population.

I believe that we should look very carefully at any legislative proposal or act which will exacerbate that particular situation. That could occur if local government loses the capacity to carry out works in many of those western, central and northern shires. You find that the local authority is the main employer and road construction tends to be the main industry. That might sound rather unusual, but that is a fact of life. If the competition policy brings about a situation where the councils lose their ability to be the constructing

authority for roads, you will see a situation where the population of those shires will decrease because there is no alternative employment available.

That is why the CSO function within this legislation is so important and we believe it is a matter which should be of extreme concern to all spheres of government. Another factor is that, if you remove the local authority capacity to what I might term a floating work force, in the event of an emergency you really have not got the personnel to deal with those emergencies. I quote the Western Queensland flood situation. We have just experienced a terrible drought, but going back five years ago we were facing horrific problems in many areas. It falls to the local authority very often to provide the work force to handle those situations. It would be a sad day for those rural and remote communities if they lost that local capacity to handle emergencies. That is as far as I will go at the moment.

**CHAIR**—Thanks very much. We heard a lot of discussion both in Longreach and Roma about the significance of road funding in the sustainability of council's operations in many of those western and central local government authorities.

We heard the Longreach shire engineer explain the agreed price performance contracts—the APPCs—and the significance of those to local authorities. Does the association have a view on that specific issue with respect to road funding? Is it possible, for example, to have an exemption applied by the state government on that issue in line with the clause 7 agreements?

**Councillor Pennell**—Yes, we have been involved very much in the road reform debate and the placing of that system in Queensland. We are certainly not against competition, but we believe that it needs to be done in a very considered manner somebody may move in and at a cut price, just for one year, virtually destroy the economy of a town.

We have had considerable input into the road reform package and the APPC provisions. The Queensland transport department have been very considerate of the position which I outlined to you. We did have an understanding on construction jobs and also, very importantly, on maintenance. If you don't mind, I will leave Greg to give you the detail of that particular arrangement.

**Mr Hallam**—Mr Chairman, in essence, the clause 7 agreement as it relates to local government activity does not deal with the Queensland transport work. That is a matter for the state, as you can appreciate, in its compliance with the Commonwealth intergovernmental agreement.

But we have approached the whole reform process in a pragmatic way. Two and a half years ago we entered into an agreement with the Queensland government—more specifically, the Department of Transport—to go through a process which would deliver over a three-year period a 20 per cent increase in road efficiencies in both construction and maintenance. That has been achieved.

It has been achieved by a number of reforms. Certainly, enterprise bargaining was an aspect of that but, more significantly, the work was done in bulking up jobs. Jobs were quite clearly given on the basis of maintenance of labour and they were dribbled out one at a time each year. That was not the most efficient way to go about it, quite clearly.

The dilemma in all of this is where you draw the line in a state. When does a council cease to be so reliant on external sources of funding that it should be in the open market? That has been the process that we have been through. It has been a self-assessment process. Council has had to have regard to the size of their labour market, the significance of their activities—all the sorts of issues we have spoken about here in the last while.

Our concern is simply that a more vigorous or purist application of the competition policies by the current government, or another government, may well see those sorts of things challenged. Indeed, we believe that would be quite deleterious to the people in rural communities.

The critical factor for us is that we have made the ground without throwing the baby out with the bath water. Without adopting a philosophical approach rather than a pragmatic approach, a business-like approach, we have actually achieved a 20 per cent increase in productivity. That is significant. We are talking about the road sector in Queensland which is over a billion dollars—councils and state government combined. That is a significant achievement, I would have thought. We have proved that those sorts of changes are appropriate.

Our concern is that a federal government may well say to the state government, 'No, we are not happy with the situation. We want it to be more purist and we will not give you your Hilmer bonus payment in the event that you do not throw completely open all of the maintenance works.' I need to put it on the record that the APPCs which are referred to are for construction. Only half to 60 per cent of councils in Queensland do construction work, many do not. I think only four or five of the councils do not do road maintenance work for the state government; it is fundamental.

What we have done is a mirrored situation with maintenance. We have entered into an RMPC—a road maintenance performance contract—with all sorts of outputs, specifications and whatnot. The intention is to deliver those sorts of increases of 20 per cent over a period of time. Those contracts are let on the basis that local government gets those jobs exclusively subject to them meeting the criteria. There are benchmarks, performance indicators and improvements.

Our concern is that this government or another government may revisit that and simply say, 'No, we want to do it in a purist manner', and/or the potentiality that a major contractor—I shall not name them—may use the Trade Practices Commission to take an action against the Queensland government, or indeed a federal government, for not complying with the provisions of the legislation.

**CHAIR**—There seems to have been a move already with the Commonwealth Department of Transport on the national highway. That was brought to our attention again, both in Roma and Longreach, where they said that from December this year no longer will councils automatically by right, as it were, get some sort of preference for road construction and maintenance on the national highway.

**Mr Hallam**—That is right.

**CHAIR**—So it appears as though some decision has been taken within that element of the Commonwealth bureaucracy already for that to apply. If the federal government worked towards an RMPC or an APPC-type arrangement, would it still be consistent with the competition principles agreement?

**Mr Hallam**—That would certainly accord with the philosophy of improving performance. That is the ultimate goal of Hilmer—to improve national performance. It becomes doctrinaire and philosophical if one takes a view that only the private sector can deliver that. It is something that we would be opposed to. We simply think that is a philosophical point rather than a matter of fact.

Indeed, the RIDE study undertaken by the state government some three years ago in Queensland transport showed that Queensland local government was more efficient than either the state government or the private sector. Over those limits because of scale, plant and capital, the private sector in QT became more efficient.

The RIDE study was a proper competitive neutrality process. It factored in all the additional costs simply because councils are on the ground, they know the terrain, they know all those things and they are at an advantage. Sometimes they have their own suppliers of material and their work force is skilled in those sorts of aspects. I think it is mad. It would be crazy philosophically to say that you cannot have those advantages, because, if it were a private sector group, that is called competitive advantage. I can't see why a government, particularly local government, should be hamstrung in that regard.

It is easy for people to make grand statements such as, 'These communities are going to close down.' The bigger regional centres such as Roma, Longreach and those places will not. But for places such as



Tambo and Diamantina it is pretty well documented that local government is the only remaining employer of semi-skilled and unskilled labour. To put it simply, all the other government employers have left and the jobs for people on farms no longer exist. So in those smaller towns—those towns of 1,000, 2,000 or 3,000 people—the 20 or 25 people who work on the road gangs are critical to the survival of those communities.

**CHAIR**—The committee yesterday was quite impressed with some of the arguments that were put to it in terms of road funding and the sustainability of local communities. It might be an appropriate opportunity for me to invite the LGAQ to think about this a bit further with a view to coming back to us with a bit more specific detail as to how you believe the competition principles agreement can be implemented without necessarily throwing out what you consider to be a good existing arrangement. That does not mean, for example, that the community is totally isolated with heavy equipment. If a local community is almost wiped out through private sector contracts, then in times of natural disasters and so on there is not that capability on the ground.

Yesterday, we heard some anecdotal evidence which might also be worth while you trying to follow up. The evidence suggested that a lot of the outside contractors who came in to perform some of the work did not necessarily know much about the local lie of the land and did not appreciate the materials that may or may not be available locally. In essence, the suggestion was made that the work was pretty well botched and there may be an additional cost in terms of the reconstruction of the asset subsequently.

**Mr Hallam**—We will certainly make a further submission. I might refer the inquiry also to our submission to the Industry Commission's inquiry on contracting out. It is a very substantive submission which covers many of those issues. Indeed, that inquiry report was released a fortnight ago. I will certainly provide that extra material, but I make that reference.

**Councillor Pennell**—The main point we would like to emphasise is that road reform is well under way in Queensland at the present moment. It has been going for 2½ years now. Our concern is that, under this other legislation we are debating at the moment, some of the arrangements which have been agreed to and are working quite well could be subject to challenge.

**Mr Hallam**—In fact it is a case of double jeopardy. We do not believe that these matters are clause 7 matters. There are questions of the state's compliance, because it is the state that will be challenged. It will be either the Commonwealth government, this government or another government, that might challenge the adherence to the inter-governmental agreement and, as a consequence, threaten or restrict Queensland from accessing the bonus payments—the four tranches to be paid over ten years—or, alternatively, a private sector body that takes a challenge through the courts.

So while we have a level of comfort, as I indicated earlier, with where we are at with the Queensland government in terms of the principles regarding clause 7, much of the work councils do for other bodies will fall outside of that agreement. They are not clause 7 matters.

**CHAIR**—I will move on to the area of the CSOs. Again that has been an issue that has been covered in our previous submissions this morning. You might like to give the committee the benefit of the association's views about the whole issue of CSOs in terms of how they may be determined and the way in which they are best delivered by local government.

**Mr Hallam**—It is a very difficult question because of the great diversity of size and scale in Queensland. What may well be a genuine business undertaking in Brisbane most certainly is a CSO in Boulia or Isisford. Indeed, that is the case where in some of those communities it is still that the council runs the hotel or is the undertaker or something of that sort, simply because there is no other market provider prepared to. So it is a complex question in terms of each and every market, and it is difficult to give a precise answer.

In respect of CSOs, we certainly believe that water and sewerage and some of the other major

undertakings, such as garbage, clearly at a point in scale do qualify in that area. We have not sought to argue that is not the case, and part of the agreement we have been going through with the Queensland government is to define what levels that might cut in at. Suffice it to say that it will only be the largest councils with very major activities—and we are talking in the tens of millions of dollars—that would be in that situation. Of course, that is a first test.

Then we go through the test of whether it is in the public interest and whether there are other issues that we need to have regard to—indeed, the CSOs. The test that we are applying for CSOs, notwithstanding the other riders I have mentioned, is that if it is a full cost recovery process, it most likely is not a CSO. If it is a contribution from what the Commonwealth would call consolidated revenue—or we would call the general fund operation—then it is a CSO. That is the sort of approach that we have arrived at because of the difficulties of actually understanding each and every marketplace.

In other words, irrespective of the activity—unless it were some sort of regulatory activity, which governments are required to undertake—if it were a contestable business, and that is the terminology we are using, and the council was providing a service on the basis that someone else would not provide it, or providing it at a higher standard, or having regard to special needs groups in the community that would not be picked up by the private sector, and was not charging full fee recovery, that would be a CSO.

I will give you an example. It may well be that in a place like Townsville, where there is a high Aboriginal population, they run a special service through at least one, if not two, of their child-care services for people of Aboriginal or Islander descent. Quite clearly, they are not fee for service. To subject those sorts of activities then to a competition basis would really disadvantage those groups in the community.

**CHAIR**—In terms of the consultation process that is required to be undertaken in terms of the whole issue of clause 7, how are those issues being addressed in terms of the extraordinary diversity you have got in this state with something as extreme as the Brisbane City Council at one end and, say, a council like Paroo?

**Mr Hallam**—With that I have to be a little careful, Mr Chairman. As I indicated, some of these matters are still subject to cabinet final approval, so I will talk in the broad. It will be a process of, in large part, self-assessment. Go back to the legislation. Legislation defines what a business enterprise is—a major trading enterprise in terms of the ABS classification. Those councils are obvious. There is a small number of them; you can count them on one hand. There is another group, which you could probably count on two hands, which means that we are talking about less than one-fifth of the total number of local governments in Queensland. The other councils will still go through a process of self-assessment. What we have said in terms of this process is that to be robust and genuine and to have regard to the goals of competition policy reform, these things have to be done openly and transparently.

So, as we understand it, each council will be required—even the larger councils—to go through a process of self-assessment. In other words, there will be some benchmarks set and there will be an amount of money, whether it is \$25 million or \$5 million or whatever that number might be—simply a first test.

You will then be required to go through a process of having regard to the public interest. Is it in the public interest that this happen? In other words, what are the consequences for the community if local government goes down this path? Then the third test will be a CSO test. In other words, as I said before, is this activity being funded on a complete cost recovery, fee-for-service basis? If not why not, and what is the justification? The justification may well be—if it is, say, water—again from my past life, in Townsville's actual cost of water, \$3 million is factored in to beautify the parks and gardens. That is being paid for by every ratepayer in the city. And that is a community service obligation, to ensure that in the very difficult climate they have got at least some places to go and sit in the cool shade. It may well be in some areas cheaper water or cheaper something or other, sewerage or connections, simply to attract industry to an area.

So they are the sorts of considerations.

And the final test would be cost benefit. Having complied with the spirit of the law, were you then actually incurring costs beyond the benefits to the community? So it will be a self-assessment process. As we understand it, councils will have to be transparent in their annual reports, in their compliance with those processes, and the community will have rights in relation to accessing those reports. Indeed, for those councils that are caught in the net, if you want, of the competition policy reforms—and bear in mind they are relatively small in number—they will be subject to the state competition policy committee or tribunal. I cannot think of the precise terminology; it may not have been determined yet.

But people will have legal rights of redress. In other words, in terms of the other councils, as I mentioned a bit earlier, there will be a code of conduct which talks about what is proper in terms of contestable business. As always, agreed parties will have access to the CJC, the ombudsman and a range of other parties to voice their concerns. They will also have access to judicial review-type actions where they believe that they have been unfairly dealt with. So we think there is a robustness, a framework, a transparency and an openness about those processes which really do provide for a proper approach.

**CHAIR**—If I ask you to nominate three areas where you would like the committee to look seriously at particular recommendations, what would they be from your association's perspective?

**Mr Hallam**—I think in the first instance it would be that question of the matters beyond clause 7—that is, the application of the competitive neutrality principles as enunciated in the intergovernmental agreement in relation to the Commonwealth's own work. We talked about this before in relation to national highways and, indeed, the state government's work in relation to Queensland transport and the sorts of road making activities there. Secondly, there is the compensation issue. Quite clearly, local government does not access and will not access any additional revenues as a consequence of these reforms.

**CHAIR**—In terms of that compensation issue, how should it actually be paid to local government? Should it be part of the financial assistance grants, the separately identified road funding, or should it be in a quite separate payment altogether from that?

**Mr Hallam**—We believe it should be a separate payment, Mr Chair, on the basis that, if it were a FAG grant, it would be going to councils that were in no way affected, and we have very strong views and concerns. We would put the arguments that, in relation to the national pool, if there were a national pool notionally of \$100 million, it should not be divided up between the states on the basis of per capita distribution. Clearly, Queensland accounts for more than 60 per cent of the total exposure in Australian local government for training enterprises. It is just, I think, on \$3 billion for training enterprises vis-a-vis the ABS classifications in local government.

As I said earlier on the record, we account for \$1.6 billion, so in the first instance there should be some regard had to the actual exposure—that is, between the states and interstate basis. On an intrastate basis the money should only be paid to those councils that actually are incurring disbenefit, and they would be, as I said, a relatively small number, we would believe about one-fifth of the councils in Queensland.

**Councillor Pennell**—It would not be an easy task. I would like to emphasise the comments that Mr Hallam has made there, because the distribution really needs to be made again on a needs basis and, depending on the exposure of local authorities throughout Australia, and it is best assessed at the state level as to just what that exposure is. If we were to receive any compensation which might be available on a per capita basis, it certainly would not reflect the exposure of Queensland local government in business enterprises.

**Mr Hallam**—That would be our submission, Mr Chair.

**CHAIR**—Thank you very much, Mr Hallam and Councillor Pennell. If there are no further comments

at this stage, I would perhaps ask Mr Somlyay to move the appropriate resolution.

Resolved (on motion by Mr Somlyay):

That this 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 will declare the hearing closed. Thank you for your attendance.

**Committee adjourned at 10.59 p.m.**