

SUBMISSION TO PRODUCTIVITY COMMISSION ON FINANCING

A. SUMMARY

1. Councils can always spend any amount available to them.
2. The more funds available to a council above the amount required to fund 'core services' the less 'economic utility' will be achieved from successive increments of spending.
3. Councils are often unable to distinguish between what their communities 'need' and what they 'want'.
4. For political reasons, councilors find it more attractive to fund marginal projects rather than essential ones e.g. 'there are no votes in sewers'.
5. An examination of the financial statements of councils will show that in most cases the reason for a failure to adequately maintain essential infrastructure is not because of an absolute lack of funds but because over the years the councilors have diverted funds to marginal projects.
6. In these circumstances, 'rate-pegging' limits the ability of councils to spend money on marginal services and benefits persons who are on limited incomes.
7. Marginal services are always better provided by private enterprise as they tend to do this more efficiently and the services are not necessary for the public welfare as are 'core' services.
8. Major financial problems arise because councils 'commit' to a project based on estimates that can easily be less than half of the eventual cost. This is often done deliberately by the council senior officers to justify additional staff and additional salaries.
9. Councils often fail to spend money appropriately because the (NSW) State government does not enforce either 'transparency' or 'compliance'. There is a considerable difference between the theory and practice of the law.
10. As an example, the Bathurst Regional Council has flagrantly failed to comply with the Local Government Act and the National Competition Policy in using funds from the supply of water for the construction and operation of a new aquatic centre.
11. This has meant that the council has evaded the restrictions on borrowing and also of 'rate-pegging'.
12. The effect of the unlawful act has been that the cost of a universally available service is borne by only about 69 per cent of the ratepayers and council's own research shows that less than 20 per cent of those ratepayers (customers) would use the Aquatic Centre. This type of service has been financed from rate income in the past and should be so in the future.
13. In the 2006/7 financial year, businesses in the Bathurst Region have been unlawfully overcharged about \$4 million for a facility that they will never use, contrary to both National Competition Policy and the Local Government Act.

14. The effect of the unlawful funding has been to shift the incidence of the cost from a relatively progressive rate to a flat rate charge adversely affecting about 4,000 pensioners.
15. If serious errors in budgeting were made automatic grounds for sacking the General Manager, as is the case in private enterprise, then virtually all of the financial problems of councils would cease.

B. ISSUES IN THE PAPER.

1. Scope of the exercise.
 - (a) Charges for essential services should not be used for the "cross-subsidisation" of facilities available to the public generally as it prevents accurate measurement of the cost of those services and appropriate pricing.
 - (b) The concealment of costs of projects not part of an essential service in the costs of that service, prevents consumers from realising the true cost of a project or service. In the case of the Aquatic Centre, it was originally announced that it would cost the ratepayers nothing!
2. Capacity to raise own-source revenues.
 - (a) Swimming pools are generally not a net source of local government revenue as they require subsidies to meet operating costs. In the case of the Bathurst Regional Council Aquatic Centre, the subsidy will amount to about \$1 million each year.
 - (b) The key determinant of the capacity and willingness of residents and businesses in the Bathurst region to pay for services is the ability of the council to conceal the true cost as is illustrated by the Bathurst Memorial Entertainment Centre and also the Aquatic Centre.
3. State and Territory government regulatory constraints.
 - (a) In NSW there are regulatory constraints upon a council raising revenue but these are not enforced. Firstly, the charges made for essential services are supposed to cover the reasonable current and future costs of those services only. To permit the charges to be unlawfully inflated to cover the costs of facilities that have no relevance to the service is undesirable as well as inequitable.
 - (b) To permit the transfer of costs both capital and operational from the general rate to charges for unrelated services, permits a council to evade the "rate-pegging" legislation.
 - (c) Councils in NSW can raise special rates and charges to provide services that benefit only part of the community. The legislation, however, requires full disclosure of the amounts involved on the Notice of Rates and Charges each year. In the case of the Bathurst Regional Aquatic Centre, the council knew that if the ratepayers realised how much they were actually paying, businesses especially would object very vigorously! Therefore, they have unlawfully failed to comply with that provision of the Act.
 - (d) The Bathurst Regional Council quietly uses transfers from its land development fund to subsidise The Fossil Museum. Although this is a world class museum, the annual subsidy is expected to reach nearly \$1 million and will have to be funded

from elsewhere. It is understood that consideration is being given to incorporating the loss into the future charges for the sewerage service!

4. Rate-pegging.

- (a) This is the saviour of the ordinary ratepayer from the natural extravagance of the average councillor and the natural wish of the average senior council officer who reasonably wishes to increase his salary.
- (b) Careful analysis of the financial reports of most councils will show that if they concentrate on providing "core services", rate-pegging does not disadvantage them greatly.
- (c) As the Bathurst Regional Council has illustrated with it's "innovative" (and unlawful) funding of the Aquatic Centre, great care has to be taken once councils are encouraged to depart from established methods of financing. Most senior council staff are not able to deal with private enterprise negotiators and can be easily caught out as the example of Liverpool Council (?) shows. Also, most councillors do not understand finance and many dislike dealing with figures.
- (d) Council auditors may not be reliable constraints on unlawful or foolish "innovative" financing both because of the limitations on their audit and an understandable wish not to fall out with the senior staff and thus lose the audit fees.

5. Setting Fees and Charges.

- (a) The fact that there are restrictions on councils using charges for essential services to "cross-subsidise" other services, will make no difference if the Department responsible for enforcement is unwilling to carry out it's duty. In NSW, the Department of Local Government made a "mistake" in respect of the Aquatic Centre but is unwilling to admit it and ensure that it is rectified.
- (b) The Bathurst Regional Council has an informal policy of never admitting to a mistake and of forcing objectors to it's unlawful actions into Court as a means of suppressing dissent by use of it's financial power. This attitude has been adversely commented upon by the courts on at least two occasions recently where the council has lost.
- (c) Bathurst Regional Council has a history of "flexible" charging for essential services. It undercharges for some waste services in order to benefit one section of the community and overcharges for the water supply in order to again benefit principally the same section of the community.

6. Operation efficiency of local governments.

- (a) In general, the Bathurst Regional Council is operationally efficient in the provision of "core services". However, when it moves to other than "core services" the pressure to be efficient is lost.
- (b) The council cooperates with other councils in the region to the extent possible in the purchase of materials and some services. However, the distances involved probably prevent the sharing of plant.

7. Service levels and pricing.

- (a) The council has deliberately ignored both the "user or beneficiary pays" and the "minimisation of distortion to decision making" principles in relation to it's Aquatic Centre.
- (b) The NSW Department of Local Government has ignored the findings of the NSW Independent Inquiry that would make councils provide a more transparent explanation of their user charges. The Bathurst Regional Council refuses to comply with the statutory requirements for disclosure and also claims that a one-line item in a Management Plan of about 300 pages with 40 items to the page is sufficient.
- (c) The council has issued "certificates of compliance" with the Act and the National Competition Policy since 2004/5 that everyone including the Department knows are not correct. These certificates are required in order that the council can obtain State and Commonwealth grants so why the Department has not acted even though it **has** admitted in writing that the certificates are incorrect, is difficult to understand apart from the fact that it has been involved in the unlawful situation from the beginning. I guess that a Department never makes a mistake!!

BACKGROUND.

My background is that I was an investigating accountant for many years before retirement and attach considerable importance to councils complying with the law. Most of my professional problems were with "flexible and "innovative" financing and accounting. I have been a councillor for sixteen years on three councils and believe that great care must be used to control inappropriate behaviour by senior staff and councillors. If this is done, a council will not waste money and can quite easily live within the funding available to it under the present system.

Attached is a copy of part of my submission on this year's Management Plan as an illustration of the problems outlined in this submission.