Dear Sir/Madam

Thank you for the Productivity Commission (PC) draft inquiry report into Paid Parental Leave (08) which seems to have excellent recommendations based on good evidence. However, the current global financial crisis and the failure of ABC Learning child care centres prompts me to ask for a related focus from the PC consumer oriented, services and funding perspectives, on child care services provision, as well as on parental leave. I understand the government is currently paying $7000 per week on average for each of around 400 unprofitable Australian ABC centres in order that they do not close suddenly, leaving parents and workers to cope, according to today's Australian Financial Review (AFR, 10.11.08, p.7).

One often wonders what so-called financial experts think that they are doing, and those in child care are no exception. As Susan Macartney said in a letter to today's AFR:

> 'Child care centres, as they are in many places, should be attached to schools and other places of learning – public and private – and funded by a mixture of community, government and private funding.
>
> Child care should largely be funded as not-for-profit. ABC Learning's takeover of the Australian child care industry should not have been allowed.
>
> If anyone had asked me, I would have explained that a well-run, fully accredited child care centre could not possibly generate the kind of profit claimed by former chief executive Eddy Groves.
>
> The board of ABC Learning comprised a number of supposedly competent and experience, highly regarded, prominent people.
>
> The big question is: Why didn't they ask the right questions about Grove's debt blow-out during the years they were on the board? Australian taxpayers should not e asked to pay for their incompetence. (AFR 10.11.08, p.67):

In a world where such obvious and clear questions as Macartney's generally appear beneath the notice of any men in suits that I would trust to serve the consumers' interests, one naturally turns to the PC to inform the government about the most sensible policy direction after 31st December, 2008, the date on which the government guarantee of economic support to keep ABC centres open, runs out. Please find the attached discussion of related financial matters as they are dealt with from the consumer perspective. Thank you for all the hard and honest work conducted by the PC.

Perhaps you can also address Treasury on taxation. I don't hold out much hope of anything sensible coming out of the paper entitled, 'Australia's future tax system: Architecture of Australia's tax and transfer system' (2008)/. Would I be guessing right in thinking that Treasury does not talk to the PC about tax concerns of mutual interest? (Somebody should tip them out of the box as hard as possible, on their little, pointy heads.)

THE CURRENT GLOBAL FINANCIAL CRISIS AND ITS SOLUTION

The current submission makes the following recommendations and provides related discussion for an Australian response to the current global financial crisis which also values free markets very highly:

1. First conceptualise those engaged in trade as providing a service to the consumer then openly provide information and fund projects designed to encourage more open markets to meet global needs better

2. Address the potential for more coordinated, planned and competitive approaches to sustainable development with the Chinese government and leaders in other nations

3. Define the ideal relationships between trading and financial operations to clarify and meet all industry and community interests more competitively

4. Consider taxation, including Tobin taxes on financial trading from the above perspective, in the public interest

5. Investigate and define key concepts of financial yield more appropriately in the consumer and public interest

6. Investigate and address currency setting or floating and related currency trading to meet the national interest

Please consider the related discussion below and the supporting attachments entitled:

- Submission addressed to the Australian Health Ministers Advisory Council on a National Registration and Accreditation Scheme for the health professions

- Health and education for sustainable development and the Australian Carbon Pollution Reduction Scheme

- An ideal trust structure for the beneficiaries: An example from an Australian superannuation fund and a bank

- Submission to Productivity Commission Inquiry into Government Drought Support and Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector.

Thank you for the opportunity to make this submission.

1. FIRST CONCEPTUALISE THOSE ENGAGED IN TRADE AS PROVIDING A SERVICE TO THE CONSUMER THEN OPENLY PROVIDE INFORMATION AND FUND PROJECTS DESIGNED TO ENCOURAGE MORE OPEN MARKETS TO MEET GLOBAL NEEDS BETTER

The Current International Financial Problem is that Markets are Not Free

This submission is based on the assumption that the free market is ideally driven by the consumers of goods and services rather than by their providers, as is currently the case. Consumers should be put first because they are the ones who ideally express the need which the provider services. In a perfect market, which is in equilibrium, the consumer has perfect information about the products or services on offer and so is always likely to be close to perfectly satisfied with the trading outcome. Under ideal circumstances market trading is a perfect win/win situation all of the time. Ideally there are no enormous continuing disparities in wealth because the market corrects them. Market fluctuations are also merely speed bumps on the road to the long run. This submission argues the world is far from a perfect market because the financial service providers have rigged markets in their own interests, using secrecy. Currently any rising financial tide comes nowhere near to lifting all boats and then goes out again, leaving many stranded, as in the current crisis. Recommendations are therefore made to free the markets so that they can make themselves closer to perfection in the interests of consumers and other communities.

The language of financial traders and their acolytes is less benign and informed than the language of free markets and is based primarily on the images of speculative battle or gaming, supported by secrecy and numbers. The result of trader operations is that the United States has become a failing economy, which must now be supported by the government and taxpayers before it takes the world into depression with it. This situation is both a threat to better global regulation and an opportunity for it. One threat is that nobody understands the current situation of market operations because so many freely speculative and complex deals have been legitimated by law and/or undertaken in secret. The current financial crisis is clearly the result of a market captured by financial service providers who have either provided no information, or only unreliable, misleading or incomprehensible information about their doings. The outcome is closer to complete ignorance, than to its opposite, complete knowledge, which is the free market product.

A related threat is that because of their vested interests, those with financial power and their acolytes cannot or will not talk about their lack of current, reliable, business understanding honestly or clearly. A related danger is that the government guarantees of financial support which are made under such conditions will easily allow the market controllers to revert to business as usual, where they control most of the credit. This is the whip hand and they naturally see it also as a ‘free’ market. It is not a *free* market, this is *their* market. They probably wish to continue to pursue their very lucrative careers through a nod or a wink with brethren who aim to continue to exploit their position of feudal control. The alternative direction is to trade fairly by providing honest information openly to try to meet expressed community needs more effectively and competitively. The recommended direction questions bureaucratic or professional market distortions and associated featherbedding. (Compare the pair. The true free market model is cheaper.)

In the ideal financial services market, perfect information allows the financial services consumer to be satisfied all the time, as a result of her ability to reliably choose or discard the financial service or product on offer, as suits her best. Instead of this ideal situation, the financial services market has been rigged by the financial service providers for generations. The evidence for this is the giant income differentials between the richest and the poorest people in the world as well as the latest international financial crisis, led by the US again. Ideal markets clear to provide a level playing field. If markets worked properly people would not live forever in abject poverty. In reality, many communities lack the human and related capital ever to trade effectively. It has gone overseas to somewhere more lucrative and comfortable. Suggestions for open communication and education approaches to address this are made in the attached discussion of teaching problems which was a submission addressed to the Australian Health Ministers Advisory Council on a National Registration and Accreditation Scheme for the Health Professions.

The outdated conceptual paradigm of finance, related law and much economics is based on a world composed solely of feudally related traders, each of whose operations may be a closely guarded secret, protected by his recognized law and practice. This approach to the market is narrowly pre-scientific and anti-democratic. The development of capitalism produced a clear conceptual distinction between the trading classes of capital and labour. The concept of consumers as a class of traders, as distinct from the class who deploy their capital or who sell their capacity to work, developed later still. Finally, attention has now also shifted to concern about the effects of production on the environment. Although many economists, such as in the Australian Productivity Commission, use modern, institutionally based analyses rather than those used in traditional financial, legal and economic practice, many specialists and the bureaucracies supporting them naturally tend to protect and enhance their own patch. Feudal legal forces rule these and all others.

The Answer is to Open Markets to Pursue Planned and Competitive Development

This submission argues that fixing the international financial crisis first requires much greater government and public inquiry into the current and ideal structures for financial trading, in order to conceptualise, design and implement its processes through the prism of a financial services industry which ideally provides financial products or services to the consumer as effectively as possible. Prize open the secretive, confused operations of treasury, related government departments and other institutions which direct money in order to find out exactly what they do. Educate the public about the current situation and the preferred way forward to achieve a perfect market, which ideally relies on perfect information, not perfect secrecy. Identify, fund and implement projects which have been prioritized to achieve sustainable development and the related goals of triple bottom line accounting (financial, social and environmental) globally and locally. Clearly identify the project managers and hold them openly accountable for performance and outcomes. The ideal way forward is described in the attached article entitled health and education for sustainable development and the Australian carbon pollution reduction scheme.
This takes the international regulatory context for carbon trading as beginning in 1990, when the World Commission on Environment and Development defined

sustainable development as ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’. This is a type of independence.

The new financial industry and services focus on the consumer, which is recommended above, is necessary to position the finance holders and marketers so that they can inform consumers more reliably, with clearer and more accurate information about their service performance outcomes. Their activities are ideally undertaken according to relevant triple bottom line accounting requirements which may be economic, social and/or environmental. It is currently necessary for governments to assist many populations to provide countervailing forces to those powerfully connected US ideologues who speak for their related financially privileged groups, whose dealings have again caused regional recessions. They appear to see government as an unfortunate interference in their otherwise ideal market manipulations which are secretly directed in their own interests, using the lie that this ultimately will serve all others. The alternative position, which many UN Conventions adopt and I promote, would rather see government conceptualised as the ideal guarantors of minimum standards of welfare provision, which also seek to bring about more open competition in pursuit of the public interest and freer markets.

The way forward must start with communication, which is necessary for any information provision, mutual education and related development of products and services to meet identified community and individual needs more effectively. In order to deal with feudally related problems one first has to face and speak to them rather than ignoring or running away from them. All key auditing standards, practices and related rating agency methodologies require consideration in the current, failed, international context. As in the rating of tertiary education institutions, the rating of performance by financial or other institutions essentially depends upon their openness and related justification of quality performance, rather than on blanket application of numerical ratings systems to them. As is clear from the international financial crisis, rating systems are liable to be captured by other big service providers who pay for the ratings service that can deliver what they want. The antidote is openness. An ideal market lets all see clearly what they may buy so that the consumer can make purchases to meet their particular individual needs as effectively as possible. Communication and education openness are vital in this context.

Funding projects for more sustainable development in areas of primary production, such as mining and energy, forestry, fishing and farming require early consideration in related global, regional and local communities. Many projects should be partially guaranteed by government credit on the basis of their apparent ability, if handled properly, to reduce major problems related primarily to dealing with financial crisis on one hand and global warming or related problems of environment degradation on the other. In general, projects are ideally ranked and chosen for funding on the basis of their potential for controlling all related current risks to populations which are economic, social and environmental, as fast as possible. This is also the basis for triple bottom line accounting. This recommended funding approach delivers biggest bang for buck in part because this general direction of holistic regional and local development and related risk reduction may become gradually clearer to all the stakeholders. This also helps them to identify and deal with problems by teaching themselves. The direction also provides a more stable future by producing better coordinated understanding and control of development related risks. For example, sustainable development depends on population planning. Saving, borrowing, lending, insurance, taxation and investment need to be conceptualised in related regional, national, industry, individual and community contexts in which all services are more openly and competitively designed to serve everybody better through revealing their service outcomes. Australians and others should support this direction.

Although neoclassical economists have traditionally assumed the price of products and services is determined by the relationship between their supply and the demand for them, Drucker (1999) noted the 20th century growth sectors were government, education, health and leisure and that none operate according to traditional supply and demand. Human capital economists have focused on the cost of the skills embedded in the workers who produce a product or service as the determinant of its price. Following Bell (1973) and Drucker (1993), Florida (2003) argued knowledge is now the major means of production rather than capital, natural resources or labour. From this perspective, skills and education determine a significant part of the value of any service or product and when workers with particular skills or education are in scarce supply this is likely to increase the cost of the service or product they produce. One way to lower costs of services or products therefore seems to be to provide more flexible, cheaper, more effective forms of skills development and related education as broadly as possible. Australia and related nations ideally lead the process of human capital dissemination by linking industry and community development to serve all populations better. Communications development is necessary in this context. Consider, for example, the wonderful development potential of the Sony Tropfest yearly festival which encourages and rewards seven minute film makers from any quarter.

2. ADDRESS THE POTENTIAL FOR MORE COORDINATED, PLANNED AND COMPETITIVE APPROACHES TO SUSTAINABLE DEVELOPMENT WITH THE CHINESE GOVERNMENT AND LEADERS IN OTHER NATIONS

In the article entitled ‘Treasured views need airing’ (AFR 24.10.08), a former Australian Leader of the Opposition (LOO) and banker, John Hewson, said the greatest danger in the current circumstances of financial crisis is for the banks to ration credit. He writes that they have been doing this ruthlessly but calling it ‘repricing risk’ rather than rationing credit. However, one assumes a strong distinction should also be made between trading institutions which hold currency deposits and primary home mortgages and those which hold other interest bearing papers which are much more speculative. Lack of appropriate credit management discipline designed to serve the consumer and the public interest caused the current financial problems. One would not like to see them re-invigorated indiscriminately with government backing. This submission suggests ways forward.

In an article entitled ‘Tough choices for Beijing’, in the Australian Financial Review (AFR 21.10.08, p.70), Peter Kwong, a professor at City University of New York claims a common sentiment in China is that the global financial system seems to depend on the idea that US speculators cannot be allowed to fail and so the rest of the world should keep on footing the bill. Kwong claims most Chinese believe China’s long-term interest lies in boosting domestic spending on education, a social safety net for senior citizens and the poor, and on infrastructure. The problem is that such wholesale reallocation of resources would lead to serious dislocation and an economic slowdown and that the Chinese government cannot afford to take this risk. Kwong claims the Chairman of China Construction Bank, Guo Shuquing says the US financial market is the world market and that what's good for the US is also good for every country, including China. The official Chinese view is apparently equally diplomatic.

I guess many Australian citizens and governments have similar attitudes to those reported by Kwong, but many have also said that what is good for BHP is good for Australia. This presents the risk that the current government bail-out of the financial sector may allow the 20th century cycles of boom and bust to keep occurring, with carbon trading becoming the next big lie about what traders can magically produce through market mechanisms alone, if only governments will either get out of the way and leave them to it, or else support them unwaveringly if they fail. (Rich kids!) An even worse possibility, which governments have traditionally used in times of economic trouble, is to dig the nation out of economic recession by gearing up for war. In the current accounts, defence spending is naturally but wrongly classed as productive spending, compared with something supposedly unproductive, like fun and games or any related consorting with the enemy. Increased armaments production is the traditional way forward as long as the men of feudal silence, lies and lawyers - the Masters of War – continue running things. This traditional approach is about as far from truly productive or democratic as one can get.
A better way forward to either of the above possibilities is presented in this submission.

During his recent visit to Australia, Zhang Ping, the chairman of China's National Development and Reform Commission apparently said:

> During a long period of time in the future, China will be a long-term giant and stable partner for Australia (Sydney Morning Herald (SMH), 22.10.08, p. 4)

This appears to present an opportunity for the development of countervailing international forces which also appear more in keeping with the interests of world citizens, as they have been primarily conceptualised in Europe, rather than in the US. Build with communication based on openness and the search for truth, as distinct from secrecy and the pursuit of feudal advantage. This is necessary for science and democracy to flourish. Financial trading needs to be clearly conceptualised and investigated as a service industry in the above international context. One assumes that financial traders see themselves primarily as purveyors of a service, whether they think that government interferes with it badly or not, and will not take up lawyers. After all, the central theoretical principle of the believer in free markets is that ultimate pursuit of personal interest provides the ultimate personal service to others. Let financial traders openly defend their position against this criterion ideally in newspapers and on TV, not courts.
The courts are very expensive institutions which operate on many pre-scientific precepts.

In an attached discussion of ideal trust management structures for an Australian industry superannuation fund and a bank, it is assumed that key services and fund management are ideally designed so fund managers can achieve not only contributor savings, adequate pension provision and effective housing loan assistance competitively, but also so that they can undertake regional investment for sustainable development more scientifically and cost-effectively than competitors. It is assumed that Australian and New Zealand Standard Industrial Classifications (ANZSIC) should provide useful guidance in this development context and that more rational construction and delivery for the following Services Industry categories should now be of primary interest:

- Finance and Insurance
- Property and business services
- Construction

Unfortunately, however, the integration of the concepts of industry and the consumer into Australian analysis and practice remains embryonic and erected upon a base of feudal financial propositions and related law and practice which are a dysfunctional and expensive inheritance from English common law and statute. Australia may be typical of many former colonial jurisdictions and their communities in having this problem. The subordinated communities may also express many differing expectations based upon their own particular brand of feudal and family loyalties. This inhibits the development of appropriately scientific industry, consumer and community frameworks. For example, according to the Australian Financial Review (AFR, 24.10.08, p.14), before the election of the current Labor government in late 2007, the then Water Minister who is now the LOO, mocked officials of the Treasury about having been ignored in the planning of the Howard government's $10 billion national water package. Apparently, the LOO said that this was unsurprising because Treasury don't know anything about water. He said:

> The Treasury does not know how much it costs to pipe a channel, how much it costs to replace a Dethridge wheel with a comprised flume gate and how much it costs to line 10 kilometres of leaky channel along the Murrumbidgee River.

The need to break ignorant financial control lies at the heart of many problems. The current Commonwealth or state treasury financial controllers may also have little useful to contribute to ensuring proper accountability for continuing expenditure of funds.

Appropriate projects for sustainable development need to be openly identified, funded and managed, not controlled by ignorant and secretive treasuries and private interests.

Program budgeting, as partially implemented in the Australian public service by Wilenski (1982; 1986), is central to this approach. Managers start with program or project aims which have been consultatively developed, then establish strategies to meet them and prepare a related budget. All activities are monitored and their outcomes are measured in the light of general aims. Unfortunately, the Senate Committee report of inquiry into transparency and accountability of Commonwealth public funding and expenditure (2007) ignored program budgeting. It recommended complex additions to the existing budget process which are likely to add to current budget opacity and all related cost. The committee concludes its recommendations are designed to restore the Parliament's historical and constitutional prerogatives. This is undesirable because open partnerships with industry and communities are required to achieve national and regional goals related to health and sustainable development effectively, through fair and efficient competition.

Program budgeting appears necessary for triple bottom line accounting – financial, social and environmental – to meet the requirements of the United Nations Rio Declaration on Sustainable Development, to which Australia is a signatory. In 1993, Hilmer's report to Australian Heads of Government after an independent committee of inquiry into a national competition policy, defined competition as, 'striving or potential striving of two or more persons or organizations against one another for the same or related objects'(1993, p.2). The earlier Trade Practices Act (TPA) has no definition of competition, only the traditional legal 'interpretation', which states that, 'competition includes competition from imported goods or from services rendered by persons not resident or not carrying on business in Australia'. Hilmer's definition of competition and the related direction in his 1993 report on national competition policy appeared to be supported by all Heads of Government. It would have led naturally to triple bottom line accounting if it had been properly implemented. Instead it was botched in translation to the TPA. This now presents a rich lawyers' picnic at great public and related industry expense. Current plans for carbon permit trading seem likely to add to the legal feast.

I read in the press that the Chinese government is now seeking Chinese mind liberation. This describes what I have always wanted in Australia, which is also why I am often rude in public. Mine is an uncommon but I think desirable and necessary position which may be upsetting from within the bounds of any culture. For example, in my opinion, the government and independent efforts at open financial investigation and related public education over the last twenty years in Australia have been piddling, with the exceptions of health and other insurance inquiries, the work of the Productivity Commission and key Australian Law Reform Commission (ALRC) reports. It appears the market has been left to get on with its business and the ALRC has soldiered on alone, writing publicly, albeit for a very limited audience, about apparently idiotic feudal legal suppositions on which market and government operations are based, exactly as if they are unquestionable. One common supposition is that government self-blinding about financial operations leads to better decision making. The legal mind often prefers less information to more of it.

I have questioned myself daily about the Head of the ALRC, and many others apparently like him. Are these key men engaged behind the enemy lines of feudal operations evil, stupid, scared, polite or truly subtle? They are inscrutable to me. (It may be much easier to box their women but time is short.) Let them reveal their true motivations instead of parroting pre-scientific legal tradition. This insight into my personal emotions is provided because distrust may be a common emotion wherever people live in feudally constructed cultures based on silence about material conditions or feelings which nevertheless may matter vitally to all current and future relations. Plain, honest, open speech, writing and debate are ideally encouraged instead. The key decision makers should be clear to all and held accountable accordingly. The great English poet, Milton, who wrote 'Paradise Lost', is the favourite of the current NSW Premier. The former apparently said:

> Give me the liberty to know, to utter and to argue freely according to conscience above all liberties'. (SMH, 27.10.08, p.13)

In my opinion the above exactly sums up the ideal requirements of modern democracy.

3. DEFINE THE IDEAL RELATIONSHIPS BETWEEN TRADING AND FINANCIAL OPERATIONS TO CLARIFY AND MEET ALL INDUSTRY AND COMMUNITY INTERESTS MORE COMPETITIVELY

In McLean and Elkin's book entitled, 'The Smartest Guys in the Room: The amazing rise and scandalous fall of Enron'(2004) the authors point out that Enron started off as a clean energy provider but increasingly turned as many areas of its operations as possible into profit centres. The continual search to manufacture increased profit declaration across the whole organization, to encourage increased stockholder take-up, also helped to lead the company into many activities which not only hampered the production of clean and secure energy but which were also extremely costly and illegal. The case of Enron, the current financial crisis and the recent interest in carbon trading present warning signs for the regulation of Australians and others. Many accounting issues require further study. For example, I note that 'mark to market' accounting is currently being recommended by US journalists as a remedy for financial ills, whereas McLean and Elkin, whose scholarly account I trust, sees 'mark to market' accounting as part of the financial problem at Enron.

In a related accounting context, the new Australian Workplace Relations Act covers Australian businesses which may be engaged in trading or financial activities or both. It follows the previous government in introducing a new, national system based mainly on the ***corporations power*** of the Constitution. According to the Australian Industrial Relations Commission website in 2007, to be a constitutional corporation a business entity must be either:

- a body incorporated under the Corporations Law that may be classified as either a **trading** or **financial** corporation;
- a foreign corporation;
- a body corporate that is incorporated in a territory; or
- a body that is prescribed as a body corporate under legislation and is engaged in trading or financial activities.

Apparently, the activities of the business entity will determine whether it falls within the definition of a ***trading*** or ***financial*** corporation. Courts have found the following to be financial or trading corporations (or both):

- a football club and football league (*trading corporations*;)
- a state superannuation board;
- public utilities;
- the Australian Broadcasting Corporation;
- the Red Cross Society;
- public hospitals; and
- a wholesalers and retailers trade association.

Business entities that do not fall within the definition of the constitutional corporations have been found to include:

- partnerships; unincorporated associations and sole traders

One wonders how the above should now be considered as a result of national competition policy, and related Council of Australian Government deliberations which ideally assume that competition between business entities should take place on a level playing field of national minimum standards related to human welfare and environment protection, unless another course of action appears to be in the public interest.

Management structures are ideally designed to serve all relevant goals competitively. One major difference between a statutory authority and a private sector company is that the former has the primary aim of serving regulatory goals and the board is drawn from key stakeholders and other stakeholders. The statutory authority is not driven primarily by profits and has no shareholders. Its board reports to the appropriate minister or ministers but normally performs independently, according to normal commercial principles, unless achieving the legislative goals clearly requires some other action, which should be made clear to all. If the elected government wishes to interfere in the board's management and related administration in any way this also must be done openly, so the action can be openly judged by all Australian communities. This management structure appears well designed to gain the effective implementation of competition policy, as envisaged by Hilmer, to achieve the goals of sustainable development – economic, social and environmental - by triple bottom line accounting.

4. CONSIDER TAXATION, INCLUDING TOBIN TAXES ON FINANCIAL TRADING FROM THE ABOVE PERSPECTIVE, IN THE PUBLIC INTEREST

The Australian treasury paper entitled 'Australia's Future Tax System: Architecture of Australia's tax and transfer system' (2008) reveals that Treasury has a poor analysis for supporting an ideal industry and related consumer analysis of trading and financial operations, as is now required. The Treasury points out that there are many taxes in Australia but waits until page 167 to indicate that all are ultimately paid from the earnings from only three factors of production: labour, capital and land (including natural resources). The report often presents an apparently irrational and incomprehensible state of tax affairs. No wonder that 'income tax law'(p.305) has grown from 88 pages in 1936 to 526 pages in 1975 to 5743 pages in 2008. There are 125 taxes levied by the Australian government, 25 levied by the states and 1 by local government. The top four money spinners at the national level are personal tax, company tax, goods and services tax, fuel tax, taxes on superannuation and tobacco taxes. The states collect payroll tax, conveyance, stamp and other land related tax. Local governments collect rates on land. Australia and NZ are the only countries that do not levy a social security tax and do not have a dividend imputation system (p.xii). Treasury hardly ever explains why.

Australia operates in a global economy, yet Treasury appears to take little interest in issues related to broadening the foreign income tax base (p.193). This is a major problem. In a brief discussion entitled 'How taxes affect savings and investment decisions (p. 248) Treasury provides one of many strange charts, entitled 'Savings and Investments in an Open Economy. In it, 'resident savers' and 'non-resident savers' face 'holding entities' which surround 'financial structures', which surround 'assets'. Apparently these 'holding entities' are banks, companies, superannuation funds or trusts. How exactly are these four entities defined and structured and how are they ideally treated by a government which seeks to govern in the public interest? They are far from powerless to determine economic outcomes but Treasury wrongly treats such 'holding entities', in passing. They are much more than 'holding entities'. They are trading entities in their own right, which may trade many opaquely valued financial products with unexpected outcomes. Trading operators in tax havens require special investigation.

Tobin taxes are excise taxes on cross border currency transactions. As I understand it, they appear to be the logical extension of indirect taxes, such as the Australian goods and services tax (GST) to the financial services arena. Could such taxes have the advantage of restraining financial trading which appears to be primarily undertaken in the interests of financial service providers, rather than their customers? Unfortunately, the Treasury inquiry into Australia's future tax system appears to have cut off access to further public comment on its report after a very short period. As an ignorant, hostile and suspicious consumer of financial services and a taxpayer, I find it highly objectionable when inquiries into financial matters deny rather than facilitate comment by citizens, as is often the case. Good information is the only rational basis on which most trust is built. One wonders who is able to get this message through to Treasury and like minded areas of the public service. Like Czar Nicholas, they prefer their narrow family of advisors, no matter how limited.

5. INVESTIGATE AND DEFINE KEY CONCEPTS OF FINANCIAL YIELD MORE APPROPRIATELY IN THE CONSUMER AND PUBLIC INTEREST

We are told the Australian economy is in comparatively good shape because its bank operations are comparatively sound and its fundamental trading relationships with China and other nations are comparatively strong. However, the Australian dollar has now fallen to a new low of 61 cents against the US dollar and against other major currencies. This is address again later. An article by Paul Sheehan (SMH 20.10.08. 13), which is also discussed later, states that an important question now is 'will the global markets punish a currency for its declining interest yield? Or will it reward a currency because of the soundness of the economy'? This first raises the issue of how 'yield' is appropriately defined in a range of related financial areas to gain a freer market. (God alone knows?)

For example, in Chapter 1 entitled 'The Ancient Regime' of David Love's book 'Unfinished Business: Paul Keating's Interrupted Revolution' (2008) the author states:

> 'With a currency, the yield is set by taking the key interest rate – say bank interest rates – as a percentage of the market value of the currency in US dollar terms. Now, if the Swiss franc is in strong international demand, as it usually is, its international price will be high and its yield low; that is to say that the interest rate you have to pay for borrowing the Swiss franc is low………….
> But the very fact that the international market price for the Swiss franc is so high relative to, say, the Australian dollar means that any Australian who borrows Swiss francs and converts them into local currency is in constant danger of having the repayment value of his Swiss loan jump….. ……..
> For an Australian – a financially unskilled Australian, like your young farmer – to borrow Swiss francs on an uncovered basis is madness (2008, p. 9).

One assumes the above description of how ‘yield’ is set is true, but also that the situation is no longer appropriate in the light of the current US financial crisis and its effects in other countries. This is addressed again later. Love also states:

> ‘My home has a yield set by taking the rent I could get for it as a percentage of its market value. If the market value goes up the yield drops, because it is now a lower percentage of the new market value’ (2008, p. 9).

From a logical perspective, it seems to me Love’s statement above is incorrect. If the market value of my house goes up, the yield should also go up, because ideally I should now be able to get more rent for it. This leaves aside, however, an apparently trivial point of consumer interest, which is that the normal person’s house does not have a yield because the buyer is living in it rather than renting it out, and also owes the bank a lot of money. Another financial expert, Gittens, argued (SMH 19.9.07, p.13) that by owning one’s own dwelling one is escaping tax, which those renting and those who rent to them must pay on forms of income they derive by not investing in their own homes, but in something else instead. Gittins wants government to tax home ownership, which he also laments is a politically unacceptable position. As one of Love’s ‘bewildered pensioners’, it seems to me that most people want to buy a house because they need somewhere to live and view renting as throwing money down the drain. They may also think of themselves as lucky if they can afford to owe huge sums of money to a bank. Love and Gittins often present dishonestly, on the side of the rich, rather than all citizens, in my opinion. Related concerns are addressed in the attached discussion of an ideal trust relationship between UniSuper and MembersEquityBank which was also referred to earlier.

6. INVESTIGATE AND ADDRESS CURRENCY SETTING OR FLOATING AND RELATED CURRENCY TRADING TO MEET THE NATIONAL INTEREST

In the current international financial crisis and with the global confusion about whether past financial orthodoxies are correct, one naturally wonders what the ideal, international and Australian regulatory aims in relation to currency setting and trading should be. This is especially the case if one is Australian and is being told the national economy is in comparatively strong shape, while watching the Australian dollar plummet. One wonders why this is so and exactly how the financial trader’s traditional aim of successfully ‘speculating’, on currencies and exchange rate fluctuations by trying to affect them further is put into practice. This needs to be investigated further. I can understand little.

Political memoirs emphasise the costs of currency speculation to government and taxpayers before the float of the Australian dollar in 1983. For example, in ‘Unfinished Business: Paul Keating’s interrupted revolution’, Love states:

> ‘It took Labor to float the dollar…….without it, history would have turned out very differently. For one thing, Macquarie bank could not have emerged as it did from the Hill Samuel investment house’ (2008, p.28)……..

On floating the dollar, Paul Keating, then Australia’s treasurer, said, ‘Speculators can now speculate against themselves and not against Australian governments’ (p.45).

However, in the current financial crisis it appears that many financial traders have been more successful than ever before in speculating against international and Australian national interests. Unintended financial consequences have now come home to roost.

In describing the reasons for floating the Australian dollar, Bob Hawke, the former Australian Prime Minister, stated in the Hawke Memoirs: 'Put simply, the regulated exchange rate system wasn't working. The answer? Deregulate. Let the dollar float and rid the system of exchange rate controls' (1994, p. 237). He also states in regard to a meeting with the Reserve Bank and others on the subject of the dollar float:

> 'The bankers led the charge. They were heartily sick of riding the tiger of an exchange rate pegged daily. At the end of each day they were left with the price tag on inward flows, holding their breath about tomorrow and every day thereafter. The time had come to let the dollar roam free and to let money move in and out of Australia unshackled by regulations, they said…….. The bureaucratic procedures were a tangle of red tape' (p. 237).

The bankers did not know what would happen to the dollar's value if it was floated. However, Hawke says that John Stone, the Head of Treasury, argued very strongly that:

> 'Australia was a small country and one could not simply open it up and let the forces of international finance rip into it. The Government needed to keep all of its armoury, and pegging the dollar and controlling foreign exchanges were two of our biggest weapons'. (p. 245).

Stone also argued a float would cause the dollar to shoot up in value and wreck Australia's competitive position. After deregulation of the dollar Stone recanted his earlier view and resigned. Hawke writes that Keating needed his leadership and was confused much of the time. In my view, none of the political memoirs I have read explain the situation clearly.

Last week, at Sydney University, I tried to pose the question of how currencies should now ideally be set and treated to former Prime Minister, Bob Hawke and former NSW Premier, Bob Carr, who I understand now works for the Macquarie Bank. Their replies went little further than stating that the float of the dollar when Paul Keating was treasurer was a good idea. I would never dispute it. However, in the face of the current international financial meltdown, one would have liked to have heard more than a re-hashing of the past and vague statements about the necessity for better regulation now. I lack the knowledge and experience of those on the platform. Nevertheless, in my experience and contrary to what Bob Hawke said, the media has mainly dealt with mortgage related questions and has been largely silent on currency and exchange rate speculation. The current financial crisis presents new opportunities for better global coordination to develop regulatory frameworks which may serve the consumers of financial services and other citizens better, rather than encouraging financial service providers to try to rig markets in their own interests through opaque control of money. Designing related currency policy is vital.

Peter Costello, the previous Australian Treasurer, makes the point about Australians' current financial ignorance briefly and authoritatively in 'The Costello Memoirs' (2008). He writes of his interest in knowing whether the government buying securities is supposed to raise or lower the cash rate, because his son has to know the right answer for the Higher School Certificate economics paper. He asked the Governor of the Reserve Bank whether he would buy or sell securities if he wanted to raise the cash rate. The Governor answered 'Buy', but his head of trading said 'Sell'. They all argued about it a little. Then the Governor said, 'In practice, we do neither. We just announce it'. (p.114). The index of 'The Costello Memoirs' is notable for thirteen separate references to the name 'Costello', with discussion of them taking up more than half an index page. The terms 'currency', 'exchange' and 'exchange rate' are absent. Australian politicians need to be widely supported in any efforts to reveal financial workings. Financial ignorance is deep and endemic. The admission of ignorance is not usually in the male script unless perhaps one is an engineer, a doctor or working in another area where errors openly kill.

Many US commentators say that trust in the markets has been lost, and needs to be regained. The antidote to distrust is reliable information, which cannot be gained without communication. I therefore greatly welcomed the edited transcript of the speech by the Governor of the Reserve Bank of Australia, Glenn Stevens, which was recently provided by the Australian Financial Review (AFR 22.10.08, 69) under the heading, 'The road back to optimism'. It was a pleasure to read and I had confidence in it even through those rare parts I could not understand. At the same time, I was overcome with rage that this kind of exposure to highly informed and clear financial information has been so long in coming from any of the men involved in it in any area. Who do they think they serve?
When I read about currency and related trading I often remain in the dark and the US 'quality' media appears to offer little other than a straw procession for guidance.

For example, to read the 'International Bestseller' entitled 'The Great Unravelling: The truth about crony capitalism from the man who can prove it' by Paul Krugman, a 2008 Nobel Prize winner, is to wonder who is pulling whose leg. Australians have been saying this kind of thing at the pub since I was a girl, only more clearly. For example, Krugman writes Argentina 'bought into the promises of US promoted 'neoliberalism' (his inverted commas). He does not explain the term other than stating, 'That's liberal as in free markets, not as in Ted Kennedy'. He states Argentina's tariffs were slashed, state enterprises were privatized, multinational corporations were welcomed and the peso was pegged to the US dollar. (*Why was pegging the peso to the dollar rather than floating it considered a free market strategy in Argentina's case? Krugman does not explain this.*) He states that International Monetary Fund (IMF) staffers had known for months or years that the one-peso-one dollar policy could not be sustained. He also states that IMF officials were 'like medieval doctors who insisted on bleeding their patients, and repeated the procedure when the bleeding made them sicker – prescribed austerity and still more austerity, right to the end'. (*What does this mean in practice? Krugman loves the confusing metaphor but his opaque discussion of heroes and villains avoids explanation.*)
His discussions of the situation in Canada and other nations are also often confusing.

I often found Paul Sheehan's article, 'Greed a deadly sin for the economy' in the Sydney Morning Herald (SMH, 20.10.08, p. 13) incomprehensible. Sheehan quotes

British columnist Ambrose Evans-Pritchard as saying ‘The immediate problem for Australia’s banks is that they gorged on offshore US dollar markets to fund expansion because the interest costs were lower…..They were playing on a huge scale with leverage’. *(How exactly does a bank ‘gorge’ on offshore US dollar markets and play with leverage?)* Sheehan quotes Hans Redeker, the head of foreign exchange strategy at BNP Paribas as saying in 2008 that the Aussie dollar was in decline and he expected to see it fall to 66cents. It has now gone lower. *(Exactly what makes the currency rise or fall and what are the main effects of this?)* In pointing to concerns about the cost of servicing debt related to Australia’s large current account deficit, Sheehan quotes Redeker saying that, ‘Australia will now have to generate 4% of GDP to meet payments to foreign holders of its assets. This is twice as high as the burden faced by the US’. *(In what ways, exactly, are foreigners the holders of Australian assets? What exactly are the assets? Why would foreign holders of the assets have to be repaid, rather than being seen as simply having lost money in the market, like anybody else? For example, UniSuper lost $18,000 of my capital in the past financial year. Who has it now? Did it disappear into thin air?)*

Paul Sheehan’s article (SMH, 20.10.08, p.13) stated that an important question now is ‘will the global markets punish a currency for its declining interest yield? Or will it reward a currency because of the soundness of the economy’? I also want to know:

1. What part did the attempted manipulation of currency differentials by financial traders play in the current international financial meltdown?

2. How does a market ‘punish or reward’ a currency? What key actors and actions are involved in such events? That is, how does currency trading and related speculation attached to the currency exchange rate mainly occur? What are its effects? How can problems be fixed? (Some related suggestions are attached in the context of discussion of superannuation management and carbon trading).

3. Who ideally owns the money deposited in superannuation funds and banks and what does current law state about this matter? (I raise this issue as a result of reading Love and because I get the impression that UniSuper managers think that UniSuper owns my money but that I manage it, rather than the reverse. I have elsewhere pointed out to UniSuper managers, in case they think this, that such a view is demonstrably wrong from a logical perspective. They have not replied.

4. What is the current practice and ideal role in regard to trading in currency, of key classes of Australian business under the ANZSIC system? How are trading or financial corporations and other key institutions ideally addressed in this system?

In Chapter 16 of ‘The Hawke Memoirs’, the former Prime Minister briefly discusses the Campbell Report which resulted from a financial inquiry established by the previous Liberal government. He also alludes to Labor’s Martin Report, which made similar recommendations. As in the case of Love, when writing on former Prime Minister Paul Keating’s legacy, Hawke provides almost no discussion of the content of these reports. One has to go to Carew (1996) for description of their aims and outcomes. She states the Martin report confirmed the direction of the Campbell Report which inquired into:

- Banks and non-banks, including their role in foreign exchange
- The official and unofficial short-term money market
- Specialist development financial institutions (examples are provided)

Changes which flowed from the Campbell report findings apparently included:

- A tender system for selling treasury bonds
- Removal of controls on the interest rates banks could pay and charge, on the terms for which they could lend and the direction of their lending
- Greater flexibility for semi-government borrowers and the establishment of central borrowing authorities
- Increased flexibility for authorized money-market dealers
- More flexible asset structure for savings banks
- Freer foreign-exchange markets, float of the dollar and removal of exchange controls
- Deregulation of the stock market and incorporation of broking firms and
- The entry of foreign banks

In the face of the current international financial crisis it may be useful to review the Campbell Report and later government directions and outcomes.

Thank you for the opportunity to make this submission.

AN IDEAL TRUST STRUCTURE FOR THE BENEFICIARIES: AN EXAMPLE FROM AN AUSTRALIAN SUPERANNUATION FUND AND A BANK

Introduction

From a historical and related scientific management perspective, industry superannuation funds, to which workers, employers and government contribute primarily to provide the workers with an income in their old age, may be conceived as new and better coordinated forms of insurance, taxation and banking. In the traditional insurance company, the fund owners and beneficiaries of the business are the stockholders, not the premium purchasers who are seeking to protect themselves against some kind of risk. Elected governments collect and direct taxes separately, on behalf of taxpayers. Banks take deposits from citizens and companies and lend money to their customers for home or business purchase and all related development. Industry superannuation service management is ideally now designed so fund managers can achieve not only contributor savings, adequate pension provision and housing loan assistance but also regional investment for sustainable development more scientifically and cost-effectively. Many regional planning and management processes are ideally conducted by government in cooperation with relevant communities, industries and related fund managers. An ideal trust structure is considered later in this context. It is structured to enhance competition through better service coordination, related cost cutting and more openness. Openness is vital for all scientific work, including management. Perfect information is necessary for a perfect market. The ideal trust promotes this development.

The main reason current financial institutions do not work as effectively as they should in the interests of the financial service customers, is that financial service providers and governments remain adherents of management expectations belonging to a feudal management era, which existed prior to the more scientific assumption that perfect information is necessary for a perfect market. The scientific management expectations of welfare state capitalism are even newer still. In the early insurance model there are few injury prevention or rehabilitation structures or services to reduce the risk of injury or its consequences for the client or the surrounding environment. The cost of the risk of injury occurrence, on the other hand, may be offloaded to innocent premium holders or taxpayers, or sold to other market participants. This adds to the eventual risk of market collapse rather than providing a mechanism for risk prevention. UniSuper indicates that for the financial year ending in June 08, cash investments performed best with returns of 5.89% and ‘socially responsible high growth assets’ performed worst at -17.49%. In 2006-2007 the latter assets returned 19.60%, while cash returned 6.68. This comparatively unstable investment performance is a major concern in relation to the introduction of carbon trading in 2010, to achieve pollution reduction.

Australian national sustainable development goals must be achieved primarily through seeking the prevention of injury in the environment and rehabilitation after injury occurs. Industry cannot drive sustainable development effectively alone, because its primary goals are making money for stockholders or accessing support or other compensation when this fails. More broadly scientific approaches to management are necessary to achieve more sustainable development. More broadly linked management partnerships between industries, governments and other communities, driven by social and environment goals, which include commercial goals, are necessary. Recommendations of recent Treasury and other government reports are considered in this context.

More Scientific Financial Management is Necessary but Treasury Cannot Lead

This discussion first provides a short historical and theoretical background for Australian superannuation fund management. It also focuses on the evidence to support a central example of ideal managed trust relationships between Australian superannuation fund members, bank customers, and related broader communities with similar interests. These collective and individual interests principally lie in better and cheaper fund management for superannuation members and bank customers, in order to achieve related and more broadly identified community goals or directions more effectively. The evidence supporting the discussion of the ideal trust structure is also provided with the aim of maximising the interests of the beneficiaries most concerned with the example provided. They are contributing members of UniSuper and loan customers of MembersEquityBank.

However, the current financial crisis is also a good time to explore potentially matching trust relationships between many industry superannuation funds and bank managers, or with other institutions. Such institutions may have assisted saving, lending, taxing, pension provision or related financial service and investment functions. Such services may be better defined, designed and coordinated to serve the interests of industry superannuation fund members, bank customers, taxpayers and other customer or related community groups more effectively than at present. Supporting discussions of Australian constitutional problems, education for sustainable development, and the management structures to achieve the government Green Paper on Carbon Pollution Reduction (2008) objectives are provided in attachments. Tax needs to be conceptualised in this context.

Later discussion of ideal trust structures and relationships additionally aims to promote effective financial service provider competition through describing a more consistent and scientific approach to financial services structure, management and delivery to achieve more clearly identified social goals. This process ideally begins with clarification of financial definitions, more consistent use of financial terms, clearer financial, social and environmental aims, and the improved design of related service management structures and administrative procedures. This is necessary to promote the financial service managers' capacity to compare service outcomes and to continually improve them through competition. I assume the Australian and New Zealand Standard Industrial Classification (ANZSIC) should provide useful guidance in this context and that the following Services Industry categories should be of primary interest:

- Finance and Insurance
- Property and business services
- Construction

The above industries ideally serve many related industries as scientifically as possible. Yet Treasury does not refer to any ANZSIC categories in its publications discussed later.

According to Popper (1972), science aims to be objectively grounded in the outcomes of experiment and test. Although honesty is not a scientific concept, all science depends upon it. Scientific, democratic and customer service management processes also depend on communication. Effective communication, rather than tests, grades or related numbers, are the essential measure of much scientific discourse. Written communication requires a level of logical thought development which cannot be matched in cultures which are primarily oral or numerical and so less open to organized development or criticism. Naïve academic or professional 'experts' may also be taught to equate numbers with science and the written word with law or imagination. This is not the case. Ideally, scientific managers know and encompass the value of all through good communication. Science ideally emulates a more careful, carefree God than the deity of feudal cultures.

The Australian government must understand the necessary conditions for effective comparative administration before it can create them. I have little confidence that many so-called legal or financial experts understand them well because they are largely uninterested in historical and related structural development. They hide behind laws and numbers. When legal or financial experts write they often omit definitions of terms, because they are not in legislation. The courts rule but seldom define. Theirs is prescientific treatment. I used Rubin's Dictionary of Insurance Terms, published by Louisiana State University (1991), to define key terms used later. The Financial Services and Credit Reform Green Paper (2008) produced by the Australian Treasury and entitled 'Improving, Simplifying and Standardising Financial Services and Credit Regulation' does not even define a trustee. However, it defines TRUSTEE CORPORATIONS as:

> Corporations licensed under State and Territory Government Trustee Companies Acts for the purposes of providing personal trustee and estate administration services.

One wonders what other functions such trustee corporations normally have. The Treasury report on the architecture of Australia's Future Tax System (2008) has no glossary. In Table 2.9, entitled Australian government taxes as at 1 July 2008, the heading 'Trusts' refers to '*Trustee of trust (other than public trading trusts, corporate unit trusts and FHSA trusts)'* (p. 59). FHSA is not even in the listed acronyms. All the above management concepts and structures, whatever they are, require consideration in the light of current Treasury and related government reports' shortcomings and the argument made later. This indicates that poor service administration is related to bad choice of a trustee in the case of the MembersEquityBank choice of Perpetual Ltd. All trust related concepts should now be defined and treated appropriately. Treasury seems unwilling to do the job of analysis properly. Why not give the Productivity Commission and the Australian Tax Office a go, on behalf of Australian consumers and taxpayers?
Law which operates without aims, key definitions or related classifications, makes scientific management impossible and the latter is not valued at all in such authoritarian, feudal and unstable environments. Courts collect little or no

management data which can be used for better injury prevention. They are the root of an evil far from public service.

The Treasury report on the architecture of Australia's Future Tax System appears to take little interest in issues concerning the potential broadening of the income tax base. (What planet do they live on?) In a brief discussion entitled 'How taxes affect savings and investment decisions (2008, p. 248) the report provides a misleading chart, entitled 'Savings and Investments in an Open Economy. In it, 'resident savers' and 'non-resident savers' face 'holding entities' which surround 'financial structures', which surround 'assets'. The 'holding entities' are 'banks, companies, superannuation funds or trusts'. None of these vital entities are defined in the Treasury report on Australia's Future Tax System or in the Treasury Green Paper (2008) on Financial Services and Credit Reform. Treasury overlooks such 'holding entities'. However, banks, companies, superannuation funds and trusts do much more than holding. They are trading entities, which may trade increasingly opaquely valued financial products with unexpected outcomes, as the current US and related global financial crisis is currently showing. I assume that 'foundations' were missed out by Treasury because their doings are ideally considered philanthropic. Charitable activities may be unclear but may also escape tax implications. Financial services need greater scrutiny. Treasury appears not to have the stomach for it.

The Consumer Friendly Nature of the Modern Superannuation Magic Pudding:

In feudal times, the trader's family, banker and insurance premiums were his main financial protections. In the case of catastrophe, a man might call his lawyer and attempt to get lost money back from another supposedly guilty party or an insurance company, via the courts. In a later historical period, the flowering of science and technology was strongly driven by the development of capitalist organization and related competition. Even later, the development of capitalism drove welfare state growth and all its related public service provision, such as pensions, funded through taxation. However, the earlier feudal management structures continued to dominate later bureaucratic management expectations, through the continuing and dominating power of feudally structured courts, lawyers and all related commercial in confidence expectations. The current result of this is dysfunctional overregulation which only works to profit lawyers and their acolytes by driving everybody else increasingly into professional and related darkness. The current US crisis shows the cumulative effect of financial secrecy and consequent ignorance. This is the opposite of increasingly open markets. Americans are kidding themselves.

The desire for financial compensation or revenge, rather than for injury prevention or rehabilitation drives the feudal approach to management. Risk may be parcelled up and sold to others as a financial investment service, and as if this process were also related to stopping a ship from sinking, or a sea wall from breaking and flooding houses, in the real world. It is not. Lawyers and their acolytes are used to following many ancient rules, in which self-blinding ignorance may be equated with more effective management. For example, under the heading, 'Robust institutional arrangements are needed' Garnaut provided the following warning in his Interim Report on Climate Change:

> ‘Care would need to be given to the design of the institutional arrangements for administering the allocation and use of permits. Variation in the number of permits on issue or the price would have huge implications for the distribution of income, and so could be expected to be the subject of pressure on Government. There is a strong case for establishing an independent authority to issue and to monitor the use of permits, with powers to investigate and respond to non-compliance ‘(Garnaut, 2008, p.65).

The Australian government is elected to govern and by giving away a major governing power to any body established at arm’s length from itself, government only makes itself more ignorant and unaccountable than it would otherwise have been. This is a common kind of problem. Everybody needs to know more about what is going on, not less.

In the case of industry superannuation, as in the case of NSW workers compensation insurance, the managed funds are owned by the contributors to the funding pool, who are also the fund customers. This fund management model ideally services its stakeholders – the ideal beneficiaries of the fund - rather than a completely different group of stockholders, as is usually the case with management of insurance companies and banks. Like premiums paid to an insurer, deposits placed in a bank or taxes paid to government, superannuation funds are ideally invested by the fund managers to achieve adequate returns to the fund owners. In superannuation the latter are also the main contributors to the fund, its customers and related beneficiaries. This stakeholder management model is the most recent, scientific and democratic form of capitalist development, which can ideally be effectively coordinated with the broader management aims of governments and with the related interests of industry and communities in sustainable development. Older ways of operating now merely add layers of foolish regulatory costs to all transactions. British government purchase of interests in banks may assist better Australian direction.

Consider the recommendations of the Select Committee of Senate on State Government Financial Management (2008) in this context. Recommendation 1 is for a Charter of Budget Honesty. In the current US financial meltdown, all those who have always striven to be honest, may now be forgiven for wondering what they are expected to be doing differently. This is now the major financial puzzle conceptually - a little like the Chinese, cultural, revolution. Recommendation 2 suggests the Charter should include requirements that financial reporting ‘be fully consistent with all relevant financial reporting standards’, (etc. etc. etc.). The necessary trick, however, is deciding which financial reporting standards continue to be relevant if one properly understands the nature and requirements of ideally related national and international capitalist, democratic and sustainable development enterprises (to say nothing of the ideas of Marx, the champion of scientific materialism.) Recommendation 3 of the Select Committee of the Senate refers to the necessity to maintain the integrity of the tax system, among many other fine things. Having read ‘Australia’s Future Tax System’ (2008) I think Treasury is probably unwilling or unable to explore what integrity might mean, let alone act on it.

The recent article on Frank Lowy entitled ‘The quiet benefactor: Lowy’s dedication to Israel’ in the Sydney Morning Herald (SMH 29.9.08, p.1) states that a foundation is not a company or a trust. In regard to the integrity of the tax system, the same article notes that the Australian Tax Office has trouble applying Australian taxation laws to non-common law entities, such as the Lichtenstein foundation operated on Mr Lowy's behalf. It seems that more effective bank regulation is necessary in many tax havens to ensure that Australian and other governments can tell the difference between illegal and legal activities when Australian money goes to banks offshore. This may also be part of the route to coordinating sustainable development more effectively through triple bottom line accounting. The latter is primarily concerned with establishing the bank project aims from commercial, social and environmental perspectives and documenting their progress.

One wonders in this international context how the leaders of failed or failing states other than the US, such as Burma and Nepal, think their countries' situation is ideally managed in the light of the impact of the global financial crisis and all related requirements for sustainable development, which are partly driven by ideal systems for carbon pollution reduction. One also wonders how the governments of failed states ideally perceive their populations and any related foreign workers to be protected when natural or man made emergencies arise. The secondary trading markets appear largely to have toxic purposes in this global context in that they offload the cost of financial risk to other market players, rather than reduce all risk through risk prevention, rehabilitation and related development programs funded effectively from common pools. US attempts to provide good health services via market mechanisms failed, why should carbon trading be any different?

From the international sustainable development perspective, which governments, industry superannuation funds and related managers ideally now support, good governance normally requires clear separation of government policy from its administration, with the former driving competitive, transparent, service provision (Rich, 1989; Hilmer, 1993) so all may identify a range of economic, social and environment related outcomes. Program budgeting, as partially implemented in the public service by Wilenski (1982; 1986), is central to this approach. Managers start with program and related project aims which have been consultatively developed and prioritized in the light of national and regional community goals. They establish strategies to meet them and prepare related budgets. The direction is important to establish early and openly, rather than fighting about the supporting amounts of money and their sources over the long term. Arguments about the latter go on forever. If there is a clear policy direction and worries are about the real world consequences of action, its potential problems can be more easily seen and reduced. Key fund management activities are monitored and their outcomes are measured in the light of the overall identified aims of the related projects and institutions.

Australia has been blinded by an outdated Constitution and financial administration which reflects a British governance model in which elected politicians, administrators, and the judiciary are seen as separate, independent governance pillars, which try to keep each other and those lower, ignorant. The Senate Committee report of inquiry into transparency and accountability of Commonwealth public funding and expenditure (2007) ignored program budgeting. It recommended complex additions to the existing Australian budget process which add to current budget opacity and all related cost. The committee concluded its recommendations were designed to restore the Parliament's historical and constitutional prerogatives. This is undesirable in an era where open partnerships with industry and communities are required to achieve national and regional health and sustainable development effectively, through fair and efficient competition.

In Recommendation 8 of the Senate committee on State Government Financial Management (2008), the committee suggests the Council of Australian Governments (COAG) consider the costs and benefits of input controls compared to output controls in the development of Special Purpose Payments (SPPs). Input controls and output controls are not defined. The recommendation followed discussion of Commonwealth-state and territory fiscal relations in Chapter 2. The committee notes the major overhaul of the SPP framework currently being undertaken by the COAG. It also notes the National Audit Office (NAO) has identified this topic as possibly warranting a future performance audit, which the committee supports. One assumes the NAO will naturally operate secretly. Government needs to understand and implement open program budgeting, not forget it.

Prioritization of projects for the $20 billion Building Australia Fund, the National Rental Affordability Scheme and related project coordination is now being undertaken and management partnerships must be considered in this context. An openly planned approach to investment should allay opposition concern that these funds ‘will just be used as a slush fund to bail out failing state Labor governments, who have got infrastructure problems that they have all allowed to accumulate’(Sydney Morning Herald (SMH) 4-5.10.08, News 4). I assume current NSW Government policy in regard to the procurement of **infrastructure, information technology, property and goods and services** requires consideration in the same context**.** For example, the NSW Treasury Gateway Review Workbooks comprise:

Strategic Review Workbook
Business Case Review Workbook
Pre-Tender Review Workbook
Tender Evaluation Review Workbook
Pre-Commissioning Review Workbook
Post Implementation Review Workbook

I believe that few could go through the current voluminous Treasury processes outlined in the above workbooks without being driven to drink. I do not know how these Treasury expectations relate to anything expected by the NSW Department of Planning, councils, recommendations of the Senate Report on State Government Financial Management (2008), or construction to be undertaken under the National Rental Affordability Scheme draft guidelines (2008). The latter superficially seem reasonable to me. (This is rare.)

Rationale for Construction of an Ideal Trust Structure and Relationships

In the Dictionary of Insurance Terms, Rubin (1991) states:

> *A TRUST is a legal entity that provides for ownership of property by one person for the benefit of another. The trustee receives title to the property, but does not have the right to benefit personally from the property. The trustee has a legal obligation to manage the property and invest its assets solely for the BENEFICIARY OF TRUST (sic).*

There are basically two types of trusts: LIVING TRUST (established during the life of the GRANTOR) and TESTAMENTARY TRUST. For example, a trust may be established by a parent to hold assets for the benefit of a child.

Logically, under Rubin's definition of TRUST, my claim relates primarily to a living trust which exists between me and UniSuper. I am one of many UniSuper members. Under the above definition of TRUST, I am the beneficiary of a trust in which UniSuper (the trustee) undertakes to manage my superannuation savings and related investment account. If I seek a loan, MembersEquityBank may be my loan service provider and mortgage related trustee. Members Equity advertises itself as 'The Super Funds Bank'. I took out a loan and have now paid it off. My Super Funds, my Bank! I had naively thought. However, I had to undertake transactions which should have been simple and largely free of cost, but which were made extremely complex and costly. The aim appeared to be to extract money by forcing me to use lawyers, have property valued, have mortgages and certificates of title dealt with, and related state taxes paid, in order to have some of the latter reimbursed. At the time, many organizations were on TV nightly seeking to lend money to people with much less credit worthiness. I recommend that the Treasurer invite Australia's leading industry superannuation funds and Members Equity Bank to design a better system from the perspective of the superannuation fund contributor, loan consumer and the national interest. Related suggestions appear below.

According to Rubin:

FIDUCIARY - holding of property or otherwise acting on behalf of another in trust. The fiduciary must exercise due care in safeguarding property left under personal care, custody and control. Insurance coverage is available for this exposure. (One wonders why the insurance should be necessary).

MembersEquityBank is the ideal fiduciary of UniSuper. UniSuper is also the ideal trustee for MembersEquityBank. The interests of the beneficiaries of UniSuper savings and investment account management and the customers for MembersEquityBank loans and related property services appear best served if MembersEquityBank becomes the housing loan manager for UniSuper funds. However, Perpetual Ltd. currently interferes in this ideal trust relationship. Perpetual Ltd should not be considered as the trustee of MembersEquityBank, 'The Super Funds Bank' as is currently the case. Perpetual Ltd must operate in the interests of shareholders in Perpetual Ltd, who are neither UniSuper members nor MembersEquityBank customers. Perpetual Ltd shareholders represent a third set of interests which milk the other two sets irrationally, opaquely and very annoyingly. Perpetual Ltd has something worse than a conflict of interest. It should never have been the trustee of MembersEquityBank. UniSuper fund managers are the ideal MembersEquityBank housing loan underwriters. Who chose Perpetual and why?

The manner of treatment of any mortgage and certificate of title on any loan related property being considered in the above context should be clear and exclude as many costs as possible. The current MembersEquityBank loan management and related service system is unnecessarily complex, adversarial and expensive. If MembersEquityBank managers could know how much superannuation a consenting member had in a UniSuper account, one wonders how the circumstances of the attachment of any MembersEquityBank loan, however small, to property and its related mortgage or certificate of title, should be carried out. This now requires consideration.

According to Rubin:

> *Since the trustee is required to manage the property and its assets in a prudent manner, if he or she fails to perform in accordance with the PRUDENT MAN RULE the trustee becomes personally responsible for any lost funds or profits incurred by the trust*

From the above perspective, I believe that whoever made Perpetual Ltd. the trustee of MembersEquityBank or UniSuper failed to perform in accordance with the PRUDENT MAN RULE. From my perspective, what they did was more like the application of the STUPID, HORRIBLE OR EXPEDIENT MAN RULES. In my experience this often involves the continuing application of feudal legal principles, while mixing them up even more irrationally than was probably the case in the 14^{th} century. In Australia, the more scientific concept of duty of care, which is found in state Occupational Health and Safety Acts, may be usefully extended by consistent regional management with coordinated duties of care to customers, communities, the land, water, air, and related biodiversity.
Market operations which are driven by money managers will not produce effective competition to solve real world problems, as indicated by the current US financial crisis. A more scientific management approach is suggested in the attached article entitled ‘Health and education for sustainable development and the Australian carbon pollution reduction scheme’. Taxation matters also require consideration in coordinated regional industry and community contexts, where the common aims are increasingly related to sustainable development – to achieving economic, social and environmental goals.

According to Rubin:

> *A trust agreement is: A legal document setting out the roles to be followed by a TRUSTEE in administering assets of a TRUST. The trust agreement may limit investment of trust assets to specified types of securities, for example, or provide for distribution of the trust principal or earnings to a BENEFICIARY OF TRUST only under certain circumstances*

Rubin does not include a definition of SECURITIES in his dictionary**.** He includes dictionary definitions of a number of different bodies with the word ‘security’ in the title, but never explains the word itself. (I assume this Freudian slip follows the common feudal courtesy of lawyers to their judges. Increasing confusion over terms costs money.)

The concepts of UniSuper ‘rebalancing and strategic tilting’ which were discussed in recent member training, should logically be undertaken in the above context, in cooperation with those charged with achievement of government and industry regional planning objectives related to sustainable development and carbon pollution reduction, as discussed in articles attached. If UniSuper is convinced of the material value of the housing or related portfolio held (for example, by going out and patting the housing stock) fund managers should not switch financial holdings from moment to moment to achieve some concept of numerical, market and risk related equilibrium as markets move, especially if this concept of value is fictitious, as appears to be the case. Related standards appear false and a means for traders to make more money for themselves.

In Recommendation 2 of the Parliamentary Joint Committee on Corporations and Financial Services Report (2007) entitled ‘The structure and operation of the superannuation industry’, the writers suggest that treasury should conduct a review of laws and regulations governing superannuation to identify how they may be rationalised and simplified. Key assumptions, definitions and industry descriptions and relationships still need to be logically addressed before effective discussion of the simplification of superannuation law is possible. For example, any future inquiry should address the aim and related rationale of requirements that a superannuation fund or any other financial institution should be managed by a trustee, ‘at arm’s length’. When is the separate trustee necessary and why? What exactly should the trustee role entail? The report constantly refers to ‘the industry’. This and other key terms and relationships need clearer definition. I do not recommend treasury for the task. However, consistent with the recommendation of the above report, it would be good if UniSuper publicly tenders its key service provision agreements for consideration. It would educate the market.

The above issues require further consideration in the light of national competition policy which was supposedly implemented after Hilmer’s report to Australian Heads of Government in 1993, following an independent committee of inquiry. Hilmer defined competition as, ‘striving or potential striving of two or more persons or organizations against one another for the same or related objects’ (1993, p.2). This definition would have led to triple bottom line accounting (financial, social and environmental), which is necessary for sustainable development, if it had ever been implemented properly. It was not. The earlier Trade Practices Act (TPA) ‘interpretation’ of competition was retained in spite of Hilmer, which states that, ‘competition includes competition from imported goods or from services rendered by persons not resident or not carrying on business in Australia’. The TPA does not define key terms, but ‘interprets’ them instead.

In spite of Hilmer, Australian competition legislation still follow the US Sherman Antitrust Act of 1890 which stated that all ‘unfair’ business ‘monopolizations’ and ‘combinations’ are against the national interest. As JK Galbraith pointed out, ‘To suppose that there are grounds for antitrust prosecution whenever three, four or half a dozen firms dominate a market is to suppose that the very fabric of American capitalism is illegal’(1952, p.68). He also pointed out that this has never discouraged the briefless lawyer. The Australian TPA has developed on a similar basis of early legal assumptions about the market being composed of traders whose interactions, when ideally free from government interference or other monopoly influence, naturally benefit the whole society. This is a highly questionable economic proposition, unsuitable for legal reification. The consumers (customers) are not recognized as a sub-set of traders in this theoretical framework. The comparatively recent concept of the ‘consumer’, suggests that many such traders may need special protection because of their comparative lack of information about their purchase, or for other reasons such as their comparative lack of money, opportunity or related bargaining power. After the Hilmer report, consumers were specifically addressed in a new section of the TPA.

This and state fair trading acts now have long, inconsistent and narrow definitions of a consumer. Lawyers' logic is awful because their views are feudal.

UniSuper Fund Management Ramifications

Recently in the Australian Financial Review (AFR 30.9.08, p.69) Lohr discussed the current US financial legislation which will allow the Secretary of the US Treasury to make decisions regarding the purchase of mortgage-related assets up to the value of $700 billion. In the legislation, the term mortgage-related assets apparently means residential or commercial mortgages and any securities, obligations or other instruments that are based on or related to such mortgages, that in each case was originated or issued on or before September 17th, 2008. Lohr quotes a former senior researcher at the International Monetary Fund (IMF) saying:

> Key tasks are overseeing the workings of the rescue plan, helping to guide the contraction and recapitalisation of the banking industry, assisting home owners who face mortgage defaults and in general shaping policy for a nation that will be less accustomed to easy credit and overspending. (AFR 30.9.08, p.69)

Australian development is ideally coordinated effectively in a global context. However, on the basis of current reading I do not trust Treasury officials in the US, Australia or the state of NSW to resolve key problems rather than increase them as a result of following their past rules and more recent ones which they make up as they go along in conditions which have become increasingly opaque. This has now caused many disasters in financial services provision and results. The past Australian treasurer's concern about whether government buying securities is supposed to raise or lower the cash rate also requires consideration in this context. His confusion and that of treasury about this is recounted in his Memoirs (Costello, 2008 p. 114).

In the current, extremely unclear financial situation, it seems a good idea to start any accounting processes with current material realities, such as housing stock, on which loans are often based. In this context I cannot understand how it is possible to have a non-financial dependant, which was referred to in recent UniSuper training. The Treasury reports are very scrappy but neither they nor Rubin's Dictionary of Insurance Terms, which looks a more scholarly account, allude to any such category of being. Are we about to revive the concept of 'emotional dependence', as in my youth? How delightful. I'd be grateful for any further information you provide on any of these issues.

Thank you for the opportunity to make this submission.