



PRODUCTIVITY COMMISSION

DRAFT REPORT ON URBAN WATER

DR W. CRAIK, Presiding Commissioner
DR W. MUNDY, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

AT BRISBANE ON WEDNESDAY, 1 JUNE 2011, AT 9.02 AM

Continued from 31/5/11 in Sydney

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DR CRAIK: Good morning, we might start. Welcome to the public hearings for the Productivity Commission inquiry into Australia's Urban Water Sector following the release of a draft report on 13 April. My name is Wendy Craik and I'm the presiding commissioner and my fellow commissioner is Warren Mundy. The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and to get comment and feedback on the draft report. Prior to this hearing in Brisbane a hearing was held in Sydney and following today's proceedings we will also be holding hearings in Canberra and Melbourne. We will then be working towards submitting a final report to government in August, having considered all of the evidence presented at the hearings and in submissions as well as other informal discussions. Participants of the inquiry will automatically receive a copy of the final report when it's released by the government, and that may be up to 25 parliament sitting days after completion.

We like to conduct all hearings in a reasonably informal manner but I remind participants that a full transcript is being taken. For this reason, comments from the floor cannot be taken. But at the end of the proceedings for the day I will provide an opportunity for any persons wishing to do so to make a brief presentation. Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. The transcript will be made available to participants and will be available on the commission's web site following the hearings. Submissions are also available on the web site.

Now, to comply with the Commonwealth occupational health and safety legislation you are advised that in the unlikely event of an emergency requiring the evacuation of this building you should go outside and gather on the terrace and then someone will tell us what to do. The toilets, for anyone who wants it - out there and back there and back near the lifts.

I would now like to welcome Greg Hoffman and Simone Talbot appearing for Local Government Association of Queensland. If I could ask you to introduce yourselves, say your name and your position and the organisation for the record and then if you would like to make a brief presentation we'd be happy to hear from you.

MR HOFFMAN (LGAQ): Okay.

DR CRAIK: Thank you.

MR HOFFMAN (LGAQ): Greg Hoffman, general manager, Advocacy at the Local Government Association of Queensland.

MS TALBOT (LGAQ): Simone Talbot, manager, Infrastructure, Economics and

Regional Development, Local Government Association of Queensland.

MR HOFFMAN (LGAQ): Commissioner, the Chinese proverb, "We live in interesting times," is never more apt in a discussion around water and water reform issues in Queensland. How things have changed since we last met you in December.

I would like to congratulate and thank the Productivity Commission for its comprehensive and very considered draft report. We appreciate the acknowledgment of LGAQ's position on a number of the matters and, importantly, a recognition that the one size fits all approach is not a solution in Queensland, recognising the considerable diversity that exists in government arrangements, settlement patterns and the circumstances of the development of our state. I would like to make just a couple of remarks about key issues that are of fundamental importance to us in the approach to water, water reform. They are in fact matters that have been acknowledged and reported on by the commission but are worth highlighting as the key issues of importance to us.

Firstly, the importance of strategy before structure. Before we can consider what institutional arrangements may be appropriate in that diverse circumstance of our state it is absolutely essential that the policies, the inter-governmental agreements and arrangements, the legislative and funding arrangements on which the operation of and the provision of urban water supplies are based has to be settled and operated in an effective, consistent fashion so that the decisions on how urban water supplies are provided can in fact be planned, provided and delivered. Related to that in particular are the regulatory settings at both federal and state level but particularly at state level. I would suggest to you and to the commission that we cannot proceed to identify how best to organise, operate and provide urban water supply unless the regulatory settings are clear and are, more importantly, consistently applied.

I would also like to emphasise the importance of evaluation of options before action is initiated. I would strongly endorse the commission's approach of evaluating institutional reform options and making decisions on an individual and regional basis, having regard to the circumstances that are found in different locations and situations. In that context I would acknowledge that we have, since meeting you in December, recently commenced discussions with the state government on an approach to resourcing and conducting two or three pilots into possible institutional change.

Whilst the details of that are yet to be agreed, from our perspective evaluating different options is an important part and certainly the commission in its draft report has acknowledged that there are potentially three or maybe four more options that are important in that process of evaluation. But I would also say that the ability to conclude what option may be appropriate in a given circumstance is, as I alluded to

earlier, dependent upon some clarity around regulatory settings. We are likewise in discussions with the state government about how we might progress and conclude those outstanding issues that have been the subject of discussion, in any event, for the past six to 10 months with state government. I leave it there for the moment, commissioners.

DR CRAIK: Okay, thanks very much Greg. Thanks for your submission and your opening remarks. Perhaps you could give us a bit more information about this local government urban water service provision institutional review program in Central West Queensland, the RAPAD councils, and give us some indication in terms of the time lines and what you hope to achieve and how it's going to work, whether there will be any independent review, a bit like in New South Wales, whether that's envisaged. I guess that would be a good start and we can go on from there.

MR HOFFMAN (LGAQ): Okay. We have now, for some 12, 14 months, had in place a memorandum of agreement with the state government on how we can work together on progressing the range of issues that are relevant to dealing with the challenges that are faced by the urban water sector. This is specifically outside of South East Queensland. In that context of a partnership approach to dealing with the issues, we are in regular conversation with the ministers involved, particularly the water minister, and relevant departmental offices within the Department of Environment and Resource Management.

Arising out of that framework and the interaction that takes place and in response, I say, to your recommendations, we sought to engage government on the question of, "Are you willing to partner with us?" in the spirit of the agreement on investigating possible options by way of pilots in certain locations. I would also say that in addition to what you were recommending, the reports of Infrastructure Australia and the National Water Commission were informative in realising that there needs to be a proactive approach to where we go. Initial discussion with minister Kate Jones, at which we raised the idea of a pilot, a collaborative approach with joint funding from the parties, was well received and we are not developing more fully a proposal to seek agreement as to how we would proceed there.

DR CRAIK: Would you envisage like a pilot of a number of different models?

MR HOFFMAN (LGAQ): Recognising that if you're going to evaluate and determine an outcome, then yes, you do need to look at different options. The initial discussion with the RAPAD group - I'm just trying to get the name right, Remote Area Planning and Development Board, the acronym RAPAD - is a result of some 12 months of discussion with that group, recognising that they are atypical, if you like, of the circumstances faced in many rural and remote areas, but having a regional group that's proactive, they are in discussion as a group of seven councils on

these issues anyway. The proposal was put to them, "Are you interested in being a pilot?" in this approach that we are seeking to negotiate with government and their answer was yes. It fits within their approach to trying to identify regional solutions to their particular needs.

So whilst the details are yet to be finalised and agreed to, it would be our belief that we would look at various options in particular areas and we would look to maybe two or three pilot areas, RAPAD being one, where already the door is open to engagement in this way.

DR MUNDY: I guess South East Queensland councils are probably not so enthusiastic about these sort of state - - -

MR HOFFMAN (LGAQ): Yes, they have particular difficulties in their engagement and relationship with the state government.

DR CRAIK: So are the RAPAD councils already working in some kind of alliance yet? Are they actually doing anything yet or have they just kind of agreed - I mean, is it too early?

MR HOFFMAN (LGAQ): They already have, if you like, an alliance that is in relation to road issues in the area. That is a demonstration that they have a relationship, they have a mechanism of engagement and decision-making. On this particular question, the LGAQ and our industry partner, Queensland Water, have been working with them - in fact Simone and other staff involved in this area have conducted workshops in that area - identified an action plan, and perhaps it might be appropriate if Simone was to comment on that.

DR CRAIK: That would be good.

MS TALBOT (LGAQ): The RAPAD group, certainly as Greg alluded to, have a strong interest and they are aware that the challenges they face probably are needing to be addressed and certainly the commission's draft report has prompted a strong focus from that group to definitely move forward in an active manner. The group at their last meeting has formally endorsed a draft strategy to look at urban water services provision across the region. That does involve a commitment to participate as one of the pilot programs that Greg mentioned. Also though, the first piece of activity is for them to do an audit across the region with regard to skill base, asset base, joint purchasing, resource sharing opportunities, pricing regimes et cetera within the councils. They have committed \$50,000 themselves to commence that piece of work, so they are keen, pending the outcomes of our discussions with the state government to then supplement that work with examining their institutional arrangements. Some of the detail associated with that is that we would look to have

independent review facilitators attached to each of those pilots to keep the momentum progressing but also to, I suppose, provide an independent opinion on how the group is progressing to keep them on track and also to provide a reporting link back to the partnership which consists of DERM, LGAQ and Qld Water.

Very much as well, we're looking to establish a competitive funding pool where those pilots would bid for funding to undertake specific pieces of work, to examine particular structures or regulatory frameworks for that region and so, as I said, it is early days but we're just finalising our submission now, but the minister has certainly expressed a strong desire that support councils actually lead, looking at reform options themselves, rather than it being dictated by the state.

DR CRAIK: Do you have - even though I know it's not finally agreed or anything - a notional time line for undertaking this pilot, like a year or two years?

MR HOFFMAN (LGAQ): Certainly not two years. We'd like to do it sooner than that. However, we have to be realistic, acknowledging that local governments in Queensland go to election at the end of March 2012. The ability to conclude it before then is difficult but the interruption of an election would automatically delay the process, so we believe an 18-month time frame would enable the pilot to be done, but impacted by the momentum loss before and post an election period.

DR CRAIK: That's pretty good.

DR MUNDY: Can I just ask, in your submission you discussed - I think Queensland Water raised some issues around the challenges of providing services to indigenous communities, particularly in Queensland. The sort of implication is that it's probably because of the way that water provision is raised in Queensland, but I suspect the problem as experienced in parts of the Territory outside of Darwin, parts of WA and South Australia and even regional north-west New South Wales are probably pretty similar. Do you have a sense of how outcomes in Queensland for indigenous communities rate up against the others? Has there been any benchmarking work done about these sorts of issues?

MR HOFFMAN (LGAQ): In short, no. That work may have been done but, if so, I'm not familiar with it. The local government structures in indigenous communities in Queensland have been well established in the sense of local government councils have been in place since the mid-1980s, and that has provided a relationship or an engagement between government - state and federal - with an entity at a local level. That framework is strengthening in terms of capacity, but the problems faced in other rural remote communities are exacerbated in indigenous communities, particularly around schools and financing, given that there is not the traditional costing arrangements, either rating or charging, that apply in other communities.

The indigenous communities do not operate in that fashion. The occupants of dwellings pay a rental arrangement to the local government and it's from those rental payments that all of the other service provisions are made. That revenue does not in any way cover the costs of the operations of the water systems, let alone the other services. So it's dependent upon state and federal governments. I can simply add that I don't know whether the situation is better or worse. I would think the governance structure, sitting on that platform of a local government arrangement for well over 20 years, probably provides a more secure base; one that has been developed and is continuing to be developed, recognising capacity constraints and the need for ongoing support. I acknowledge the work of the state Department of Local Government in its very genuine efforts to support those communities in that situation.

DR MUNDY: The pilots that you envisage, will any of these cover indigenous communities with these issues?

MR HOFFMAN (LGAQ): Possibly. Our discussions with government to date have indicated that we're looking at genuinely rural remote in the rapid group, but would want to look at coastal communities and certainly indigenous communities adjacent to major urban centres that could be part of a wider group. That has certainly been in the discussion but it's very early days. But recognising that we do need to address those issues, those matters have been included in our preliminary discussions.

DR CRAIK: Are the indigenous local government areas, are they part of your association?

MR HOFFMAN (LGAQ): Yes, they are.

DR MUNDY: In your opening remarks you made some observations about both Commonwealth and state based regulatory settings. I would be interested in which Commonwealth settings you see as relevant and what issues do you have with them. I think you also indicated that settings were not being consistently applied, and I presume that's probably more at a state level than a Commonwealth level. Can you perhaps flesh that out a bit with some examples.

MR HOFFMAN (LGAQ): I'm talking broadly about the determinations made initially through COAG that give rise to the National Water Initiative, National Water agreements, and those matters. What that means in terms of the intergovernmental frameworks, particularly federal and state, and where that goes, I guess my observation principally is what do those agreements mean when our state government has done what it has done in recent times concerning the south-east

corner issue.

I'm not wanting to debate that specifically but I'm just begging the question, what do these agreements actually mean? What obligations are there on the parties? What basis does it give to plan in a consistent fashion - or from our perspective, no - the position of governments on these matters, when those things take place? I guess that's a point I've alluded to. But more specifically on the question of the regulatory settings we have only in recent times in this state moved to some clear regulatory arrangements in relation to drinking water quality standards. That's a good thing. Our discussions over the past 12 to 18 months with state government have been around how do we reform the regulatory settings that we currently have. We have a very strong view that if we are to improve the performance of water entities, local government in particular, then there should be a very clear setting as to what the performance standards are.

What are the outcomes that have to be achieved, not only in drinking water quality, but other parameters in relation to asset management, financial management, the issues around pricing, maybe in relation to skills requirements, things of that nature. What are the performance standards and outcomes that need to be met, as opposed to multiple plans which of themselves say, "Yes, I have a plan but what is the process for oversight on the delivery of those plans?" Would it not be far better to have agreement on what performance standards are and have your assessment of the operations at individual scheme level or council level or collective regional level based on assessment of meeting of performance standards.

DR CRAIK: Are those performance standards that you're talking about, similar sorts of things to what's reported in the NWC WASA report? Is that the sort of thing that you're - - -

MR HOFFMAN (LGAQ): That's an example, yes. With our work with our partner Queensland Water, we have undertaken a project called SWIM which is about the reporting frameworks for water. When that work started we identified that there were some 1000 pieces of information sought by multiple government agencies, predominantly in Queensland but some federally, and councils produce reports to these agencies, mostly on an annual basis and some perhaps more frequently. But what happened with that information? Where did it go? What was it used for? These were parts of regulation but what value add did they actually make to the performance of the water businesses that provided that information.

That process has been reviewed and indicators are now down to some 200. That does include information that has to be provided to the Bureau of Meteorology as part of the national reporting frameworks. They are happy to have the information generated through the system that has now been put in place by the industry, I might

add - not by government but by the industry itself - to be a means by which that information can be provided.

DR MUNDY: What the ABS calls "report once, use often".

MR HOFFMAN (LGAQ): Yes, exactly, couldn't agree more. Local government in Queensland now has, under requirements of the Local Government Act, to produce annually the reports on six key measures of sustainability. They are high level financial measures of sustainability, looking at debt and operating profits and things of that nature. We endorse that approach because it does set, if you like, the bar, and within each of those measures is a framework, a band, that is a reasonable operating outcome situation to be in. That is new but it is acknowledged as a significant advance in getting clarity for decision-making within councils for the purposes of accountability to the community and, importantly, for oversight by other agencies at state level predominantly. Let's have a similar approach in relation to water.

DR MUNDY: These plans that you talk about, they were, "Thou shalt have a plan to do X, Y and Z," presumably. Have they been in this move towards more outcomes focused governance arrangement, if you like, reporting arrangement? Do you get the sense that at some point the prescription that's typically applied in those sorts of plans would be relaxed so that people can get on and have the plans which they would naturally have because they needed to have them without the degree of prescription?

MS TALBOT (LGAQ): Certainly our discussions with the state are revealing that that's the direction that the state is seeking to move towards and something that we fully support. I think it's fair to say as well that that does require a cultural shift on behalf of the state because they have, for some time, enforced a regime of plans and more plans that are very prescriptive. I think there is at least now a realisation that that planning framework is probably failing the sector in that council is treated as a compliance exercise in order to get the tick. In a lot of cases they do not inform decision-making. They are a glossy document to get a tick that then sits on the shelf.

So I think there is a realisation as well that given the diversity and the different levels of maturity across the state that a performance based regime should be looked at where the issue is not so much the process of how things are being undertaken but of the outcome that is the focus. That sits, as Greg alluded, side by side with the direction that the Department of Local Government has taken in the new Local Government Act. So certainly we're encouraged that we're seeing DERM seriously consider whether its decade of planning, planning, planning and requiring more plans, which is just seen as a burden by the industry is actually achieving the outcomes that the state is seeking.

DR CRAIK: Okay, thanks. Can I just - because we're going to run out of time, I think, got a few things to go. But can we just move to cost recovery. Your submission mentions Local Government Act allows for full cost recovery pricing by local government but doesn't provide any mandatory reporting or enforcement. Councils may, they're not required to, apply full cost recovery pricing water and wastewater and they recover operating capital costs and a positive rate of return. So I guess we're curious to know to what extent is full cost recovery being achieved by local government; and there's mandatory reporting, is that required, and should that occur and are these things reviewed and who should report it. We'd just be interested in your views about that; asking a fair bit about this yesterday in New South Wales, regional New South Wales.

MR HOFFMAN (LGAQ): I guess as a matter of principle it should be clearly understood by the water entities themselves as to what their costs are and what their revenues are. If they aren't recovering those costs then how is the difference being made up? So in the first instance the process needs to be one of disclosure of what their situation actually is. The way the legislation is written and how it's applied - and I can't off the top of my head give you an answer as to how many actually do it and who doesn't - is recognising what should be done but it's also recognising, as is the case for state governments, that if you don't fully recover costs in relation to a particular operation then the CSO mechanism, whether it's across governments or within governments, needs to be clearly identified and the governments at local or state level be accountable for that situation.

The point that's important to recognise here is that even with our best efforts in the case of rural-remote councils or many of the smaller very remote and disparate water and sewerage systems your ability to fully cost recover - there isn't an ability to fully cost recover. So we wouldn't subscribe to a system where the only way in which you can operate water and sewerage business is in fact on a full cost recovery. There does need to be, in my view as I said before, disclosure as to what the costs are, what the revenues are, what your pricing regime is. If there is a difference then the CSO implications of that are fully disclosed and understood.

DR CRAIK: Are the CSOs transparent? Is the revenue relative to the requirement fully disclosed and the CSO fully disclosed at the moment?

MR HOFFMAN (LGAQ): I can't say that it is. I might add though, that going back to my earlier observations about the new reporting regime that is required councils are obliged as part of this new regime to be able to report on their asset management planning, their financial management plans. The issue around their financial plans requires them to demonstrate or to produce for their own sake but also to demonstrate and provide information to state government on where they're

travelling. Now, if they are not fully cost recovering and are not adequately providing then that will be revealed in that process. Failure to have a long-term financial plan that addresses those issues will become very evident in the reporting frameworks that are required, and that is a means by which questions can be asked and where needs be some intervention considered.

DR MUNDY: Putting aside the issues of regional and remote small councils, there are still a lot of councils that don't fit into that category whose areas cover major towns, small cities, metropolitan areas. Is the general view that those - putting aside the exceptional ones, putting aside the ones which cover the vast bulk of the population of Queensland - that they should be full cost recovery organisations in their water systems or should there be some cross-subsidy within the governance entities?

MR HOFFMAN (LGAQ): I think there probably is - - -

DR CRAIK: Probably is what, sorry?

MR HOFFMAN (LGAQ): Well, a recognition of the - well, whether it's a recognition of the need for full cost recovery or some other driver - - -

DR MUNDY: That's what the NWI says that Queensland signed up to.

MR HOFFMAN (LGAQ): Full cost recovery?

DR CRAIK: Mm.

MR HOFFMAN (LGAQ): Yes. Well, I mean that's the reflection in the legislation that we've acknowledged is there. But again, what oversight is there of that? My earlier observation about now the reporting frameworks around performance and sustainability is a means, albeit embryonic, in the oversight of that particular requirement. But I'd make the point that in many instances water businesses have been generating revenue that have been transferred to other aspects of council business.

DR CRAIK: So they haven't had to be stand-alone?

MR HOFFMAN (LGAQ): Sorry?

DR CRAIK: They haven't had to be stand-alone?

MR HOFFMAN (LGAQ): Well, I mean they've operated within a business unit or an identified costs centre and revenues generated in the water business have in

fact - surpluses have been transferred to other operations. That would suggest that there's probably a full cost recovery anyway in that there's money available to be transferred and used for other aspects of council business. If that's occurring then you do have a full cost recovery within the water entity itself. So that is how I would seek to answer your question that if that's occurring then there is full cost recovery, albeit whatever the pricing mechanism happens to be.

DR MUNDY: Where would we go to find that data?

MR HOFFMAN (LGAQ): You would need to look at individual council annual financial reports.

DR MUNDY: So this new reporting framework that you talk about that you've been developing wouldn't disclose that?

MR HOFFMAN (LGAQ): No, not of itself. It would disclose if there wasn't in that it would show up performance levels that were not meeting benchmarks in terms of - - -

DR MUNDY: One would have thought that those that were exceeding benchmarks would be candidates for the sort of analysis that you've just described.

MR HOFFMAN (LGAQ): Well, I guess if you're above or below; you know, outside - - -

DR MUNDY: By the way I'm not saying that people earn a return on equity is unreasonable.

MR HOFFMAN (LGAQ): Yes.

DR CRAIK: We understand that Queensland water, in their submission, they reported data on 21 out of the 71 utilities, at least on the economic real rate of return.

DR MUNDY: I wonder if it's possible for you or for you to ask them if they can provide us with information on how that measure is derived and if it's possible to get other data behind those figures and whether we can get it for other utilities as well. That would be quite a useful - - -

MR HOFFMAN (LGAQ): We were in discussions yesterday about progressing those particular reports with them, so, yes, we will inquire about - - -

DR CRAIK: If that's available, how all that is calculated, what the data is behind it, that would be useful, yes. Just on that issue of pricing related to full cost recovery,

the situation in Townsville, as I understand, five other councils were involved in that whole process where that model was developed with the Queensland Treasury Corporation. Have any other local government water utilities applied that model, other than the Townsville one?

MS TALBOT (LGAQ): Not at this point, commissioner. Certainly our intent at the start of the year was to review that model and look at amending it to make it more applicable to smaller based councils. Unfortunately we all got distracted with floods. It is still our intent to pursue that though. We're keen for a peer review of the model, because it has been built specifically for that alliance of councils along the coast there. However, we believe if other councils would like a model to use, that does have rigour attached to it because it was developed by the Queensland Treasury Corporation as well, but we would seek to make it available to others, but we understand it does need to be fit for purpose for other categories of councils.

DR CRAIK: It didn't have a very successful fate at Townsville.

MS TALBOT (LGAQ): Politics.

MR HOFFMAN (LGAQ): Policy and politics don't necessarily run hand in hand on occasions, more often than not.

DR MUNDY: Can I ask you a few questions about hardship policy. Do your members maintain policies to provide assessments to those who are struggling to meet their water bills?

MR HOFFMAN (LGAQ): Certainly. It's not necessarily just to do with water bills but councils have within their power the ability to provide rebates and concessions on rates and other charges, and they do to varying degrees. There is a rate subsidy scheme that is universally available across the state for pensioners of certain categories. Most councils do have some rebate concession scheme in addition to that, that can assist in those cases.

DR MUNDY: Do they extend to low income employed families, people on Newstart allowances and things like that, or are they typically limited to people who are receiving some sort of age-related benefit or war service benefit?

MR HOFFMAN (LGAQ): Primarily to benefits. However, the provisions are such that they can apply to people in hardship situations, and whilst I can't give you precisely how many and what are the circumstances, I do know that payment schemes are in place to assist property owners in the situations of hardship.

DR MUNDY: But they are primarily structured around being in receipt of a certain

sort of benefit from the government, or having a concession card of some type as opposed to some sort of assessment of that person's financial circumstance?

MR HOFFMAN (LGAQ): That would be the majority of cases, but - - -

DR MUNDY: There might be some exceptions.

MR HOFFMAN (LGAQ): - - - there are exceptions. There's nothing to preclude those, and I do know councils do that.

DR CRAIK: I notice that recently the Queensland government extended the application of the Energy and Water Ombudsman to SEQ, or they introduced it for SEQ with the potential for the power to be ended beyond South East Queensland. Would that be something that you would support?

MR HOFFMAN (LGAQ): We're not opposed to it. Already there exists complaints mechanisms built into the Local Government Act where people who have issues can raise their complaints and concerns and have those adjudicated.

DR CRAIK: Through the council?

MR HOFFMAN (LGAQ): Well, initially through the council, but the ombudsman has been a longstanding - - -

DR CRAIK: The general ombudsman.

MR HOFFMAN (LGAQ): The general ombudsman.

DR CRAIK: Yes.

MR HOFFMAN (LGAQ): But this is a specific response to the issues of SEQ and the government makes no apology for the fact that it was over the issues of water pricing, and SEQ was confronted with strong public opposition to charging regimes, and the impacts on individuals, and sought to provide this as an additional mechanism for people to raise their concerns. I don't have an issue with it. Perhaps it would be fair and reasonable if the coverage of that entity was also related to state government charging that is the basis of the retail charging as well. It needs to look at all aspects of the cost of drivers, not just those within the control of the water entities, the retail entities.

DR CRAIK: I see. Is that the limit of it at the moment?

MR HOFFMAN (LGAQ): I believe so. Perhaps my colleague from the Council

of Mayors SEQ might have a little more specific knowledge of the detail.

DR CRAIK: Okay. We'll ask him when he gets here. Thanks very much, Greg and Simone. We really appreciate you coming along, and your comments and answers to questions. When that other information is available we would appreciate looking at it.

MR HOFFMAN (LGAQ): We'll chase that up today for you.

DR CRAIK: Thanks very much.

MR HOFFMAN (LGAQ): Thank you.

DR CRAIK: Our next participant appearing is John Cherry from the Council of Mayors SEQ. John, if you could state your name and position for the record, and then if you would like to make a brief introductory statement we would be happy to hear from you.

MR CHERRY (CMSEQ): Thanks, commissioners. I'm John Cherry, the executive director of the Council of Mayors South East Queensland. The Council of Mayors South East Queensland is a regional local government body which represents the interests of the councils of South East Queensland. There are 11 councils in South East Queensland, including four of the five largest councils in Australia, and 10 of them are currently members of the Council of Mayors South East Queensland. I should note all councils in South East Queensland are also members of the Local Government Association who are our good friends and colleagues.

Most of my comments will be directed to the Seqwater model which picks up 10 of the 11 councils in South East Queensland. Toowoomba Regional Council is kind of outside the model. I say "kind of" because they are not subject to the institutional arrangements in South East Queensland but they have recently been hooked to the grid via an emergency pipeline which in the way of emergency pipelines was built just before it started raining and their dams filled.

DR CRAIK: Isn't that always the way?

MR CHERRY (CMSEQ): In my previous life as a farmers federation head, the best way to stop a drought was to announce a drought package I've always found. We'd like to welcome you to South East Queensland which we think is home to arguably the worst history of state government water policies in Australia. In 2007, our region earned the distinction of becoming almost the first major metropolitan region in the world to run out of water. Since then, \$7 billion of borrowed state funds later, we now have earned the reputation of having some of the most expensive white elephants in water infrastructure in Australia, including a \$2.7 billion recycling system that the state government has pledged not to turn on until dams are below 40 per cent; a \$1.2 billion desalination plant that they have pledged not to turn on until the dams are below 60 per cent; a pipeline to a dam the state never built, that's about \$265 million in non-recoverable costs in not doing so.

We also have the most cumbersome water entity structure reform, we believe, in the world, where vertically integrated council-owned water businesses have been replaced by a structure where water passes through five different vertically separated structures from dams to taps. We have the fastest growing state water price in Australia which has doubled since these reforms started in 2008, and will double again by 2018. Now we have the most flagrant breach of national competition policy

COAG agreements by a state government in Australia, with the state opposing a cap on council water utilities without any consideration of the impact that might have on their financial position.

We are also the fastest growing metropolitan region in Australia, facing a change in climate that has reduced the yields expected from our key water catchments by around 40 per cent over the next 30 to 40 years. "Welcome to Queensland, beautiful one day, bewilderingly complicated the next." Council of Mayors welcomes this inquiry by the Productivity Commission into urban water supply. Water in South East Queensland is unusual, in that retail distribution functions are owned by the 11 South East Queensland councils which isn't the case of course in other metropolitan areas on the mainland, while bulk water is owned since 2008 by the state government, and a lot of the bulk prior to 2008 was actually owned by councils.

The assets owned by councils have been valued at around \$11 billion, placing our three water companies among the largest GOCs in the country. Councils are very proud of the performance of their water businesses; for example, Brisbane Water, which was owned by Brisbane City Council, in its last year of operation in 2009-10, according to the National Water Commission's utilities performance report, delivered the second cheapest water, second only to Melbourne, of any mainland capital city, despite facing the highest operational costs, and it did so by delivering an NPAT ratio of just 12 per cent, well below the 21 per cent of Sydney Water, the 16 per cent in Melbourne metro areas and the huge 28 per cent NPAT ratio in Perth, yet the state government has been fiercely attacking council water utilities, claiming they should not make a profit out of water. This is despite the fact the state makes a profit out of its rural water company, SunWater, out of its electricity companies and out of its GOCs. It's also despite the fact that the state government is signatory to the National Water Initiative which requires metropolitan pricing to move towards upper bound pricing and is also signatory to the National Competition Policy agreements of COAG, most recently the 2006 agreement, which states that prices for GOCs:

should be set so as to generate expected revenue for a regulated service that is at least sufficient to meet the efficient costs of providing access to the regulated service or services and include a return on investment commensurate with the regulatory and commercial risks involved.

The water prices for the South East Queensland bill currently before state government fundamentally breaches the National Water Initiative and the Competition and Infrastructure Reform Agreement 2006 by capping water charges to inflation for two years. Interestingly, the same cap has not been applied to the state government's own bulk water charges. The National Water Commission chair, Chloe Munro, when she released the review of pricing reform in the Australian water

sector report on 20 April said it was:

disappointing that the Queensland government has chosen to step back from reform and impose a short-term cap. A better way forward for the Queensland government would have been to have an independent regulator to oversee water prices.

Council of Mayors supports full price regulation of water prices in South East Queensland. We believe that such an approach would be far preferable to political interference in rational pricing decisions by the state government for cheap political points when this comes at the expense of longer-term economic viability and investment by water utilities. A multibillion-dollar public water company should not be the political plaything of state governments. The National Competition Policy, the National Water Initiative and COAG's processes were about preventing that. In Queensland, these reforms are currently going backwards.

I've just got a couple of quick comments and then some recommendations to the commission. The commission's draft report rejects price regulation of water, arguing that good governance in a proper, formal, corporate environment would deliver more efficient pricing outcomes. We've actually tried that model in Queensland in the last year with out utilities. The state government wouldn't let them last a year. The three retail distributors were each required by law passed in 2009 to be commercially focused, to deliver investment programs to meet the growth targets set by the ECQ regional plan. They were subject to participation agreements which set out in detail how profits were to be determined and paid to member councils and were subject to price monitoring by the Queensland Competition Authority. Each had independent commercially focused boards. They were subject to the pricing provisions of the National Competition Policy and the financial policies set by Queensland Treasury which required each of the three entities to move towards commercial-grade creditworthiness to secure triple-B plus borrowing status. We would have liked them to be Corporations Law companies, as you had recommended, but the state declined to keep their 3000 workers out of the federal industrial relations system for its other policy objectives, and instead established the entities as company-like statutory entities with similar powers and responsibilities. Entities were to set their own prices for three years under a price-monitoring framework. The QCA had already found no evidence of abuse of monopoly power by council water entities and came to a similar conclusion on the first announced prices by our new entities.

In short, they were operating in an environment very similar to that recommended by the Productivity Commission. As I said, it lasted less than a year. The state minister who has provided over huge increases in energy prices and collects over \$560 million in dividends and tax equivalents from state energy

companies refused to allow the council water companies to set prices for their second year. He has imposed a price cap which will strip around \$100 million in revenue this year and \$200 million in revenue next year out of our three water retail distribution entities. The northern and southern entities now cannot reach commercial grade investment status required by state Treasury in that period. They cannot meet the requirements of the participation agreement signed off with the minister last year and they cannot fund the full capital programs needed to ensure that the entities can keep pace with population growth in South East Queensland.

The state government in its actions has fundamentally breached its commitments under the National Water Initiative, National Competition Policy and COAG. The National Water Commission has slammed its performance. The state's own economic regulator has been sidelined and ignored and the agreements the state had with councils to establish good governance of the water companies have been swept aside. This has been a victory of political point scoring over commonsense and good policy.

The experience of the last two years in dealing with the state government has been that of irrational policy backflips on water prices and policies. Frustratingly, councils will now be punished with reduced dividends, reduced investments in water and other desperately needed infrastructure and the longer-term consequences of the damage to the reputations of our three water entities and their workforces. The state government's punishment will probably come at the ballot box next year but frustratingly, there appears to be no sanction under COAG, NWI or NCP for its flagrant breaches of its intergovernmental agreements with the Commonwealth.

Our first recommendation to the commission would be that the state government should be subject to sanctions for breaches of National Competition Policy in respect of water bodies. Our second recommendation would be that water entities, both state and local government, should be subject to National Competition Policy and to public scrutiny by our state and possibly even the national economic regulator.

I mentioned that our three council entities have been twice found by the Queensland Competition Authority to be operating within maximum allowable revenue and not overcharging prices or abusing monopoly prices. By contrast, the state has never been subject to such scrutiny on its bulk water prices. A recent analysis commissioned by the LGAQ found that the state was probably accelerating depreciation allowances and applying an exceptionally high rate of return on its assets. The state disputed these findings but refused our request to open its books to independent scrutiny. By contrast, incidentally, Melbourne Water and Sydney Water are subject to price setting by IPART equivalents.

Our third recommendation is that water entity structures should be simpler. SEQ currently has four entities dealing with state bulk water; one owns the dams, one the manufactured water, one the pipelines and one manages the contracts. Each has its own board and team of well-paid executives. Councils have long viewed this structure as a waste of money and believe a single bulk water entity subject to independent price monitoring should be established.

Our fourth recommendation is that retail distribution functions should be closely aligned to councils where reasonable economies of scale can be established. ECQ has four of the five largest councils in Australia with 11 councils representing three million people. Our larger councils have already established reasonable economies of scale in their water businesses with greater than 100,000 connections in four of the council businesses by 2009, and two others are set to cross that threshold by 2020. Some studies suggest economies of scale dissipate with larger water utilities such as the size of Sydney Water. Given the close planning relationship between council land use planning functions and water utility infrastructure rollouts, the benefit in aligning utility and council boundaries in SEQ may outweigh any further benefits from economies of scale.

Our fifth recommendation is related to that. Water entities' capital investments should be closely aligned with land use planning and growth targets set by councils and state governments. Our sixth recommendation is that entities should have access to regional income streams to fund capital growth. It is worth noting that the state has not just capped our water charges, it's now also capped our infrastructure charges and has removed capital subsidies that were in place to finance new major lumpy investment. As a result, more of the burden of funding future investment now falls on existing ratepayers.

Our seventh recommendation would concur with the commission's view that water and energy should be subject to good governance, clearly specified investment agreements and expectations and best practice pricing principles. Given our bitter experience with the capriciousness and hypocrisy of the state government and their differing approaches to the regulation of water and energy companies, councils support full price regulation of water entities as a means of providing a degree of separation from political pressures.

Our eighth recommendation would be a requirement that the state government be held fully accountable for meeting their agreed national commitments under NWI and NCP, and our ninth would be to recognise there are conflicting public policy objectives which can add to the costs of water provision, such as the needs in our river city of flood mitigation and also the need to ensure appropriate cash management for water flowing into Moreton Bay which is our recreational playground.

Finally, I would like to disagree with the commission's approach to water efficiency and water restrictions. SEQ is the biggest petri dish in the world when it comes to water efficiency and water restrictions. The real-life experience of SEQ is more relevant to this debate than reliance on loose economic models or papers that reject behavioural approaches. Prior to the recent drought in 2004-05 SEQ households were using an average 282 litres of water per person per day compared with 215 in Sydney and 195 in Melbourne. By 2008-09 this has fallen to 143 litres per person per day.

Even with the removal of most water restrictions, consumption has crept up to only around 160 to 180 litres per person per day. There have been permanent changes in behaviour in SEQ and we believe they are for the better. In 2004-05 over half the water in SEQ homes was used in watering lawns. Over the past five years, for example, we have fundamentally changed our approach to the types of lawns and gardens we plant, saving millions of litres of water. We would commend that experience to the commission in its consideration.

DR CRAIK: Thanks very much, John, for your detailed comments. Are we going to get a submission from you?

MR CHERRY (CMSEQ): You got a submission the first time around, but we haven't given you a submission the second time around.

DR CRAIK: Yes, I meant the second time. Are you going to give us a second one or not?

MR CHERRY (CMSEQ): We have written one. We'll drop it into you, yes.

DR CRAIK: That would be great. Thanks very much. You're really keen on economic price regulation - - -

MR CHERRY (CMSEQ): We're a bit obsessed with it at the moment.

DR CRAIK: Yes, and I suppose that's partly related to the history here. The commission has observed in other jurisdictions where there is economic price regulation that it doesn't actually mean that the water utilities are free from political intervention in relation to price-setting anyway. We have had the case in Tasmania where the premier has said that the utilities would not be aiming for full cost recovery, even though it's envisaged that next year the economic regulator starts to set prices.

In New South Wales we have seen a direction in relation to the price-setting in

relation to the desal by an independent economic regulator. So economic regulation is not a shield against political intervention. Would it be preferable to have the government's arrangements in place? How do you rate those trade-offs?

MR CHERRY (CMSEQ): In a perfect world, you're absolutely right. To a degree, I suppose it's the job of the Productivity Commission to describe a perfect world, for policy. But in reality, certainly in the experience of the last year, where we tried that approach, we weren't allowed to continue with it. Whether or not that would change in the future, we just don't know. The frustration we have had here is that the state government has simply adopted contradictory and conflicting policy positions.

You will see in the paper this morning announcement of the latest round of energy prices in Queensland, which at 6.6 per cent is a lot higher than the 3.6 per cent at which they have capped our water prices. The arguments being used - that capital investment is needed to provide a return to the state, and so forth - all apply to water, but obviously are not being applied to water by the state. I should also note that the state hasn't put its own bulk water prices into a regulation and that this year certainly the state is subsidising bulk water and will continue to do so. The grid was a huge up-front investment on borrowed money, which has to be paid for over time. The extent to which they say they are subsidising we dispute, but we haven't been able to get to the bottom of that, because they won't release their details on that.

DR CRAIK: So that's not transparent.

MR CHERRY (CMSEQ): We don't believe it is. The LGAQ commissioned a consultant which went through the annual reports of the four water bodies; which is marvellous fun, if you can imagine, trying to look at water that passes through four or five different hands and trying to follow the paper trail. As far as we can work out, we believe that the state was over-recovering, in terms of depreciation allowances and repayments and understating its official rates of return. We believe that if we applied more appropriate principles, then the bulk water price, the end point, 2017-18, could have been reduced quite substantially.

MR MUNDY: John, I'm not quite clear on this. If the government hadn't fiddled with the economic regulatory setting, which was essentially a reasonable monitoring regime undertaken by QCA, would you members have been happy to live at that?

MR CHERRY (CMSEQ): We were in an interim stage where the price monitoring was to apply for three years, then we were going to move to full price regulation.

MR MUNDY: One of the most peculiar things I've ever seen. You usually go the

other way.

DR CRAIK: It's usually the other way.

MR CHERRY (CMSEQ): Yes. Well, the difficulty here was they were setting up three new entities from scratch, and it was recognised that there were going to be enormous transitional costs of setting them up. The government's original model was going to be even more complicated than the one we have got, in that they were going to split our businesses into retailers and distributors, which was going to add another \$200 million to our set-up costs. When that model was changed at the last minute to a retail-distributor model, which we had asked them to do, obviously we had to cut some corners to get over the line - I think a nine-month lead-up period - and part of that trade off was that we push back economic regulation.

Having said that, the price monitoring reports by the QCA have been quite robust, making quite clear that they were building up to full regulation and making clear that in their second year they're going to be focusing on efficiencies within the organisations, the capital programs and those sorts of things. Where we are up to were our three entities were in three different places: the central entity, which is based on Brisbane Water, was at maximum allowable revenue, it's actually living with the price cut this year, it's going to announce prices below the price cap anyway; the northern and southern entities, which face very large capital costs to service future work and upgrade sewerage treatment plants, have much longer pathways to get to the maximum allowable revenue and full cost reflectivity.

MR MUNDY: The QCA in its report said one of them was marginally over and one was marginally under, so it was neither here nor there; although that's on the basis that the QCA has reviewed the capital base and cut it back substantially in getting to those maximums. In regard to the initial capital expenditure programs that were, in the words of the QCA, materially reduced, do you members believe the QCA was right in that?

MR CHERRY (CMSEQ): The initial capital programs were the capital programs the entities inherited from the previous councils. So the long-term works programs were in the councils' work programs and were shifted across to the entities. The question of capital is probably beyond my expertise, but our councils haven't objected to the rescheduling of capital programs.

DR CRAIK: Is there any suggestion the councils incurred debt knowing that they wouldn't have to be the entities responsible for dealing with it down the track?

MR CHERRY (CMSEQ): There were some interesting things happening in that last year. Some councils deferred expenditure, knowing that the entities were

coming and were going to leave those capital decisions for entities. Some councils brought forward expenditure, which obviously reflected the asset valuations as they went into the new entities. There were differing approaches across councils. But, as a general rule, I would say that the councils, even as we knew some change to ownership of these entities was coming in two to three years, continued their capital programs right up until the very last day, because we just have such a huge growth challenge in South East Queensland.

To give you an idea, the current capital programs, as approved by the QCA, over the next four years are around \$2.9 billion, and the bulk of that is probably in sewerage treatment plants and upgrades to meet future growth as we have to plan for 1.5 million new residents by 2031.

MR MUNDY: You have mentioned you were dissatisfied with the conduct of the Queensland government and you were concerned that they mightn't be fully compliant with their obligations under national competition policy, and you suggest there should be sanctions. Now, the NCP payments is a long run-out, the Commonwealth is no about to conjure up, so what you're encouraging us to contemplate is recommending to government is there should be sanctions. Is that, withhold the GST revenue from Queensland?

MR CHERRY (CMSEQ): Certainly from the point of view that if the government in the interests of microeconomic reform and meeting future growth objectives in its national urban policy and so forth regards these commitments are important then it needs a compliance mechanism to ensure that states comply. The objective I think of the national competition payments was to ensure that they would never be reduced, although I think there were some fines to states during that period, as I recall. Good regulation is about compliance rather than enforcement, so we would like to think that there's a mechanism that ensured compliance; the enforcement of it led to others to work through.

DR CRAIK: Do you think in relation to grants or subsidies that the federal government sometimes gives for infrastructure projects that they should be tied to compliance with - I don't know whether they are but - - -

MR CHERRY (CMSEQ): Council of Mayors has been pushing very strongly that federal infrastructure funding, more broadly, should be tied to regional planning objectives, and we have been advocating the state - we have a statutory regional plan in South East Queensland which we are a partner to - that federal government should be a full partner to that regional plan as well. I think with the recommendations coming out from COAG, in terms of urban planning, that the federal government has broadly supported that sort of approach. But infrastructure - as identified by Infrastructure Australia - is about not just the federal government's investment in

infrastructure.

If we're going to continue to find appropriate and affordable housing for those 1.5 million new residents, we need to have water infrastructure delivered in time, in place, with the appropriate level of service, as well as road infrastructure, as well as energy and IT infrastructure and so forth. Those challenges are a national challenge, as well as a state challenge, because they're about productivity of the economy, as well as housing affordability which are federal objectives.

DR CRAIK: Did the federal government put any money into the grid and the infrastructure - - -

MR CHERRY (CMSEQ): I believe they did early on. I think there was a payment earlier on of about \$400 million to the Western Corridor recycling scheme. The federal government's contribution, of course, was to cancel the Traveston Dam.

DR CRAIK: What is your view of the ideal structure for SEQ and do you have an idea of what the cost of moving to that would be, or what the benefits of moving to that would be?

MR CHERRY (CMSEQ): I can send, if you like, a submission we put into the state government as a result of the review by the Weller commission which was in 08-09 which was looking at the review of all the quangos across Queensland. We believe that a single state bulk entity and then water businesses aligned to the councils would have been the perfect model with full accountability of customers through their water ombudsman, customer codes and either prices monitoring or price regulation by the QCA. The QCA is not a perfect outfit. The cost of complying with QCA is very, very high. I think that price monitoring report they delivered this year cost the entities directly \$2 million in fees - the QCA, plus their own compliance costs. It is an expensive business. We think that having that independent oversight is very important in an area as political as water.

DR MUNDY: Would you see QCA getting down to like what IPART does and setting every single price on the tariff sheet, or would you see it administering some sort of revenue or tariff basket arrangement that caps revenue in some sense, but leaves the utilities in a position to really work through issues and perhaps find different ways of structuring prices which are more reflective of what customers want, and different types of customers?

MR CHERRY (CMSEQ): I think at this stage the QCA's instructions to the state only cover more their residential prices. Its reporting to date has been more at that global level. That's kind of recognised in the first year reporting.

DR MUNDY: So it's saying, "The revenue should be this, the revenue was that. That's close enough"?

MR CHERRY (CMSEQ): Its primary focus in the directions given by the state were on residential bills. Even the price-capping bill applies to residential bills and small business customers. It doesn't apply to a large group of customers.

DR CRAIK: We understand that the bulk water entities in South East Queensland are going to be brought back together again.

MR CHERRY (CMSEQ): Some of them. WaterSecure, which is the manufactured water entity, will be merged with Seqwater from 1 July. It's interesting because Seqwater was going to move into profitability next year, and now it takes over WaterSecure which is where all - what we call - the dead assets are. It will probably never make a profit. LinkWater, which are the pipelines, still remains separate, and the Water Grid Manager is obviously still a stand-alone office as well.

DR CRAIK: Has there been any benefit from the comparative competition or is it too early to tell between the retailer distributors, sort of like the Melbourne situation where you get three retailer distributors?

MR CHERRY (CMSEQ): One of the reasons - when we put to the state that we felt that having a number of retailer distributors was beneficial - was the comparative competition. We think that will come. Even before we moved to this model there was a lot of competition, I suppose, between Gold Coast Water and Brisbane Water, the two very large water entities. I think Brisbane is roughly twice the size of Gold Coast. Brisbane had 450,000 connections and Gold Coast had about 220,000. So they were quite large businesses. There are a lot of discussions between those two. We always expected we would see that emerging. Having said that, the three businesses are in very, very different places.

DR MUNDY: How do you see the competition manifest itself? What do we see that tells us that's happening?

MR CHERRY (CMSEQ): Things like customer complaints, leakages, what's happening with sewage treatment and outputs; even catchment management, those sorts of things. There are a number of comparators published by the National Water Commission and they are extremely useful. I think testing innovations in one area, which can be tested across the others, I have to say the utilities, as happens with utilities, haven't probably been as cooperative with each other as they could be. But it has been such early days and I accept that in a start-up year, of necessity, they would have to focus on their own businesses.

DR CRAIK: On the consumer side of things, do you think consumers have an adequate say on how things are done? I mean, we have floated the notion of some kind of consumer advocacy body, and we're keen to see more Energy and Water Ombudsman in - - -

MR CHERRY (CMSEQ): I sat on the customer reference panel for Queensland Urban Utilities, which is the middle one. The other two entities have established customer reference panels and they're very important. We have a customer code which is very important. The importance of aligning the entities to council boundaries gives consumers another say. But we'd have to say, certainly on the Gold Coast in particular - and you would have noticed from your meetings - there has been a lot of anger with prices on the Gold Coast. We have to ensure that there is some sort of outlet for customers to have their views heard.

DR MUNDY: Those consultative forums are they considering questions like, "Well, we can do this for community and therefore it comes at that cost"? Is that the sort of discussion that goes on or is it more the utilities just being thuggish and unreasonable to a customer and it shouldn't have?

MR CHERRY (CMSEQ): It was intended to be a bit of both. But now that we've moved into a price-capping regime it makes it very difficult to have a discussion about pricing for two years.

DR MUNDY: The prices are fixed but the place has still got to keep building and investing and making decisions about the allocation of capital.

MR CHERRY (CMSEQ): That's right.

DR MUNDY: What about the pricing arrangement?

MR CHERRY (CMSEQ): In terms of the allocation of capital, that is being governed predominantly by the investment planning being done by the entities and they are currently in the process of developing what would be the network servicing plan. That is driven predominantly by the land use planning requirements set by councils. One of the things I've highlighted in my final recommendations is that link between the land use planning of councils and the utilities themselves.

DR CRAIK: Thank you very much, John, and thanks for your comments. We'll look forward to your submission. We'll now adjourn for morning tea and we'll resume at 10.30.

DR CRAIK: I wonder if, Richard, you could actually state your name, affiliation and make a brief opening statement.

MR KOERNER: My name is Richard James Koerner. My affiliation is a consumer served by Unitywater up on the Sunshine Coast and my affiliations are interest as a consumer as well as interest for the Coolum communities that were previously served by Maroochy Water Services. Maroochy Water Services, at the time, they were amalgamated into the Sunshine Coast, and served from memory about 55,000 households and they were in fact the largest water and sewerage entities that were consolidated into the Sunshine Coast Regional Council.

I really don't have an opening statement, other than a clarification request that I would like to make of the commissioners and it really relates to the submissions on the draft that was just put out, DR 96 and DR 97, and I'm also speaking on behalf of another Coolum resident who has made submissions to the commission for this inquiry. My clarification question really is: do the terms of reference for this urban water sector inquiry allow the commission to investigate a governance scandal involving monopoly pricing abuse in the South East Queensland water sector?

DR CRAIK: Thanks for coming along and thanks for your comments and background. The answer to your question is no, that's not the nature of this organisation. We're a policy advice organisation to the federal government, and other organisations are better placed or would be more appropriate, but that's certainly not the role of this organisation.

MR KOERNER: And it's not permitted under the terms of reference you were given by the federal treasurer?

DR CRAIK: The terms of reference which we are working under in terms of this urban water inquiry really are to provide policy advice to the government on the future of the urban water sector in this country, and the nature of this request of yours really is the sort of work that a different organisation would be undertaking, not an organisation like this.

MR KOERNER: Could I then refer to the discussion paper that was put out in September relating to this inquiry, in particular I think section 8 which raised a number of governance-related matters, for instance, legitimacy, transparency, accountability; I won't go through the list. The submissions that were put in by myself and the other person from Coolum related to failures of those essential characteristics of good governance. So if the commission isn't allowed to look into these sorts of issues, can I ask why your discussion paper raised them, because I wouldn't have wasted your time or my time putting in a submission.

DR CRAIK: We ask for feedback on these issues and certainly we seek feedback on issues of governance and transparency but what you've asked here is can we investigate a governance scandal, a particular issue. So what we ask for is information and advice which we've put together and we look and that. In fact we did take into account the material that you and your colleague have provided to us. We actually have to look at the picture from a national perspective.

MR KOERNER: Certainly.

DR CRAIK: We have agreed and we have taken the view, quite strongly in our report, that transparency is absolutely critical in the matter of urban water agencies and governments actually dealing with the provision of urban water, the same in terms of pricing, in terms of asset valuation and in terms of the activities that they do, and that appropriate governance is important. So what we do is we look at the sorts of information both you and other people have provided to us and what we're trying to do is draw conclusions from that without actually doing a forensic analysis of the particular issues that you've provided to us.

MR KOERNER: I can appreciate that you're not an investigative agency. However, the issue I guess that I'm primarily concerned about is the methodologies used to value regulatory assets, given that the National Water Initiative principles contemplates full recovery of capital on the basis of optimised depreciated regulatory assets, and the Queensland government has given me material that suggests that they're not in fact following the correct methodology to calculate regulatory assets.

DR MUNDY: But I think there's a difference between inviting us to examine the conduct of an individual entity - we aren't an investigative body.

MR KOERNER: No, I appreciate that.

DR MUNDY: The Australian Competition and Consumer Commission is.

DR CRAIK: Or the auditor-general.

DR MUNDY: The auditor-general in the State of Queensland is. The Queensland Competition Authority under certain provisions of its act has capacity to investigate. If we are to investigate a matter, we then have to invite those who also have an interest to - we are not an organisation set up to deal with natural justice issues, we are a public policy inquiry agency.

MR KOERNER: Okay.

DR CRAIK: So we take the generalities of the points that you make and consider those, and the nature of the issues that you raise, we consider those along with all the other information that we get and try to draw conclusions from that and propose policies which we see would remedy where there are problems and recommend the appropriate - - -

MR KOERNER: That is comforting, if indeed the result of this inquiry would lead to a truly independent price regulator in South East Queensland.

DR CRAIK: I should say we make recommendations to governments. It's really very much a matter for governments whether they adopt our recommendations or not. Once we've completed our report, we take no further role in advocating or promoting - - -

MR KOERNER: I appreciate that, but given the relationship between the federal government and the state governments in the water sector, particularly all the work that has been done under COAG to generate the National Water Initiative, the National Water Initiative was quite clear in regulatory asset determination methodologies, so I guess what you're saying is this isn't an issue that you can comment on because you certainly didn't comment in the draft.

DR CRAIK: We're not going to go into the method of calculation of a single organisation of their regulatory asset base; rather, we would say that organisations should follow this particular process and then if we had a view about where that should go or whether there should be modifications or whether we had any other thoughts about it. We would put those down as a generality.

MR KOERNER: Okay, all right. If indeed the considerable amount of material that has been submitted is under consideration, I guess that's really all I have to - - -

DR CRAIK: It is, and we thank you for it.

MR KOERNER: Okay, thank you very much.

DR CRAIK: We appreciate it. Thank you. We might just take a 15-minute adjournment.

DR CRAIK: I wonder if you could state your name and affiliation for the record and then if you'd like to make a brief opening statement we'd be happy to hear from you, thank you.

MR JONES: Thank you very much. My name is Laurence Jones and I'm representing myself.

DR CRAIK: Would you like to make an opening statement at all?

MR JONES: Yes, I have just a statement here that I shall.

DR CRAIK: Sure.

MR JONES: What follows is my opinion only, without prejudice. Dear Commissioner and those in attendance, thank you for allowing me 10 minutes to address the commission inquiry and set the record straight. The Productivity Commission is well aware that what is planned here in Australia is not indirect potable reuse through a dam but the direct reuse of treated sewage effluent sourced from hospitals, industry, homes and abattoirs for human consumption; pipe to pipe after treatment.

The commission is also well aware that their draft condemns desalination as expensive and inefficient while recommending that state governments and water bodies be open to returning highly treated recycled wastewater to waterways for drinking. I have numerous examples of the commission's condemnation of desalination outlined in my supplement to this address. However, I will quote you just one. The Australian article written by Lauren Wilson called "Commission Slams Desal Plants". It states in part that:

The 600 page report is highly critical of decisions by state governments across the country to over-invest in expensive and inefficient desalination plants.

An email from the Productivity Commission inquiry to myself dated 5 May 2011 in relation to the draft in part states:

It also does not condemn desalination. The cost and benefits of all supply augmentations should be taken into account and costly investments should not be made before they are needed. The draft report does not promote the forced introduction of treated sewage effluent into the public's drinking water supply and indeed stresses the need for community consultation on supply augmentation decisions.

More correspondence from the commission dated 23 May 2011 in part states:

The Productivity Commission has not recommended that recycled water be used for potable purposes.

The article that I referred to earlier, the one in The Australian, also refers to the water recycling issue and disputes the contents of both the commission's email and correspondence. It states:

In a recommendation that will probably draw criticism, the commission also declared state governments and water bodies should be open to returning highly treated recycled wastewater to waterways for drinking.

The Australian article "Cities Told: Plan For Future Water Crises" by Annabel Hepworth hints just as to how the commission is to go about forcing the introduction of direct potable reuse when it states:

Specific reform proposals that the commission will push include governments removing policy and legal barriers to recycled water and potable reuse, which have been stymied by "cumbersome" approvals processes.

While page 44 of the inquiry draft states:

Information on costs, risks and benefits to consumers of all augmentation options -

all -

should be made publicly available and views of the community sought, especially regarding sensitive options like potable reuse. Bans on particular augmentation options, those explicitly stated and those that are implied by government decisions should be removed, including those on and planned potable reuse.

On p.32 of the inquiry draft, the commission goes even further when it states:

Based on the evidence before the commission and insights from its modelling, the largest gains to the community are likely to arise from achieving water security at a lower expected cost. This can be achieved by governments removing "policy bans" on supply augmentation from certain sources, such as rural-urban trade and potable reuse.

An email from the commission inquiry to myself dated 6 May 2011. In my reply, I was wanting to explain that there is no analysis of the benefits and costs of recycling for potable use because there is no recommendation in the report that this option should be adopted, only that it should be properly considered.

I'm confused. "Based on the evidence before the commission and insights from its modelling" - "at lower expected cost." The Productivity Commission has condemned desalination through their inquiry draft, after carrying out a cost-benefit analysis, at the same time declaring that state governments and water bodies should be open to returning highly treated and recycled waste water to waterways for drinking, indirect potable reuse, without carrying out any cost-benefit analysis. Under the heading Scope of the Inquiry:

Options to achieve the efficiency gains identified in point 1. The options are to be subject to a rigorous cost-benefit analysis, including using quantitative assessment to the fullest extent possible to identify the economic, social and environmental impacts and (b), The impacts on Australian governments, business and consumers.

The fact is what is planned here is a world first in both indirect and direct potable reuse of treated sewage effluent, as are planned here, pose insurmountable and numerous threats, some we know about, but many we don't, to the health and wellbeing of all Australians and that of the environment.

In July 2007 the Courier Mail let the cat out of the bag when their article "Secret Water Shocks" by Des Houghton appeared. The extracts state:

A secret report for the Queensland Water Commission proposes turning sewerage effluent into drinking water on a mass scale throughout the south east. It lists a number of towns and dams that would add recycled sewage effluent to dams and to drinking water supply mains in Brisbane and bayside towns, the Sunshine Coast and Gold Coast.

It's a story the Water Commission does not want you to read. It fought my attempts to search for the documents under the freedom of information laws. Some of the documents were later released on appeal, but they arrived with dozens of pages blanked out. Under no circumstances will I allow my family, my friends or my community to be used as guinea pigs for research purposes in a world first intergenerational experiment. Thank you for your time.

DR CRAIK: Thanks very much. Can I just make a few comments before we ask you a few questions. What we have said is that information on costs, risks and benefits of all augmentation options should be made publicly available and views

from community sought, especially regarding sensitive options like potable reuse or rural urban trade. We've noted that all options should be evaluated based on their respective economic merits, subject to public health and environmental requirements, and that to gather public support for those policies, reliable information on the costs and benefits of various supply augmentations should be publicly available so the community is well informed about them and trade-offs well understood. We have not ruled out, nor insisted upon any one supply augmentation.

Can I just also respond to the claims that the government guided the outcomes of our inquiry. Can I just point out the commission is not bound by the government policies and regulations, unless explicitly defined in our terms of reference. Our processes are independent, transparent and subject to public scrutiny. Also in response to claims that we are lying when we state that indirect potable reuse has been carried out worldwide and used in Singapore and our plans to introduce direct and indirect potable reuse are a world first, there are actually many examples of indirect potable reuse around the world. It currently occurs for 1 per cent of Singapore's daily requirements and will increase to 3 and a half per cent per year. Indirect potable reuse also occurs in Africa, the USA and the UK. So I would just thank you for your comments, but feel that it's important that we respond to that.

We'll certainly be putting your statement and your submission on the web site, which we did last time, and I guess we would be interested in your thoughts on indirect potable reuse. Your submission talks a lot more about direct potable reuse, but we would be interested in your comments on indirect potable reuse, particularly when there is currently unplanned indirect potable reuse occurring when treated water from the ACT, for example, goes back into the Molonglo, the Murrumbidgee, the Murray, the same with Wagga, the same with Dalby and people like that.

MR JONES: Yes. I certainly wouldn't be making that widely public, the fact that the governments have never done anything about that. The sewerage treatment plants that do pump a very small percentage of effluent into those rivers, when the water is drawn back out again for drinking purposes, there's no processes in those water treatment plants to remove the chemicals and the contaminants that are there, so I wouldn't bring that one up. The other point to make too - - -

DR MUNDY: Can I just stop you there. So how does the City of Wagga manage to comply with the drinking water standards?

MR JONES: Drinking water standards are standards only. They're not compelled legally to abide by those standards. If you have a look around - - -

DR MUNDY: The New South Wales Office - - -

MR JONES: No, hang on. I can't actually quote them off my head, I do have them at home, but there are a number of councils that haven't been able to meet those standards because they're standards only.

DR MUNDY: I understand that. I'm talking specifically about the City of Wagga, which does comply with the standard.

DR CRAIK: So does Adelaide.

MR JONES: The drinking water standard?

DR CRAIK: Yes.

DR MUNDY: That information is freely provided and publicly available and provided by the New South Wales Office of Water.

MR JONES: Yes, but the drinking - - -

DR CRAIK: Adelaide also complies with the Australian drinking water standard.

MR JONES: Yes, but you're talking about the Australian drinking water standards and any scientific person will tell you they do not include standards in there for the removal of a hell of a lot of contaminants that may be present.

DR MUNDY: So are you suggesting that the water that is currently being drunk by citizens of Wagga today is unsafe?

MR JONES: Can you produce any research data that has been carried out on those people that have been drinking that for whatever number of years that will tell us that the cancers or that any sicknesses that are being contributed have not been contributed to the drinking water? I think you'd be pretty good to be able to say that.

DR CRAIK: I don't think one can ever demonstrate a negative, but given that the best authorities as far as we're concerned and the Department of Health have approved drinking water guidelines, we rely on others who are experts in those areas to set those standards. Our role would be recommending that services provided by utilities meet those standards and they are reported on regularly by both federal and state authorities.

MR JONES: Why doesn't the government make the standards mandatory, rather than just standards, because a lot of the councils don't meet them in a lot of the other areas and that's been quoted in the paper.

DR MUNDY: The government of New South Wales has.

MR JONES: Before I get sidetracked, what I would like to say is that those areas overseas that you have mentioned, they only treat sewage from domestic sources. Singapore is 95 per cent sourced from domestic sources. Windhoek, Namibia, South Africa, they actually sent all the industrial, all the hospital waste to a separate treatment plant. Singapore, 1 per cent, what is planned here - and I've sent you the documentation, you have the documentation - has never been done anywhere in the percentages that they're intending to use here.

The other quick point I would like to make is that you also have the evidence since 1992 of several cases in Australia where attempts have been made to force the direct potable re-use of treated sewage effluent, not indirect. They have always stated "indirect", but in the documentation when you look at it, it says "direct potable re-use". One of those places was Caloundra and the other place was Maroochydore, and it's documented that they were trying to do direct potable re-use.

DR CRAIK: We must have missed that in your document. Is that in your documentation?

MR JONES: It's there, but also in my first submission, I left you nearly 12 kilograms of paperwork.

DR CRAIK: I recall that.

MR JONES: One of the things that didn't go up on to the Internet - they told me it wasn't going up - was a 180-page summary. That 180-page summary in the documentation that I left proves everything that I've said is absolutely correct.

DR CRAIK: All right. Do you have any views on our report in relation to what we have proposed, whether you think that would improve things or make any changes?

MR JONES: In your report, I would like to see the commission actually inform the public about what was in Sydney's 2004 application; a number of the attachments were confidential. I'd like you to look at some of that blacked-out section in the Queensland Water Commission's secret report. I think you will find in both those, the reason that a lot of that was blacked out was because they talk about direct potable re-use.

DR MUNDY: We don't have access to those documents.

MR JONES: You could get access to them. You'd have a lot better chance of getting access to them than what I would.

DR CRAIK: Well, I don't think - - -

MR JONES: And also I think yourself, as chair, I believe you were on the Productivity Council - sorry, you were on the National Competition Council.

DR CRAIK: That's true. I am in another role now and just because I worked there doesn't mean I can use that influence to gain access to - - -

MR JONES: I think it's a case of public interest that we find out exactly what is intended. I think that is critical.

DR MUNDY: But you've made an FOI application.

MR JONES: I've made several FOI applications over the years.

DR MUNDY: They've been assessed and certain information has been blacked out.

MR JONES: Yes.

DR MUNDY: The public interest test, I'm not sure about the legislation in Queensland, but certainly in the Commonwealth jurisdiction, if you believe the public interest test hasn't been properly applied, then you can take that matter to the Administrative Appeals Tribunal. It is a body that can investigate your claim; we can't.

MR JONES: That's right. That comes at a great cost. When I did carry out FOI, and some of that information that you have in those documents is FOI based, I stopped carrying out FOI requests when they decided to exempt certain things that went through cabinet and when they decided to increase the cost. I could no longer afford to do that.

DR MUNDY: Exemption of cabinet documents from FOI is a fairly standard and well-known practice. I don't think it's particularly addressed to you.

DR CRAIK: Can I go back to my question though. Do you have any views on our proposed governance arrangements? You've asked that certain information be made available but in relation to our proposals in relation to governance, do you think that will produce better outcomes than in your view currently exist?

MR JONES: Sorry, I don't actually - - -

DR CRAIK: What I'm saying is we've proposed different structures and different

institutional arrangements for the urban water sector.

MR JONES: Right.

DR CRAIK: And we've made some recommendations about how things should operate and we've certainly promoted the notion that information on all augmentation options - whether it be rural or urban trade, whether it be desalination, whether it be indirect potable re-use, whether it be an aquifer or whether it be a bore or whatever - that the information on the costs and benefits and risks of all that should be made available, transparent and available - - -

MR JONES: Absolutely.

DR CRAIK: That's the sort of thing that we are recommending in our report.

MR JONES: I agree with that. The one thing in particular that I really do not agree with is the reference in the draft that you are looking at and want feedback on the setting up of a group to make the augmentation decisions for water supply. I find that that would take away community consultations, it would take away the community's right to say no, to certain augmentation - - -

DR CRAIK: You're talking about our consumer advocacy group that we're raising? Is that what - - -

MR JONES: No, you've mentioned in the draft about putting together a group - - -

DR CRAIK: We're raising the question of consumers.

MR JONES: - - - and you've asked for the public's feedback on it.

DR CRAIK: That's right, yes.

MR JONES: I think that would be in the wrong direction. As far as I'm concerned, I view that as a means for the proponents of the direct potable re-use to come in and to actually infiltrate that group. I believe that the group - any group that you may think about putting together - would include members of the water suppliers, the councils, water bodies and environmental groups, and both have got a record - and you have it - of attempts to introduce direct potable re-use and I think that would be a great mistake. But it certainly would in the long term remove community consultations and it would allow the government to force the introduction of direct potable re-use which they have been trying to do since 1992-93.

DR CRAIK: Okay. We'll take your views on board. Thank you very much.

MR JONES: Thank you very much for the time.

DR CRAIK: Thank you. That completes today's formal presentations. Does anyone else wish to appear today before the commission? In that case, I adjourn these proceedings. The commission will resume in Canberra on Monday. Thank you.

AT 11.11 AM THE INQUIRY WAS ADJOURNED UNTIL
MONDAY, 6 JUNE 2011