



# Tweed Shire Council

## Productivity Commission Inquiry Paper

A Response



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## **General Comments on National Competition Policy and Local Government**

Council has had concerns over the National Competition Policy (NCP) and its ability to differentiate between initiatives that place an importance on social criteria over economic efficiency. It is feared that allowing all business functions to be open to competition that there may be an undermining of these initiatives.

Another impediment to local government successfully implementing NCP is that under the Local Government Act (1993) NSW Council is required to publicly exhibit any changes to their rates and charges for a period of 28 days. This stifles Council's ability to successfully react to market forces and to operate on a level playing field with private competition.

## **Competitive Neutrality and Local Government**

The application of competitive neutrality principle to Local Government provided services raises some issues:

1. Removing "artificial advantages enjoyed by government businesses" does **not** create a "level playing field", because the constraints already imposed on government businesses have not been removed.
2. Any requirement to generate "appropriate rates of return" for local government businesses would often result in large price increases. Depending on the nature of the business, this outcome may be incompatible with the local government's desire to provide an affordable service, eg a swimming centre.
3. In the case of those local government businesses which are required to be isolated financially into "Funds", eg Water, Sewerage and Domestic Waste, the generation of excess revenue to generate rates of return is to no purpose, since excess funds or "profit" cannot be transferred out of those Funds.
4. It is difficult to understand how the community would benefit from paying higher prices for services.

These issues are discussed in further detail below:

1. It is true that government businesses enjoy a competitive advantage over the private sector in terms of taxation exemptions and the absence of the requirement to generate profits. However, governments businesses also suffer from constraints, not applicable to the private sector, which to a certain extent negate the advantages. These constraints include a government-imposed artificial limitation on borrowings; "transparency" and accountability requirements which require local governments to publish in advance their actions and obviously can seriously compromise the competitive position of any business; other legislative requirements which impair the flexibility to react to changing circumstances, ie the requirement to have any

additional expenditure approved **publicly** and before action is taken; and other legislative and community service duties. To create a true competitive environment, it is of no use removing the advantages enjoyed by government businesses whilst leaving the disadvantages in place

2. Tweed Shire Council operates 3 swimming centres. These centres operate at a loss, and this is considered appropriate because the Council wants to provide an affordable service to people of all ages, and to promote health and recreation. Because private swimming centres also operate in the area, the Council has had to classify its swimming centres operation as a "Category 2" business. If competitive neutrality principles were applied, and prices were increased to an appropriate level to cover notional taxes and a 6% rate of return, the entry fee for the swimming centres would have to increase by 96% from \$1.50 to \$2.94. This is a price that Council would be reluctant to charge children. Council identifies that these services it provides are a community service and therefore an obligation to the community. This is opposed to the view that the service is a revenue generating function.
3. The problem with applying competitive neutrality principles to local government water, sewerage and waste services is that residents who are receiving the service are essentially the "shareholders" as well. In other words, because of the nature of local government, the customers and the "owners" are really the same people. The practical effect of applying competitive neutrality principles to government businesses, if any, is to increase the price of the product or service in order to allow private interests to compete more effectively. Assuming that the local government provided service is a going concern, the exercise of increasing prices is pointless, as the customers are paying to increase the shareholders equity, and as stated above, they are one and the same group. Another problem with applying competitive neutrality principles to local government water, sewerage and waste services is the question of what to do with the money earned to generate an "appropriate rate of return". In an ordinary business, returns are distributed to shareholders. In this business, the shareholders are the customers, and the idea of paying dividends to customers as a result of the increased prices they have had to pay is a somewhat bizarre concept. Suggestions that excess funds be transferred to Council's "General Fund" are both illegal (s.409 of the NSW Local Government Act 1993) and unfair, as at no stage did the General Fund or any other entity invest any money into the "business".
4. The underlying belief that competition is beneficial relies on the assumption that competition, or a competitive environment, results in reduced prices in the market. The belief that government provided services are uncompetitive relies on the assumption that those services are provided at a lower price than that which would occur in a competitive market. Notwithstanding the inherent conflict between the two statements above, the natural effect of applying competitive neutrality principles to local government services is an increase in prices, either as a result of increasing local government prices or substituting a private sector business for the public sector. In either case, it is the customers who will suffer, and it is difficult to come to any other conclusion than that the only beneficiaries of this policy are potential private investors.

## **Electricity Supply and the National Competition Policy**

Tweed Shire is not physically connected to the NSW grid due to its geographical location. Tweed sources its electricity from Queensland power generation companies supplied through NorthPower (local electricity supply network). These following points establishes some of the grievances members of the Tweed community face with electricity supply;

1. Tweed's Community of Interest is directly linked to Southern Gold Coast District.
2. Tweed is therefore not part of the NSW contestable market and subsequently cannot take advantage in the National competitive tendering process. However the Tweed is reliant upon the NSW State Government to act in our interests to establish guarantees so the Tweed will be fairly dealt with under Queensland's competitive market system. Further, Queensland will not become part of the National Grid until the Tweed is physically connected o the NSW grid.
3. Consumer protection is also reliant upon NSW and Queensland establishing agreements for safe, continuous, and waveform harmonic supply.

These agreements and therefore guarantee of consumer protection and reliability of supply has not stood up in the past and the reasoning from the Minister is that the Tweed is not part of NSW grid but part of Queensland grid and therefore out of his jurisdiction. Additionally there is no way of determining to what extent of this pricing agreement factors in asset replacement.

“Basically it should be immaterial whether the infrastructure is publicly or privately owned, but some differences have been allowed to develop. I mentioned earlier the great difficulty in getting information about the state of their stock from public authorities. In the ‘commercial-in-confidence’ regime which now prevails, it must be impossible. We have no way of knowing whether the private owners are putting in funds to establish the efficient operation that we have been promised, or whether the technical facilities are being further run down to save money. They are still in a monopoly agreement with domestic customers.” Dr Lex Blakely, Radio National's Ockham's Razor, 11/10/98.

5. The NSW Electricity Industry Ombudsman has no jurisdiction to settle disputes between the Tweed customers and their electricity supplier and Queensland Transitional Power Trading Company.