LEGISLATIVE ASSEMBLY

Standing Committee on Public Works

REPORT INTO LOCAL GOVERNMENT PRIVATE PARTNERSHIPS FOR ASSET REDEVELOPMENT

November 2008

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Membership and staff

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Staff	Catherine Watson, Committee Manager
	Carrie Chan, Senior Committee Officer
	Jim Jefferis, Senior Committee Officer
	Amy Bauder, Committee Officer
	Millie Yeoh, Assistant Committee Officer
Contact Details	Standing Committee on Public Works Parliament of New South Wales Macquarie Street Sydney NSW 2000
Telephone	02 9230 3036
Facsimile	02 9230 3052
E-mail	pubworks@parliament.nsw.gov.au
URL	www.parliament.nsw.gov.au

Functions of Standing Committee on Public Works

TERMS OF REFERENCE ESTABLISHING COMMITTEE

Resolution passed 21 June 2007, 54th Parliament, Votes and Proceedings No.14, Item 13, Pages 169-170

That:
A Standing Committee on Public Works be appointed to inquire and report from time to time with the following terms of reference:

(1) As an on-going task, the committee is to examine and report on such existing and proposed capital works projects, or matters relating to capital works projects, in the public sector, including the environmental impacts of such works, and whether alternative management practices offer lower incremental costs, as are referred to it by a Minister, or by resolution of the Legislative Assembly.

(2) Such committee consist of seven members of the Legislative Assembly.

The Standing Committee on Public Works is a current standing committee of the Legislative Assembly.

The Standing Committee on Public Works examines and reports on existing and proposed capital works projects in the public sector, including the management and environmental impact of such works.

On 20 November 1997, the Parliament gave leave for the Standing Committee on Public Works and the Public Bodies Review Committee to conduct a joint inquiry into issues relating to and arising from the regulation of the procurement of goods and services, competitive tendering and contracting in the New South Wales public sector.

Terms of Reference for the Inquiry

The NSW Standing Committee on Public Works is to inquire into and report on issues concerning local government partnerships with the private sector in relation to the redevelopment of some council infrastructure assets.

The aim of the inquiry is to examine whether local councils may be able to improve returns on some of their infrastructure assets by redevelopment through partnerships with the private sector, the impediments to councils of this approach and the most appropriate partnership models for councils to follow.

The inquiry will examine:

1. The overall benefit to councils of entering into partnerships with the private sector to redevelop infrastructure assets;

2. Which type of council infrastructure assets are most suitable for such partnerships;

3. The impediments to councils of entering into such partnerships;

4. Models of managing risk to both councils and the community;

5. The effectiveness of the current Public Private Partnerships legislation and guidelines for councils; and

6. Any other related matters.

Chair's foreword

The NSW Standing Committee on Public Works undertook this inquiry to investigate why councils were not making greater use of Public Private Partnerships (PPPs). While PPPs are by no means the complete answer to all of local government's infrastructure funding problems, they do present one way that councils can either upgrade existing infrastructure or provide new services and facilities for their communities.

Since the introduction of the PPP Guidelines and legislation in September 2005 councils have not embraced partnerships with the private sector as expected. As this legislation was expected to clarify and provide surety to local government, the Committee was interested to discover the reasons behind the low take-up rate of PPPs and what could be further done to assist councils with the process.

Clearly the negative media attention PPPs such as the Cross City and Lane Cove Tunnels have attracted have made it harder for local councils to sell PPPs as an attractive infrastructure financing option to their local communities. However, this does not mean that PPPs do not present many benefits for local communities.

Following a preliminary call for submissions and two public hearings, the Committee decided to issue a *Discussion Paper* in January 2008 to provide background material to stakeholders and focus in on the key issues which had emerged. Fifteen questions were posed in the *Discussion Paper* concerning local government PPPs and the answers that the Committee received in response to these have been used to inform the findings of this Final Report.

What came through clearly in the responses was that most councils in New South Wales are interested in pursuing PPPs in certain circumstances but lack the in-house resources and expertise to do so. Obtaining external specialist advice is usually cost prohibitive, particularly in the preliminary or speculative stages before it can be determined if the proposal is viable.

The Committee considered a number of options to assist local government in relation to the problem and discussed the issue with key stakeholders. It is hoped that the proposals put forward in this report will go someway to assisting local government with future PPPs.

On behalf of the Committee I would like to thank all those agencies who participated in this inquiry and provided valuable information on the key issues.

Ninos Khoshaba MP
Chairperson

List of recommendations

RECOMMENDATION 1:

That the NSW guidelines and legislation on PPPs and the process of the Local Government Project Review Committee be reviewed in light of any outcomes of the COAG and Infrastructure Australia findings on the National Infrastructure Audit, their development of best practice guidelines for PPPs, and any COAG or Infrastructure Australia proposals to hamonise policies and laws relating to the development and investment in infrastructure.

RECOMMENDATION 2:

The Department of Local Government, in association with NSW Treasury, should develop model templates for PPPs which could be flexible for local adaptation or requirements in the context of the national approach to develop best practice guidelines on PPPs.

RECOMMENDATION 3:

State government policy should acknowledge that if local government needs to adopt a total asset management system then all options and opportunities must be explored and made available to local councils including PPPs

RECOMMENDATION 4:

Any government reforms to integrated strategic planning and reporting as well as asset management and financial planning for local councils should include provisions for PPPs.

RECOMMENDATION 5:

The roll out of the capacity and skills building program being proposed by the NSW government with regard to local government's adoption of a total asset management system and integrated strategic planning and reporting should be adequately funded to assist local councils perform this task effectively.

RECOMMENDATION 6:

The proposed provision of support and training to councils on good governance and strategic planning assistance (integrated planning and reporting reforms) should incorporate planning or training assistance on models of PPPs, relevant tools, guidelines and templates on PPPs, in order to take advantage of the economies of scale associated with the implementation of a proposed roll out of capacity and skills building programs

RECOMMENDATION 7:

The concept of bundling of PPP projects across neighbouring council boundaries should be considered and addressed in current resource sharing initiatives such as the Strategic Alliance Network and the group purchasing activities of Local Government Procurement (LGP), as well as within any government reforms to regional or council business clusters and resource sharing guidelines.

RECOMMENDATION 8:

Government reforms on developing a policy directory of best practice on the NSW Department of Local Government website should include models and best practice in relation to PPPs.

RECOMMENDATION 9:

The Local Government and Shires Association should examine the feasibility of establishing a reference panel of experts to assist local councils with PPP proposals.

RECOMMENDATION 10:

NSW Treasury should examine ways in which it can provide greater expert advice to NSW councils in relation to PPP proposals.

RECOMMENDATION 11:

The Local Government and Shires Association should examine the feasibility of establishing training and information sessions for local councils regarding PPPs.

Chapter One - Issues Raised in the Discussion Paper

1.1 Two recent major inquiries, *Rates and Taxes: A Fair Share for Responsible Local Government* (2003)[1] and *Are Councils Sustainable?* (2006)[2] have highlighted issues surrounding local government revenue streams and questioned councils' ability to fund new major infrastructure as well as upgrade their existing infrastructure.

1.2 *Are Councils Sustainable?* a report commissioned by the NSW Local Government and Shires Association which was published in May 2006, highlighted issues surrounding the management and renewal of local government infrastructure in NSW. A backlog of over $6 billion in infrastructure renewals was identified.

1.3 The report found that the traditional revenue sources available to local government such as rates, user charges, fees, fines, contributions and grants are not sufficient to properly maintain their current infrastructure portfolio.

1.4 With local council fiscal resources in NSW limited by rate capping, councils also heavily rely on Section 94 developer contributions for infrastructure upgrades.

1.5 Public Private Partnerships (PPPs) present a viable and flexible mechanism to deliver infrastructure at the local government level. Such partnerships can be specifically tailored to different infrastructure types and geographical contexts.

1.6 Councils tend to own infrastructure in strategically important locations which can become the key drivers of a PPP project and lead to regeneration of centres. It maybe important for councils to retain these assets due to their strategic location but councils can lease the assets to private partners as an incentive to drive development.

1.7 Types of PPP applications in local government could include:

- Property development including local government offices;
- Car parks, land swaps and mixed development such as residential, commercial and community;
- Waste collection and management;
- Waste water treatment;
- Child care and play group facilities, libraries and community education and community services;
- Marina, sports facilities and other special purpose facilities;
- Public buildings;
- Roads and road maintenance;
- Information technology;

[1] *Rates and Taxes: A Fair Share for Responsible Local Government*, October 2003, Cth House of Reps Standing Committee on Economics, Finance and Public Administration

[2] *Are Councils Sustainable? Final Report: Findings and Recommendations, Independent Inquiry into the Financial Sustainability of NSW Local Governments*, prepared for the Local Government and Shires Association of NSW (LGSA), May 2006, Chair: Percy Allan AM

- Public domain upgrades such as footpath widening and improved street furniture; and
- Social housing and aged care.

1.8 There are a number of forms of private investment in public infrastructure;

- Conventional procurement (including traditional design and construct, design construct and maintain, supply contracts);
- Privately financed projects (BOOT, BOT, BOO, DBFM, Concession(s) leasing);
- Outsourcing;
- Privatisation; and
- Divestiture by licence.

1.9 A range of studies undertaken in both the UK and Australia have demonstrated there are substantial on-time, on-budget savings to be made through the use of PPPs.

1.10 PPPs can provide government agencies with access to a broader range of funding options; project delivery is often earlier; risks are transferred to the private sector which may be better able to manage the risks; whole of life costing factors in maintenance of assets; the partnership approach encourages competition and provides incentives for bidders to develop innovative designs and solutions; and infrastructure developed by the private sector can incorporate commercial activities, helping to defray the overall cost of services.

1.11 There are also arguments against the use of PPPs. These include: possible weakening of accountability for public expenditure; long term contracts can reduce budgetary flexibility; the higher borrowing costs paid by the private sector can effect value for money; it can be difficult for government agencies to adequately structure contracts for future unforeseen events and risks; PPP infrastructure contract costs can be more expensive than the traditional provision of infrastructure; and some aspects of risk are not transferable.

1.12 While the September 2005 amendments to the *Local Government Act 1993* and the introduction of the associated guidelines have clarified requirements and provided greater certainty for councils in relation to PPPs, this has not translated into more local government PPPs in NSW.

1.13 In January 2008 the Standing Committee on Public Works issued a Discussion Paper which posed a number of questions regarding local government's use of Public Private Partnerships (PPPs). This Discussion Paper can be found on the Committee's webpage at www.parliament.nsw.gov.au

1.14 The following questions were posed in the *Discussion Paper.*

Question One - What are the existing impediments to councils engaging in PPPs?

1.15 The Discussion Paper asked for comment on the reasons that councils saw entering into PPPs as problematic. The following reasons had been identified in discussions with stakeholders:

- The negative image of PPPs as a result of projects such as the Cross City Tunnel and the Oasis Development;

- The fact that most local government projects are not of a large enough size to interest developers;
- Insufficient in-house expertise and experience within councils to deal with PPPs, especially strategic asset management;
- The associated risks, complexity and costs;
- Legal and regulatory obstacles;
- A need for many councils to first improve asset management practices.

1.16 Most PPPs that state government has entered into incorporate an ongoing service component and revenue stream such as roads, prisons and hospitals. Often if a project does not involve these components and councils are merely selling off or swapping land, a traditional tender model would be most appropriate.

Question Two - Is there a negative image or perception of PPPs among local councils and within the community?

1.17 Arguments had been made to the Committee that the negative publicity surrounding state government PPP projects such as the Cross City and Lane Cove Tunnels made PPPs hard these projects hard for councils to sell to their communities.

Question Three - Is the bundling of projects across council boundaries a viable option and would it assist councils to enter into PPPs and provide a greater incentive to developers?

1.18 As mentioned above, the scale of local government projects are often too small to be of interest to the big private developers who have expertise in the larger PPPs. The issue of scale is one of the reasons that local government PPPs are more prevalent in the UK than in Australia as local government in the UK is responsible for functions that are usually the responsibility of state government in Australia. These include: health, education, public housing and some public transport services.

1.19 To make smaller projects attractive to the private sector, it was suggested that projects should be bundled together to help address private sector concerns about costs of tendering and the certainty of the project proceeding. Bundling also offers greater economy of scale. A developer that might not be interested in doing one or two projects might be interested in doing 10 or 20, including projects bundled together across council boundaries.

Question Four - Is it appropriate that councils remain the consent authority for any of their own PPPs? If not, which is the most appropriate body to undertake the task?

1.20 The Committee had heard arguments that the private sector feels both frustration and concern regarding the fact that the local council is generally both the applicant and the consent authority.

1.21 Suggested options to address this problem included transferring consent decisions to a neighbouring council or constituting a separate board.

Question Five – Should the state government provide technical assistance and financial incentives to assist councils to adopt a total asset management system within the next three years?

Question Six – Should councils' Strategic Asset Management Plans make provision for PPPs?

1.22 Section 8 of the *Local Government Act 1993* (NSW) specifies that councils are to have regard to the long term and cumulative effects of their decisions, and are to bear in mind that the councils are the custodians and trustees of public assets and must effectively account for and manage the assets for which they are responsible.

1.23 The only specific obligation which requires councils to undertake specific asset management planning is included in the Department of Energy, Utilities and Sustainability *Best Practice Management of Water Supply and Sewerage Guidelines, 2004.* These guidelines direct councils to undertake this planning only in relation to water supply and sewerage assets.

1.24 It has been suggested that many councils do not plan well for the long-term management of their assets. This limitation, when combined with the emergence of unsatisfactory asset accounting and reporting practices, may inhibit decision makers and other users of reported information from making informed judgments about the condition of local government infrastructure.

1.25 The NSW Department of Local Government published a Position Paper in mid-2007 which recommended the following:

- Strategic long term asset management and financial plans be included as essential components of an integrated planning and reporting framework across NSW local government.
- Legislative amendments requiring long-term strategic asset management planning be introduced into the *Local Government Act 1993*.
- Councils adopt asset management planning systems and practices that are consistent with the *Local Government Financial Sustainability Frameworks*, and where applicable and practical, the International Infrastructure Management Manual.
- A basic (core) approach to asset management planning be the agreed minimum level for all NSW councils.
- An asset management improvement program be implemented to progressively raise asset management planning to a level appropriate for each council.
- Legislative amendments requiring ten year financial planning be introduced into the *Local Government Act 1993*.
- An industry wide capacity building program including a range of training, tools, templates and guidelines be introduced.

1.26 In its submission, the Property Council of Australia argued that local government should adopt alternative financing options as part of a wider reform program which should include:

- Structural reform to create larger councils in urban areas (amalgamations in some cases and reconstituting new councils in others);

- Drop rate capping for larger councils subject to a fiscal responsibility framework;
- Establish independent Planning Assessment Panels as the consent authority for all development applications not determined by staff;
- Compel councils to expend unspent section 94 moneys;
- Require all councils to produce a 10 year infrastructure strategy every 2 years in similar format to that of the State Infrastructure Strategy.

1.27 *The Independent Inquiry into the Financial Sustainability of Local Government in NSW* (Percy Allan report, 2006) identified deficiencies in the asset management practices across NSW local councils. The inquiry found that only one in five councils had asset management plans. This lack of asset management systems was attributed to the resource limitations of councils which are already burdened by mandatory management and prescribed reporting.

1.28 The report also recommended that the state government provide technical assistance and financial incentives to enable councils to adopt a total asset management system within 3 years. A lack of long term strategic and financial planning among councils was also identified and it was recommended that councils develop long term, 10 year strategic and financial plans.

1.29 Ideally Strategic Assets Plans for local government should link in PPPs. This would also assist councils to retain a "line of sight" between community needs and PPPs.

Question Seven – Should there be a central NSW government agency assigned the responsibility of co-ordinating and managing all other state government agencies involved in local council PPPs?

Question Eight – Should there be an agency to educate train and provide access to external expert advice to local government in relation to PPPs?

Question Nine – If so, what should the key functions of this agency be and how should it be constituted and funded?

1.30 Lack of resources, knowledge and expertise within the local government sector was identified as a crucial factor which inhibits the growth of PPPs at this level. There is clearly a strong need for guidance and support which is currently absent.

1.31 Further, concern was expressed about the "silos" within the local and state government sector that inhibit the sharing of information.

1.32 Therefore, while councils may be strongly focussed on the desired outcomes from a partnership with the private sector, they often lack the in-house development and legal expertise to assess at what level benchmarks for the project should be set.

1.33 This often leaves councils too dependent upon the developer in areas of key negotiation. Apart from the obvious conflicts of interest, developers are often not the long-term strategic partners in a project, as they may be looking to on-sell.

1.34 Alternatively, councils must spend significant amounts of money seeking external advice to get to the stage of even determining the viability of a project.

1.35 This was acknowledged by Leighton Constructions, which is currently undertaking the North-South By-pass Tunnel in partnership with Brisbane City Council: *At the* *outset council had done all the background work……Brisbane City Council did a lot of work before it put this out to tender. It would have had to do that whether it was a build, own, operate, transfer [BOOT], a design and construct, or an alliance. People make much about the delivery methodology but when you have big projects like this you have to define your needs and you have to work out what you want to build. People differentiate in the delivery method. You have to do your homework, no matter how you deliver a project. Brisbane City Council did a lot of work. It understood that it probably was not going to get this project at nil cost to it, so it had a facility. At tender it said that it had up to $500 million available. It had worked that out before we had even started talking to it*.

1.36 Similarly, the Committee recently met with Banyule City Council in Victoria which is undertaking a $400m PPP redeveloping the Greensborough Town Centre. Banyule Council has managed the entire project internally with the assistance of a Principal Consultant and spent two years of administrative work, as well as $2m on the proposal before they were provided with assistance from the Victorian government.

1.37 Clearly, this type of expenditure and dedication of resources is beyond the scope of many NSW councils. Further, councils in NSW are not being given the assistance from NSW Treasury that Victorian councils are receiving from the Victorian Department of Treasury and Finance.

1.38 The NSW Department of Local Government has also taken a “hands off” approach to local government PPP projects prior to their submission to the Department for evaluation. The Department sees its role as to merely check that a potential PPP project is in accordance with the guidelines and only has a small allocation of funds to engage expert consultants to assist with matters such as risk assessment, when required.

1.39 A key strategy to address all these issues would be the establishment of an expert external agency which allows councils access to outside expertise and training.

1.40 This model has been used in other major jurisdictions such as Queensland, the United Kingdom, the United States and Canada. These agencies operate at a variety of levels of government: national, state or provincial and local.

1.41 The NSW Public Accounts Committee report on the *Inquiry into Public Private Partnerships (2006*[3]*)* explored the issue of a NSW state central PPP unit, separate from but related to, NSW Treasury. This unit would be tasked with assembling the skills required to negotiate and provide management advice for PPPs which could assist in the sharing of knowledge across agencies and disciplines.

1.42 In its submission to the inquiry, NSW Treasury argued that such a model was unnecessary as *“the required capacity existed either in NSW Treasury or within individual agencies”.* Treasury also indicated to the Committee that *it “serves as the central repository of information about PPPs in NSW, in terms of technical aspects, the Public Sector Comparator and structures and uses this information to develop a common approach between agencies around procurement”.*

1.43 The Treasury response does not address the problems facing local government which does not receive direct assistance from Treasury regarding the formulation and implementation of PPP projects.

[3] *Inquiry into Public Private Partnerships,* June 2006, NSW Public Accounts Committee.

1.44 The Public Accounts Committee recognised this and also recommended that the NSW government consider adopting a support structure for PPPs managed by local government similar to the Public Private Partnerships Programme (4Ps) in the UK, which included peer support, systems support and sharing of expertise. However, the Committee did not look at the issue of local government PPPs in any depth and did not receive submissions or take oral evidence from either the LGSA or any local councils.

1.45 The Government response to the recommendation was to draw the Committee's attention to the legislation and related guidelines. However, these do not address the intent of the recommendation which was to develop a platform of support for local government.

Question Ten – Would the availability of standardised forms and contracts be of benefit to councils?

1.46 Councils generally prepare Development Agreements for large and complex PPPs. These are legal agreements between councils and developers which sets out agreed upon issues such as who does what, conditions precedent and any compulsory acquisition of policy.

1.47 Councils reported to the Committee that substantial legal and administrative costs were incurred through the drawing up of contracts, even for relatively small PPP projects.

1.48 It was also argued that standardised contracts would assist in keeping councils' expectations of a PPP project realistic.

1.49 In its report on Public Private Partnerships in June 2006, the Public Accounts Committee considered the issue of whether standardised forms and contracts would assist in reducing bid and project costs.

1.50 The UK Treasury has standardised all its PFI (PPP) contracts, arguing that it helps to ensure best practice, improve procurements across the public sector, and reduces the length and cost of PFI procurements.

1.51 The Public Accounts Committee also heard counter arguments that standardised contracts reduced flexibility.

1.52 However the Committee did ultimately recommend "That NSW Treasury expedite the use of standard forms and contracts for PPPs".

Question Eleven – Is there a best practice model (or models) councils should adopt in relation to PPPs or should councils decide the most appropriate model in accordance with their own particular needs and the individual nature of each project? Should an agency of government provide information about available models to assist councils?

1.53 There is currently no "one size fits all" method for dealing with a local government PPP. When Parramatta City Council undertook its $1.4 billion Civic Place Development, several sub-committees of Council were established to deal with separate issues such as probity and project management. External advisors were attached to these to offer impartial advice. A project manager was also engaged.

1.54 This model is clearly expensive and borne out of necessity due to the size and complexity of the project.

1.55 Smaller private partnership projects are often undertaken with only one or two external advisors reporting to Council as a whole.

Question Twelve – Do legislative restrictions on community land use, the Plans of Management of such land use, and the dealings a council can have in community land, present impediments to councils entering PPPs?

Question Thirteen – Should one central NSW government agency assume responsibility for coordinating all government agencies and utilities involved in local government PPPs?

1.56 The *Local Government Amendment (Public-Private Partnership) Act 2004* amended the *Local Government Act 1993* to give a regulatory framework for PPPs entered into with NSW local governments.

1.57 Apart from the legislation regarding PPPs, other legal and regulatory issues surround the PPP issue such as the considerable restrictions on the use of community land, found in Chapter 6 of the *Local Government Act 1993*. Part 4 of the *Local Government (General) Regulations 2005* also set out the categorisation, preparation and adoption of draft Plans of Management (PoM) for community land and other matters relating to their leases, licenses and other estates. The PoM may place impediments on the use of community land as it includes the condition of the land, any buildings or structures on the land and the purposes for which the land, any buildings or improvements on the land will be permitted to be used.

1.58 Section 45 of the Local Government Act provides for any dealings a council can have in community land. A council has no power to sell, exchange or dispose of community land. A council may grant a lease or licence over community land where it is for the provision of public utilities and works associated with or ancillary to public utilities. Section 47D prohibits the exclusive occupation or exclusive use by any person of community land.

1.59 At a public hearing on 9 November 2007, the issue of the complexity of converting community land to operational land was discussed. Mr Allan Smith, a Councillor from Dubbo City Council and Executive Member of the Local Government and Shires Association spoke of an example that arose in Dubbo*: I had an example that was fairly large, it was not to build a PPP. It was a fairly large shopping centre that was surrounded by a green belt that was public land. It was non-operational community land. To get an extra driveway out of their car park across the community land was a major difficulty. After public exhibition, the public said no way were we to put a driveway across…… when we went through the public exhibition period to change the plan of management to go from a narrow strip across that land to have a driveway, the community made it very clear that they were not going to wear it. As such it all fell over. You would have those same issues trying to convert a lot of community land to operational, under the present legislation.*

1.60 The Parramatta Civic Place Redevelopment has recently highlighted another potential legal impediment with regard to the *Land Acquisition (Just Terms Compensation Act) 1991*. The Land and Environment Court determined that Parramatta City Council did not have the power to compulsorily acquire two parcels of land. This was based on the interpretation that the land would ultimately be transferred to a private party and was not acquired for the purpose of exercising council functions. The decision is subject to appeal.

1.61 In large PPP developments, there are often issues requiring state government or federal government approval decisions. It is therefore important that the local government not only has assistance but also cooperation at these levels of government.

Question Fourteen – Do the guidelines and legislation, in their current form, present barriers for councils to enter into PPPs?

Question Fifteen – Is it necessary to reform the legislation and guidelines with a greater focus on the facilitation of PPPs rather than of risk control?

1.62 The Local Government Shires Association of NSW suggested that there should be a review of the recommendations of the Oasis report, the Guidelines and associated legislation.

1.63 The Association argued that some councils have found the current guidelines and regulations too restrictive. The need to develop a project brief before calling for expressions of interest (EOI), for example, may stifle creative alternative proposals for the use of a particular site. It was suggested that a review of the operations of the Guidelines and the Local Government Project Review Committee would be timely in order to assess whether or not they are realistic for councils in all instances.

1.64 In its submission, Infrastructure Partnerships Australia (IPA) also considered that there was scope for further legislative or Project Review Committee reform in order to shift the sole focus from risk control to greater facilitation of PPPs for Councils.

1.65 Professor Maurice Daly similarly commented that when a project comes before the Project Review Committee, *“there is a bit of a feeling we have to make sure this is absolutely watertight and it cannot go wrong, and so on, whereas the secret is to work with a council to make it happen rather than to stop it happening. I have a feeling there is more of the stop it happening than to make it happen. I think it is a learning experience for the Department of Local Government as well as the councils themselves”*.

1.66 Professor Daly believed that the Guidelines served *“to keep you out of trouble rather than lead you to getting effective outcomes”*. He believed that in comparison to the Victorian and Queensland systems, the NSW system at the state level is weak.

1.67 Professor Daly further argued that the best method to influence local government regarding PPPs is by the example of a few successful outcomes rather than merely by a regulatory framework.

1.68 Gregory Incoll of Incoll Management considered that streamlining of the Guidelines may assist councils and provide greater certainty to the private sector. He considered that, as they were implemented following the Liverpool inquiry and report, they may have been “*a little heavy-handed as the Government wanted to ensure that it did not happen again*”. He thought the private sector has become “*a little jaundiced*” with councils and PPPs due to the number of steps councils are now required to follow which have the potential to add to time delays and uncertainty that the project will proceed. As a result he believes that the private sector is choosing to invest their capital elsewhere.

1.69 Mr Incoll further submitted that, *"The intent of the guidelines is good. The intent of the guidelines is essentially that when a council has a requirement it not only has a concept and a way of going forward but it actually has a business plan or a feasibility surrounding the concept. That was probably a step that was missing in previous years. Holistically, the second step is that before a council enters into an engagement with the private sector, all the documentation related to the process up to that point in time, or the commercial arrangements around that negotiation and how the project will go forward after a contract is engaged, is really the second component of those guidelines. That, again, is a sensible structure. It just becomes unwieldy with the amount of information that has to flow at that point in time, and the timeframe taken. So a private sector organisation will look at the timeframe and probably baulk at it"*.

1.70 A representative from South East Region Training and Enterprise Centre also supported the view that there is the area of PPPs is now over-legislated.

1.71 However, the Department of Local Government argued that neither the legislation nor guidelines impose onerous burdens on councils entering into PPPs. "*The processes and procedures set out in the guidelines are for any responsible, transparent and well managed council to undertake to ensure they meet their obligations to the communities. The guidelines do not add another layer of bureaucracy and the process does not cost the council anything. Timeframes are also built into their guarantee of service so there is quick turnaround time".*

1.72 The Guidelines also were designed to emphasise the dual role of councils to ensure transparency with respect to being the consent authority but also the proponent of the PPP and be responsible for the long term maintenance of an asset.

1.73 The Department also said that it found that with smaller projects, councils have welcomed the guidelines as they have clarified what exactly is required and has not received any criticism regarding their operation.

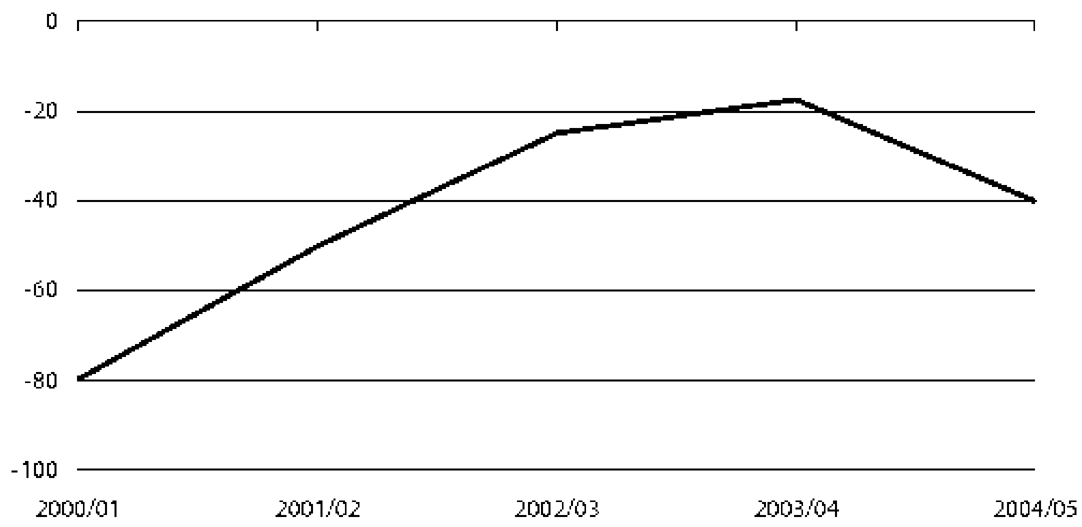
Chapter Two - Suitability of PPPs for Local Government

2.1 As outlined in the Committee's *Discussion Paper*, partnerships with the private sector present one way that local councils can either upgrade existing infrastructure or provide new facilities for their communities.

2.2 Various reports such *Rates and Taxes: A Fair Share for Responsible Local Government* (2003)[4] and *Are Councils Sustainable?* (2006)[5] have highlighted the financial strain that councils are under in relation to their infrastructure.

2.3 The following chart shows the annual renewal/replacement ratio for all NSW councils over the period 2000/01 to 2004/05. The figure indicates that on average, the annual capital expenditure of NSW councils on the renewal or replacement of existing assets fell short of the annual depreciation of those assets by $400 million, or 40 per cent of that capital expenditure in 2004/05.

Figure 6.3 Annual renewal/replacement ratio, all NSW Councils, 2000/01 to 2004/05



Data source: Access Economics, Local Government in NSW, for the Independent Review Panel.

2.4 The recent IPART *Issues Paper* suggested that councils' current levels of debt may be too low in relation to new infrastructure provision and upgrading of existing infrastructure. Councils in New South Wales seem to have a tendency not to borrow even when it may be prudent to do so. The annual renewal/replacement ratio tends to suggest that councils may be generating an infrastructure backlog, and this may pose a risk to the long term viability of local government finances.[6]

2.5 Public Private Partnerships will never be an everyday occurrence for councils and most councils may only undertake one or two in a council lifetime. However, they do

[4] ibid

[5] ibid

[6] IPART *Revenue Framework for Local Government – Issues Paper July 2008* pp 42,43

present a viable alternative financing option for councils which can deliver strong returns for the community.

Types of PPPs

2.6 There are a number of different types of Public Private Partnerships available to local government:

Operations and Maintenance

Council contracts with a private partner to operate and maintain a publicly owned facility. This type of project is suitable for a a broad range of council services including water and wastewater treatment plants, solid waste removal, road maintenance, parks maintenance/landscape maintenance, arenas and other receational facilities, carparks etc.

Design Build

Council contracts with a private partner to design and build a facility that conforms to their standards and performance requirements. Once the facility has been built, Council takes ownership and is responsible for the operation of the facility. This method is suitable for most infrastructure and building projects including roads, water treatment plants and swimming pools.

Turnkey Operation

Council provides the financing for the project but engages a private partner to design, construct and operate the facility for a specified period of time. The public partner maintains ownership of the facility. This type of partnership is most applicable where the council maintains a strong interest in ownership but seeks to benefit from private construction and operation of the facility.

Wrap Around Addition

The private partner finances and constructs an addition to an existing public facility. The private partner may then operate the addition to the facility for a specified period of time or until the partner recovers the investment plus a reasonable return.

Lease Purchase

Council contracts with the private partnerto design, finance and build a facility to provide a public service. The private partner then leases the facility to the council for a specified period after which ownership vests with the council. This approach can be taken where council requires a new facility or service but may not be in a position to provide financing. This method can be used for capital assets such as buildings, vehicle fleets and computer equipment.

Temporary Privatisation

Ownership of an existing facility is transferred to a private partner who improves and/or expands the facility. The facility is then owned and operated by the private partner for a period specified in the contract or until the partner has recovered the investment plus a reasonable return.

Lease-Develop-Operate or Buy-Develop-Operate

The private partner leases or buys a facility from the council, expands or modernizes it, then operates the facility under a contract with the council. The private partner is expected to invest in facility expansion or improvement and is given a specified period of time in which to recover the investment and realise a return. This method is suitable for most infrastructure and other public facilities.

Build-Transfer-Operate

Council contracts with a private partner to finance and build a facility. Once completed, the private partner transfers ownership of the facility to the council. The council then leases the facility back to the private partner under a long-term lease during which the private partner has the opportunity to recover its investment and a reasonable rate of return. This method is suitable for most infrastructure and other public facilities.

Build-Own-Operate-Transfer

The private developer obtains exclusive franchise to finance, build, operate, maintain, manage and collect user fees for a fixed period to amortize investment. At the end of the franchise, title reverts to the public authority. This method is suitable for most infrastructure and other public facilities.

Build-Own-Operate

Council either transfers ownership and responsibility for an existing facility or contracts with a private partner to build, own and operate a new facility in perpetuity. The private partner. The private partner generally provides the financing. This method is suitable for most public infrastructure and facilities, including water and wastewater systems, parking facilities, recreation facilities, airports, local government administration and operations buildings.[7]

2.7 While there are numerous examples of local government PPPs of varying scale around Australia, they are far from a common form of infrastructure provision amongst councils.

2.8 Although this area has not been well researched in Australia there are a number of key reasons that can be identified.

2.9 The smaller size and financial base of councils usually means that the value and type of projects they undertake will be on a smaller scale than the major projects the state and federal governments engage in. However, they are particularly vulnerable when forming partnerships with the private sector as they do not have the in-house specialist expertise and the cost of contracting expert advisors can be prohibitive.

2.10 The submissions that the Committee received listed a number of other key impediments which included the following:

- A lack of projects of sufficient size to provide a desirable return on investment for private partners;
- Resident concern about cost, loss of control of public assets, negative publicity about unsuccessful PPPs;
- Confusion about approval processes;
- Unclear advice from state government;
- Political risks to councillors.

2.11 A case study of a number of local government PPPs within Victoria and South Australia uncovered the following risks encountered by councils in moving forward with PPPs:

[7] *Public Private Partnership – A Guide for Local Government* pp 7-10

Conceptualisation stage – risks in moving a project from first concept to design:

- State political funding issues;
- Intra-Council divisions;
- Organisational changes;
- Market changes;
- Community consultations.

Developmental stage – risks associated with capital costs:

- Design;
- Construction;
- Commissioning.

Operational stage – risks associated with with revenue and recurrent costs:

- Wages;
- Utilities;
- Asset maintenance;
- Insurance.

Quantifiable specific risks include:

- Specification/design;
- Construction cost;
- Operating cost;
- Changes in other underlying costs;
- Obsolescence;
- Residual value;
- Performance risk – penalties etc;
- Demand;
- Commercial – exposure to 3rd party revenues.

Unquantifiable or non-commercial risks include:

- Force majeure;
- Regulatory and legal;
- Socio-political.[8]

2.12 Despite these issues, the vast majority of councils who submitted to the inquiry indicated that they had considered, or would consider, entering into a PPP.

[8] Aspin, Ronald "Public-private partnerships and effective risk management for local government" pp4-5

Chapter Three - PPP Legislation and Guidelines

3.1 As canvassed in the *Discussion Paper* , while the September 2005 amendments to the *Local Government Act 1993* and the introduction of the associated guidelines have clarified requirements and provided greater certainty for councils in relation to PPPs, this has not translated into more local government PPPs in NSW.

3.2 It was suggested to the Committee by various stakeholders that there should be a review of the recommendations of the *Oasis Report*, the PPP Guidelines and associated legislation. The Local Government and Shires Association of NSW argued that some councils have found the current guidelines and regulations too restrictive. The need to develop a project brief before calling for expressions of interest (EOI), for example, may stifle creative alternative proposals for the use of a particular site. It was suggested that a review of the operations of the Guidelines and the Local Government Project Review Committee would be timely in order to assess whether or not they are realistic for councils in all instances.

3.3 In its submission to the Inquiry, Infrastructure Partnerships Australia (IPA) also considered that there was scope for further legislative or Project Review Committee reform in order to shift the sole focus from risk control to greater facilitation of PPPs for Councils.

3.4 Professor Maurice Daly at the Standing Committee on Public Work's public inquiry hearing on 19 September 2007, similarly commented that when a project comes before the Project Review Committee:

> "there is a bit of a feeling we have to make sure this is absolutely watertight and it cannot go wrong, and so on, whereas the secret is to work with a council to make it happen rather than to stop it happening. I have a feeling there is more of the stop it happening than to make it happen. I think it is a learning experience for the Department of Local Government as well as the councils themselves".

3.5 Professor Daly believed that the Guidelines served:

> "to keep you out of trouble rather than lead you to getting effective outcomes". He believed that in comparison to the Victorian and Queensland systems, the NSW system at the state level is weak…..the best method to influence local government regarding PPPs is by the example of a few successful outcomes rather than merely by a regulatory framework."

3.6 However, Ross Woodward, Deputy Director General of the NSW Department of Local Government considered that neither the legislation nor guidelines impose onerous burdens on councils entering into PPPs.

> "The processes and procedures set out in the guidelines are for any responsible, transparent and well managed council to undertake to ensure they meet their obligations to the communities. The guidelines do not add another layer of bureaucracy and the process does not cost the council anything. Timeframes are also built into their guarantee of service so there is quick turnaround time".

3.7 The Department further stated that the intention of the Guidelines was to emphasise the dual role of councils to ensure transparency with respect to being the consent authority but also the proponent of the PPP and be responsible for the long-term maintenance of an asset.

3.8 The Department also said that it found with smaller projects, councils have welcomed the guidelines as they have clarified what exactly is required and has not received any criticism regarding their operation.

Do The Guidelines And Legislation Present Barriers?

3.9 The Committee posed the question to stakeholders in its *Discussion Paper* as to whether the guidelines and legislation present barriers for councils entering into PPPs. Around a third of submissions received from councils stated that the guidelines and legislation did not present any significant barriers. It was suggested that factors such as skills shortages and a lack of suitable projects were the major hindrances.

3.10 Another third of submissions believed the guidelines and legislation did present significant barriers. However, while the majority of submissions believed that the guidelines and legislation did make entering into PPPs more difficult, they also acknowledged that they provided protection.

3.11 The following comments were made as to how the guidelines and legislation operated to make PPPs more difficult for councils:

> “A key barrier that is embedded in the guidelines is the basic process council must follow for most procurement contracts. The State Government PPP procurement guidelines define the Expression of Interest (‘EOI’) phase as a test of private sector capability and capacity and the Request For Detailed Proposals (‘RFP’) phase as a test of risk adjusted value for money. There is no requirement to award a contract unless a proposal produces a lower risk adjusted cost than the traditional option. The State has the flexibility to reject all bids and continue to develop a project on traditional means…Our understanding is that if a council proceeds to the RFP phase it is effectively warranting that a contract will be awarded. This forces councils to make their EOI documents demand extensive information from bidders, but without being in a position to request firm pricing or underwritten finance and then if the EOI responses appear favourable going to the RFP phase without a binding value for money condition. Clearly this further discourages councils from initiating transactions that have a greater perceived political risk”. (Ernst and Young submission).

3.12 The Local Government Managers Australia NSW wrote in their submission:

> “There are barriers within the current legislation and guidelines, which impose numerous hurdles for councils when contemplating PPPs. These barriers may be part of the reasons why councils do not pursue PPPs. The various requirements are also an impediment to the private sector, who do not want to have to bear the time and financial costs of the lengthy and onerous decision making process required in PPPs. However, if the legislation was enabling and if the guidelines were changed to focus on advice and models then those barriers would be removed”.

3.13 Fairfield City Council submitted:

> “The lead-in arrangements require a substantial upfront cost to be met prior to entering into an agreement. This may negate or substantially reduce the benefit arising from any PPP and may be difficult for a council to fund”.

3.14 Similarly, Penrith City Council argued that:

> “The EOI process does not protect the intellectual property rights of developers. It is possible that the EOI process focuses on the ‘the capability of an organisation to deliver a project and not about the specifics of the proposal thus ensuring that key concepts and innovative solutions are provided in the formal tender process preserving the privacy of this information”.

3.15 Some stakeholders partially supported the guidelines while still asking for review and reform:

3.16 Infrastructure Partnerships Australia argued that:

> "The amendment of the *Local Government Act 1993* with the new Local Government Amendment (PPP) Act 2004 was a significant development enabling local governments to enter into PPPs. IPA believe that Council guidelines and procedures need to be simplified to enable faster processing of project proposals".

3.17 Gosford City Council commented:

> "Yes, these can be seen as onerous and requiring an increase in work as opposed to developing projects funded using other methods…Although as the DLG argues in 1.94 (page 15 of the *Discussion Paper*) that the processes and procedures in the guidelines are for any responsible, transparent and well managed council to undertake to ensure they meet their obligations to communities, there are no specific procedures for projects financed by more usual methods that are legislated to be undertaken as a requirement by councils".

3.18 Cowra Shire Council submitted that when it came to PPP requirements there should not be a "one size fits all" approach taken:

> "Council again expresses its view that the Oasis development and the response to it, established procedures that might be necessary in a large scale metropolitan area but are excessive for a rural Council. In an example where a rural Council may wish to develop 20 residential housing blocks in a PPP it would be required to develop a probity plan, appoint a probity auditor and establish seven committees. If the NSW Government wishes to promote the idea of PPP it needs to substantially simplify the procedures. If a rural Council was to undertake a large scale development then more detailed procedures may well be applicable".

3.19 Some councils said that they believed that there should be a greater focus on information and standardisation. For example, Mid-Western Regional Council submitted that:

> "There are some barriers within the current legislation but this Council is of the opinion that if those guidelines were changed to be focused on giving advice and setting up standardised forms then those barriers would be removed".

3.20 KPMG argued for streamlining of approval processes. Similarly, Parramatta City Council argued that the guidelines contributed to delays:

> "The principle around the legislation and guidelines for PPP's should be that they exist to ensure that the process is effective, efficient, transparent and has a good governance structure. The current guidelines appear to cover projects that are not PPP's. It is recommended that these guidelines be reviewed. Bureaucratic delays will frustrate the process (particularly when dealing with the private sector) and add cost…Until best practice models emerge proposed new legislation and guidelines will need to be flexible so as not to stifle innovation in the PPP process".

3.21 Blacktown City Council considered that there was too much focus on risk:

> "The legislation and guidelines seem to focus more on managing and controlling risks, rather than encouraging councils to consider utilising PPPs to deliver assets and facilities. Legislation's complexity may present unwanted barriers and disincentive for the private sector to be involved…It is acknowledged that the legislative framework is there to protect councils. However, it is considered that it could be built on to facilitate and encourage more PPPs within the local government sector".

Reform of the Legislation And Guidelines

3.22 The *Discussion Paper* posed the question as to whether reform of the PPP legislative requirements and guidelines was considered necessary.

3.23 Over half the submissions received by the Committee supported reforms to the legislation and guidelines with a greater focus on the facilitation of PPPs. One submission argued that both areas (facilitation of PPPs as well as risk control) are needed in any legislative framework.

3.24 Cowra Shire Council argued that there should be a template developed for councils to follow:

> "There will always be risk with any activity whether it is in public sector environment or in the private sector. Local government, however, seems to be in the political crosshairs whereas NSW Government PPPs such as under city tunnels and tollways appear to be of lesser significance. Nevertheless, large scale developments in local government can place a great impost on ratepayers if they fail or result in a long term cost burden cost (sic) to the Council. Cowra Shire's suggestion is that a template be developed which can be used by local government authorities for PPP projects. This template would clearly set out the steps to be taken such as describing the proposal with the proposed heads of agreement. This could be completed by management, approved by Council and submitted to the Minister for conditional approval. The template would then detail the next series of steps".

3.25 Both North Sydney Council and Local Government Managers Australia NSW commented that there need to be greater emphasis on facilitating PPPs:

> "There does need to be risk control measures specified for PPPs. Councils and their private sector partners do take on considerable risks in embarking on partnership projects, and these risks need to be identified and managed. However these controls should not constitute an insuperable barrier to PPPs commencing. The legislation and guidelines therefore do need to also focus on the means by which PPPs can actually occur, i.e. be facilitative".

3.26 This view was supported by other councils such as Willoughby which commented:

> "Risk control is important but greater emphasis on facilitation of PPPs is supported".

2.27 Similarly, Gosford City Council argued for

> "A balance of focus on facilitation should be included in the legislation and guidelines".

3.28 Private sector stakeholders also supported this approach. Infrastructure Partnerships Australia wrote:

> "There is scope for further reform by shifting the sole focus from risk control towards greater facilitation of PPPs for Councils that choose to pursue this form of procurement".

3.29 Ernst and Young suggested in their submission:

> "A more effective approach would be to restructure local government tendering rule to be consistent with State Government procedure. This would allow a shortened EOI phase, and a thorough RFP phase at which the value for money test becomes a primary focus. The procedures involved in producing a risk adjusted traditional comparison model provide an appropriate focus on risk management".

Commonwealth Government Reforms

3.30 Future Commonwealth Government reforms may also affect the local government, including harmonisation of rules for PPPs and development of 'best practice' guidelines. The establishment of national 'best practice' guidelines for PPPs to reduce costs for the private sector and shorten the timeframes for delivering key projects is a high priority for the Commonwealth Government. It has established Infrastructure Australia to streamline major projects. At the time of writing, draft guidelines by the Council of Australian Governments (COAG) infrastructure working group have been given to Infrastructure Australia.

3.31 The final guidelines will include an outline of the preferred way of sharing risk between the private sector and government. It is expected that the national guidelines will include principles on dealing with project defaults on social infrastructure which could allow governments to abandon projects or step in and take over control. The guidelines would operate as a template that governments could adapt to their own requirements such as state-based planning laws.

3.32 Commonwealth Government has established a $20 billion budget over 4 years for the Building Australia Fund to develop critical economic infrastructure. The Fund will be guided by Infrastructure Australia's national audit and infrastructure priority list.

3.33 Infrastructure Australia will develop a strategic blueprint for the nation's future infrastructure needs in partnership with the states, territories, local government and the private sector. It aims to give advice to Australian governments about infrastructure gaps and bottlenecks that may be hindering economic growth.

3.34 It will also identify investment priorities and policy and regulatory reforms. It will report to the COAG through the Federal Minister for Infrastructure, Transport, Regional Development and Local Government.

3.35 COAG agreed that the priorities for Infrastructure Australia over the next 12 months are:

- Completion of the National Infrastructure Audit by the end of 2008;
- Development of an Infrastructure Priority List for COAG's consideration in March 2009; and
- Development of best practice guidelines of PPPs for COAG's consideration by October 2008.
- Some of the legislative functions set out in the Infrastructure Australia Act 2008 include:
- Options and reforms, including regulatory reforms, to make the utilisation of national infrastructure networks more efficient;
- To review and provide advice on proposals to facilitate the harmonisation of policies, and laws, relating to development of, and investment in, infrastructure.

3.36 Infrastructure Australia will review the extent to which the governments could facilitate infrastructure investment, including improving guidelines for PPPs, project appraisal techniques, and planning and approval processes. It will advise on the removal of disincentives to greater private investment in public infrastructure, including the complexity and cost of PPPs.

3.37 The Prime Minister Kevin Rudd has recently announced $300m of infrastructure funding available to Australian local councils through a grant system. New South Wales councils will receive 33.9 per cent of this funding.[9]

[9] "Councils Split Federal Funding" *Australian Financial Review* 19 November 2008

Recommendations

RECOMMENDATION 1:

That the NSW guidelines and legislation on PPPs and the process of the Local Government Project Review Committee be reviewed in light of any outcomes of the COAG and Infrastructure Australia findings on the National Infrastructure Audit, their development of best practice guidelines for PPPs, and any COAG or Infrastructure Australia proposals to hamonise policies and laws relating to the development and investment in infrastructure.

RECOMMENDATION 2:

The Department of Local Government, in association with NSW Treasury, should develop model templates for PPPs which could be flexible for local adaptation or requirements in the context of the national approach to develop best practice guidelines on PPPs.

Chapter Four - Stategic Asset Management

4.1 Strategic asset management is a process for 'whole of life' asset management from planning, purchase, maintenance and disposal of assets. It also integrates asset and service outcomes. According to the NSW Department of Local Government's Position Paper entitledn *Asset Management Planning for NSW Local Government*[10] issued in May 2007, the term 'asset management' is used to describe the process by which councils manage physical assets to meet current and future levels of service.

4.2 Under the *Asset Management Standard PAS 55*, which is published by the British Standards Institute, asset management is defined as the systematic and coordinated activities and practices through which an organisation optimally manages its physical assets, and their associated performance, risks and expenditures over their lifecycle for the purpose of achieving its organisational strategic plan.

4.3 Common tools in asset management systems include asset registers, asset maintenance and management systems, strategic planning capabilities, predictive modelling, deterioration modelling, risk analysis and lifecycle costing.

4.4 The *National Financial Sustainability Study of Local Government*, commissioned by the Australian Local Government Association and prepared by PriceWaterhouseCoopers (PwC, November 2006), recommended that local councils should consider the use of other sources of infrastructure funding such as PPPs in addition to special levies and user charges. It suggested that for those councils with the appropriate skills and capacity, the use of PPPs could provide a flexible alternative for infrastructure upgrades and could avoid the pressures of increasing local government debt. It recognised that initiating a PPP could be expensive and a lengthy process which would require the use of expert advisors. However, it suggested that PPPs generally may enable councils to reduce risk by allocating a number of risks that might be better managed by the private sector.

4.5 The incorporation of PPPs within a total asset management system may be a worthwhile consideration. The *Discussion Paper* raised a number of questions for comment in relation to this issue.

Should Councils' Strategic Asset Plans make provision for PPPs?

4.6 The need for provisions for PPPs in strategic asset management was supported strongly in the submissions received in response to the *Discussion Paper*. Over half the submissions agreed that councils' strategic asset plans should make provision for PPPs although it should not be compulsory for all councils to include PPPs. Only one rural council argued that PPPs were not a priority for rural councils.

4.7 The Local Government Managers Australia NSW submission commented that: "If local government is to look to the future with confidence about the management of assets, then all options and opportunities must be explored and made available to communities including PPPs".

4.8 However, there is currently concern about asset management systems amongst local councils. This appears to be largely due to the resource limitations of councils in New South Wales. According to the *Independent Inquiry into the Financial Sustainability of*

[10] Department of Local Government, Position Paper on *Asset Management Planning for NSW Local Government*, NSW, May 2007

NSW Local Governments, 2006, prepared for the Local Government and Shires Association of NSW (LGSA), only 18% of councils in NSW at the time of their Inquiry, have asset management policies in operation.

4.9 The findings from the *Promoting Better Practice Program*[11], which is part of the Local Government reform program, were similar to those identified in a research project prepared for the *Independent Inquiry into the Financial Sustainability of NSW Local Government*. The *Infrastructure Sustainability and Practice Report* [12] found that only 20 per cent of councils have adopted asset management plans, 30 per cent of councils intend to have asset management plans completed within the next one to two years, and the remaining 50 per cent have no intention to prepare such plans.

4.10 It was further estimated that $6.3 billion or about 13 per cent of the total asset value of councils were required to bring existing assets up to a ‘satisfactory standard’.

4.11 Another $14.6 billion was required over the next 15 years to replace existing assets already identified for renewal. This backlog measure of infrastructure did not take into account of new infrastructure needs resulting from a growing and shifting population, changing profile, changes to building or construction standards or community expectations and demands.

4.12 Infrastructure renewal gap is another measure of infrastructure condition used to examine current and future maintenance and renewal needs. This renewal gap is the measure of the annual capital expenditure of NSW councils spent on renewal or replacement of existing assets against the depreciation expenditure of those assets. This gap is calculated on replacing existing assets (a ‘like with like’ replacement).

4.13 This renewal gap was estimated by reports to the *Independent Inquiry into the Financial Sustainability of NSW Local Government as* councils’ depreciation expenditure falling short of requirements by between $450 to $600 million each year. Roorda (2006)[13] reported that this meant a constant under funding of asset renewal by up to 50 to 60%, which was the equivalent of seven to nine per cent of councils’ total revenues or 11 to 12 per cent of their total rates and charges revenue.

4.14 The *National Financial Sustainability Study of Local Government*[14] identified some of the common characteristics of councils facing financial sustainability issues. These included:

- Minimal or negative revenue growth. Cost growth which exceeded revenue growth - the gap between cost and revenue growth may lead to operating deficits which are then partly funded by deferring some infrastructure renewals expenditure;
- Increasing involvement in non-core service provision from rising community demands, along with a tendency to provide non-traditional service;
- Some councils tend to run operating deficits creating a need to defer or underspend on renewal of infrastructure such as community infrastructure (community centres, aged care facilities, libraries, health clinics, sport and recreation facilities), which often repeatedly create an annual backlog;

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[12] Roorda and Associates, T*he Present Condition and Management of Infrastructure in NSW Local Government*, Sydney, January 2006

[13] ibid

[14] The *National Financial Sustainability Study of Local Government*, commissioned by the Australian Local Government Association (ALGA) and prepared by PriceWaterhouseCoopers (PwC), November 2006,

- Limited access for some councils to strong financial and asset management skills that are crucial for identifying sustainability problems, optimising renewals expenditure and improving revenue streams;
- A small proportion of councils having limited access to rate revenue due to small annual rate increases and a low initial rating base.

4.15 The 2006 *PwC Report*[15] made recommendations for improving financial sustainability of local government through internal reforms to improve councils' efficiency and effectiveness, as well as changes to intergovernment funding. Recommendations for internal reforms by some councils included stronger financial management and asset management.

4.16 The Municipal Association of Victoria (MAV) developed a staged asset management improvement program to increase asset management capability. This Step program has been developing infrastructure asset management capacity over the 4 years or more by promoting awareness of asset management obligations to all councils and by providing tools and templates to help develop asset management policies, asset management strategies, management and operational plans. This voluntary program has been funded by the councils and delivered through 6 monthly visits to the councils by the MAV appointed consultants to help identify priority deficiencies as well as provide targeted training and improvement recommendations to be done by their next visit.

4.17 The Interim Report of the *Independent Inquiry into the Financial Sustainability of NSW Local Governments*, prepared for the LGSA, March 2006, suggested that NSW could utilise existing asset management tools such as GHD's Gap-Ex, which is a web-based gap analysis tool that facilitates identification of an organisation's asset management capability and benchmarks this against comparable organisations to generate a basic asset management improvement program.

Current Asset Management Planning And Reporting Requirements

4.18 Currently, section 8 of the *Local Government Act 1993* (NSW) requires that councils are to have regard to the long term and cumulative effects of their decisions, and to bear in mind that the councils are the custodians and trustees of public assets and must effectively account for and manage the assets for which they are responsible. The only obligation that requires councils to undertake asset management planning is in the Department of Energy, Utilities and Sustainability's *Best Practice Management of Water Supply and Sewerage Guidelines*, 2004. These Guidelines only direct councils to undertake planning in relation to water supply and sewerage assets.

4.19 At present, councils must prepare their annual financial reports in accordance with the requirements of the *Local Government Act 1993* (NSW) and *Local Government (General) Regulations 2005*, as well as the *Local Government Code of Accounting Practice and Financial Reporting* and the *Asset Accounting Manual*.

4.20 Section 428 (2)(d) of the *Local Government Act 1993* requires councils to report on the condition of the public works under their control as at the end of the year, along with an estimate (at current values) of the amount of money required to bring the works up to a satisfactory standard; an estimate (at current values) of the annual

[15] PriceWaterhouseCoopers (PwC), *National Financial Sustainability Study of Local Government*, commissioned by the Australian Local Government Association, November 2006

expense of maintaining the works at that standard; and the council's program of maintenance for that year with regard to the works.

4.21 Council's reporting obligations from section 428 (2)(d) are addressed through a Special Schedule 7 to the annual financial statements. This reporting requirement is specific to NSW local government and the format of Special Schedule 7 is prescribed by the *Local Government Code of Accounting Practice and Financial Reporting* (the Code). This schedule reports on the condition of public works and the extent to which councils are able to maintain those public assets.

4.22 The Local Government *Promoting Better Practice Program* is part of the Local Government reform program. Recent findings from this Program indicate that the challenge for the majority of councils is to establish the link between asset management practices and other council planning and reporting processes and to ensure adequate information systems are in place for planning and implementation. Some councils have experienced a negative impact on their financial sustainability and an increased risk of failure of major infrastructure.

4.23 Local councils are not required to regularly estimate the fair value of their physical assets. They do not use consistent depreciation rates for estimating the annual consumption of their assets. Their accounts could understate the magnitude of their infrastructure problem.

Rate Pegging

4.24 The NSW Government sets the maximum amount at which councils may increase their annual general income – largely revenue from property rates, along with annual charges other than for water and sewerage charges and waste management charges. Section 505 of the *Local Government Act 1993* defines general income as income from ordinary rates, special rates and annual charges other than for water, sewerage and waste services.

4.25 Under the *Local Government Act Part 2 - Limit of annual income from rates and charges*, the government may set a limit on the total amount of income that a council can raise from general income. The Minister for Local Government may specify the percentage by which councils' general income for a year may be varied. This is known as the rate peg percentage (section 506). General income for these purposes also excludes user charges, interest, grants, contributions and donation such as section 94 charges under the *EP&A Act* or other revenues such as fines and business activities.

4.26 Therefore, rate pegging applies to a council's overall general income and not to rates on individual properties. It is possible within rate pegging for some rates to increase by more than the rate peg limit and other rates to increase by less than the rate peg limit.

4.27 The *National Financial Sustainability Study of Local Government*, commissioned by the ALGA (PwC 2006)[16], found the policy of rate pegging in NSW may limit the ability of some councils to broaden their own-source revenue and set rate revenue at a level that meets their local operating needs. The aims of rate pegging are to contain the rate of cost growth and to give incentives for productivity. However, it argued that by increasing improvements in the asset management and financial skills of councils, there might be grounds to remove rate pegging. Since councils are responsible for

[16] ibid

their long term sustainability and as their financial management skills could be evaluated in elections, councils could be given the autonomy to set their required rate rise. It suggested that the removal of rate pegging could be done through a progressive transition under which the cap would be gradually increased. Councils with strong asset management plans and financial management would then be able to determine their own rate increase.

4.28 The 2006 PwC Report suggested that the removal of rate pegging would give more local autonomy and responsibility to local governments to accurately estimate the rate rise needed for their operations, based on strong asset management plans. This would bring NSW into line with other jurisdictions.

4.29 The report discussed that rate pegging could be a disincentive for council Chief Financial Officers to complete asset management plans and financial analysis to calculate the minimum necessary rate rise. It may mean that many councils set their annual financial budget based on a rise equal to the peg and then scale back infrastructure renewal spending to balance the budget.

4.30 There are concerns that removing pegging could end up with higher cost growth. Others argued that pegging has little impact on the less viable councils since these councils have low rate levels and large rate rises would only give a small increase in total revenue so this would not make significant improvements to the viability of these councils. However, PwC argued that for these smaller councils with limited rating bases, it highlights the need for additional funding through an increase in grants.

4.31 The key arguments surrounding regulation of council revenue raising through rate pegging is summarised in the Independent Pricing And Regulatory Tribunal (IPART) *Issues Paper - Revenue Framework for Local Government (July 2008),:*

For rate pegging:

- Prevents any misuse of monopoly power in the supply of basic community services;
- Controls cross subsidisation and restricts council provision of non core services and infrastructure that could be unsustainable to rate payers;
- Manages the risk of poor governance;
- Limits the ability of councils to divert funds from essential infrastructure to other projects and spend on marginal services that are better provided by the private sector.

Against rate pegging:

- Limits councils' ability to provide local services;
- Prevents the addressing of the issue of infrastructure backlogs;
- Makes councils consider higher user pays charges which could result in pricing inequities;
- Runs contrary to principles of democracy and accountability of local government.

4.32 At the time of writing this report, IPART had commenced a review of the regulation of council rates and charges in NSW. In May 2008, the Premier of NSW asked IPART to assist the Department of Local Government to conduct the review. IPART will provide a draft report to the Minister for Local Government by 13 May 2009 and a final report by 13 September 2009. Recommendations will be made on the following matters:

- An appropriate intergovernmental and regulatory framework for setting rates and charges that facilitates the effective and efficient provision of local government services;
- A role for IPART in setting rates and charges in future years;
- A framework for setting the charges levied by certain public authorities such as Sydney Harbour Foreshore Authority, Redfern Waterloo Authority, Sydney Olympic Park Authority and the Growth Centres Commission, to enable these authorities to recover costs for the provision of services that are normally provided by local government.

4.33 IPART notes that during this period, the Minister for Planning has introduced changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act) that affect the treatment of section 94 contributions (developer contributions). The *Environmental Planning and Assessment Amendment Bill 2008* was passed by the Legislative Council on 17 June 2008 and given assent on 25 June 2008. Subject to the proclamation of Schedule 3 of the *Environmental Planning and Assessment Amendment Act 2008* (EP&A Amendment Act), section 94 and section 94A contributions will become as 'direct contributions' and 'indirect contributions', which will become important sources of revenue for councils in growth areas. IPART will not review or make recommendations that relate to the changes to the E&A Act.

4.34 As part of the review, IPART is seeking submissions in response to its Issues Paper (July 2008), *Revenue Framework for Local Government*[17]. In the Issues Paper (IPART 2008), IPART looked at the changes in the composition of NSW local government revenues over the period 1997/98 to 2006/07. It found that the rates component as a proportion of councils' total ordinary revenue was stable at about 48 per cent with little variation from year to year. This suggested a reflection of the constraint of rate pegging.

4.35 IPART (2008) has identified five options for alternative regulatory frameworks in its Issues Paper and is inviting submissions in response to them. In assessing Options 1 and 2 below, IPART will consider whether councils should also be required to develop a 10 Year Management Plan as proposed in Option 3. These options are:

Option 1 - Retain existing rate pegging arrangements but:

- Publish the economic indicators or indices to be used in determining the uniform rates cap to be used across local government each year
- Modify the special variations process to make sure that the mandatory criteria needed to justify a section 508 (2) or a section 508A variation are published, and the process of application and approval is transparent and forms part of local government regulatory system
- Leave all charges unregulated (except section 95 charges which are dealt with under amendments to the EP&A Act).

Option 2 - Implement a more disaggregated form of rate pegging that incorporates cost indices relevant to each council (or groups of councils). This option would be as for option 1 but either:

[17] IPART (Independent Pricing and Regulatory Tribunal), *Revenue Framework for Local Government, Other Industries – Issues Paper*, July 2008, NSW

- Group councils based on specific criteria and calculate a rate peg specific to each group, or
- Calculate a specific cap for each council based on specific criteria such as cost structures, service dimensions.

Option 3 - Reduce the scope of rate pegging to only cover local government revenue needed to fund operating expenditure and so exclude capital expenditure from rate pegging, but with operating expenditure to include some expenditure approximating asset depreciation:

- Leave other fees and charges (except section 94 charges) unregulated as it is.
- Provide separate guidelines on operating and capital expenditure planning and pricing. These guidelines could need approaches to operational revenue raising, related expenditure, capital expenditure plans and costings, pricing policies and charges, depreciation policy and proposed funding options such as debt financing and PPPs. Relationship of section 94 plans to these guidelines could be included.
- Modify the special variation arrangements as described in Option 1.

Option 4 - Maintain rate pegging but promote greater freedom by exempting individual councils from rate pegging but subject to a mandatory demonstration of:

- Financial accountability and governance
- Financial sustainability
- Comparative efficiency and effectiveness indicators such as affordability and availability of local services and facilities
- Ability to achieve the above criteria over a 10 year timeframe through an approved and independently audited management team, with the audited plan to be tabled in Parliament and made publicly available.
- This option may need regulatory changes to current Management Plans under the *Local Government Act 1993* – Chapter 13, Part 2 Management Plans.

Option 5 - Remove mandatory rate pegging and develop measures to enhance accountability to the local community. This includes compulsory reporting on a comparable basis to compare councils. Where councils fail to meet the criteria, a default rate cap could apply. IPART notes that the Minister for Local Government favours the continuation of rate pegging.

- IPART's option 3 looks at guidelines on operating and capital expenditure planning and pricing, and specifically refers to proposed funding options such as PPPs.
- There is a growing focus currently on strengthening the planning and reporting on financial and asset management, which is being considered by Department of Local Government and presented in its Positions Papers, along with the above IPART review into revenue framework for local government.

Improving Local Government's Asset Management

4.36 The *Independent Inquiry into the Financial Sustainability of NSW Local Governments*, prepared for the LGSA in 2006, identified that improvement to asset management and to unify infrastructure accounting is critical to addressing infrastructure problems. A common asset management system is needed to be complied with by NSW councils by requiring:

- A standard format for asset registers;
- Regular three-year valuation of infrastructure at 'fair value';
- Common definitions of 'satisfactory' standards for assets, depreciation, routine maintenance, backlog maintenance or rehabilitation, renewals and enhancements;
- A standard depreciation schedule for assets whose total life has not been estimated by an expert assessor.

4.37 The *Interim Report* published in March 2006, also mentioned that existing voluntary asset management planning and risk management that have been available to councils for more than 5 years is inadequate. However, it acknowledged that the revision of the asset register, revaluation and establishment of asset management systems will need resources and access to expertise for councils. External funding and programs will be needed to support councils. The financial burden on small rural councils will be heavy and may require specific attention. It suggested that NSW Department of Local Government would also be required to assist in capacity building of expertise in councils.

4.38 One of the options presented in the *Independent Inquiry into the Financial Sustainability of NSW Local Government* is to require all councils to adopt a total asset management system and consistent accounting practices within two years with the technical and financial assistance of the State Government.

4.39 At the Committee's public hearing held on 9 November 2007, Shaun McBride, Strategy Manager, Finance, Infrastructure and Planning, a representative of the Local Government and Shires Association, commented that:

> "We believe there will be legislative amendments by 2009 to institute that [integrated planning and reporting system with a compulsory component on asset management]. That is building on a lot of work that has been developed by the sector – not the department – and particularly by the Institute of Public Works Engineers Australia. Its members are probably the leading asset management people in the country. They have developed programs that have already been rolled out in Victoria, South Australia and Queensland. In fact, New South Wales has lagged substantially behind the other States in that asset management area, but it is happening now. The institute tells me that being the last cab off the rank means that we will probably end up with the best system. We will be able to learn from the experience of the other States. So it is not necessarily a bad thing".

4.40 Although consistent asset management across councils may improve the understanding of infrastructure needs to generate efficiencies but it will not solve the problem of the shortfall between infrastructure costs and revenue to make councils financially sustainable. Revenue enhancement is needed to close the infrastructure backlog and renewals gap.

4.41 Different infrastructure obligations are placed on rural and metropolitan councils. The capacity of councils to meet the obligations is also affected by whether they are experiencing growth or decline in their populations. These circumstances should then be considered in any allocation of future infrastructure responsibilities and systems for revenue and funding.

4.42 The *National Financial Sustainability Study of Local Government Report*[18] recommended expanding councils' own source revenue by working with state

[18] ibid

government to remove or relax any legislative impediments, and to improve the capacity of local government to raise revenue from its own sources.

4.43 The *Independent Inquiry into the Financial Sustainability of NSW Local Governments*[19] suggested that a ‘best-fit’ analysis could be formal agreements between various tiers of government to define shared responsibilities and relationships for different types of infrastructure. Another outcome could be the reduction or transfer of responsibilities from Local Government to other tiers of government or to the private sector. These agreements could form part of the Intergovernmental Agreements or Partnership Agreements or they could operate between infrastructure agencies and councils.

4.44 The *National Financial Sustainability Study of Local Government* also suggested reforms to intergovernmental transfers, which need to be targeted to assist the types of councils with sustainability issues. Some of the suggested reforms to intergovernmental transfers included:

- Establish a new Local Community Infrastructure Renewals Fund (LCIRF): to support councils in the timely funding of renewals work across a range of community infrastructure assets. The fund could be distributed based on relative need use the R2R (Roads To Recovery Funding Program) or FAGs (Financial Assistance Grants) distribution methods, or through a new or hybrid approach.
- Revise the escalation method for FAGs from a mix of population growth and CPI, to a new escalation formula tailored more to local government cost movements (a combination of the ABS Wage Cost Index and Construction Cost Index together with population growth).
- State governments to provide funding support to encourage the local council efficiency and asset management reforms.

4.45 The *National Financial Sustainability Study of Local Government* also recommended strengthening asset management and financial capacity of local councils. It suggested that this be done by working with other spheres of government to facilitate improved asset management and financial skills through government funding programs in order to improve the skills in all councils. It also similarly recommended using total asset management plans and systems to better manage asset renewals and replacement as well as integrating into longer term council objectives. Conducting more regular asset condition reporting for key infrastructure was another of its recommendations, as well as developing nationally consistent local government financial and asset management data.

4.46 The NSW Department of Local Government’s Position Paper on *Asset Management Planning for NSW Local Government*[20] presented the following seven recommendations, which have been developed with the NSW Infrastructure Task Force[21]. These recommendations are:

[19] ibid

[20] ibid

[21] The NSW Infrastructure Task Force included the Local Government and Shires Associations of NSW, Institute of Public Works Engineering Australia, Local Government Managers Australia (NSW Division), Local Government Audit Association, Roads and Traffic Authority and the Department of Energy, Utilities and Sustainability.

- Strategic long term asset management and financial plans be included as essential components of an integrated planning and reporting framework across NSW local government;
- Legislative amendments requiring long term strategic asset management planning be introduced into the Local Government Act 1993;
- Councils adopt asset management planning systems and practices that are consistent with the Local Government Financial Sustainability Frameworks, and where applicable and practical, the International Infrastructure Management Manual;
- A basic (core) approach to asset management planning be the agreed minimum level for all NSW councils;
- An asset management improvement program be implemented to progressively raise asset management planning to a level appropriate for each council;
- Legislative amendments requiring ten year financial planning be introduced into the Local Government Act 1993;
- An industry wide capacity building program including a range of training, tools, templates and guidelines be introduced.

Capacity Building

4.47 The Department of Local Government recognised in its Position Paper that success in implementing the recommendations would depend on a capacity building program.

4.48 At the Committee's public inquiry hearing on 19 September 2007, the Deputy Director General of NSW Department of Local Government had also referred to the issue of capacity building in relation to legislative amendments requiring long term strategic asset management planning along with ten year financial planning:

> "Some councils have done fairly detailed asset management plans but the majority have not. It is a project that in fact the department and the sector itself have recognised they need to come to grips with. So, we have put out a discussion paper earlier this year about asset management and with the proposal that all councils be required to prepare long-term asset management plans linked to long-term financial plans, the way some other States already mandate. So the proposal is that that be legislated – and that is something the sector itself has suggested – and the response to that so far has been an overwhelming yes, let us proceed down that path, provided we get some support in how to go about it because a lot of councils do not know how to go about preparing their asset management plans whereas some others actually do it extremely well. We are suggesting that those that are doing well share their knowledge with those that do not have the capacity so we can get a picture of exactly what you are saying, because we do not know what their assets are and they do not know either".

4.49 The need for capacity building is reflected in the submissions received in response to the *Discussion Paper*. The vast majority of the submissions agreed that the state government should provide technical assistance and financial incentives to assist councils to adopt a total asset management system within the next three years. They believed that councils did not have the resources or skills to undertake the adoption of a total asset management system on their own. Only three submissions received argued that it was council's own financial and technical responsibility.

4.50 However, the NSW Department of Local Government's submission argued that:

> "…technical knowledge exists within councils. One of the key strategies implemented by the Department will be to utilise and spread that skill and knowledge to the local

> government sector. This could be done, for example, through the regional organisations of councils and through resource sharing. The Department is working towards an integrated planning model for councils. This will not mandate a particular asset management system. The Department is not in a position to provide technical or financial assistance to councils to implement the new systems".

4.51 However, private sector organisations such as IPA (Infrastructure Partnerships Australia) said that they believed that many local councils could not effectively undertake strategic asset management:

> "IPA supports the view of the Percy Allan Report, 2006 [The Independent Inquiry into the Financial Sustainability of Local Government in NSW, May 2006] that most local governments lack asset management plans due to resource limitations and unwillingness of councils to engage in such plans. Local governments should benefit from the knowledge and technical expertise of higher levels of government to adopt a total asset management system in the coming years".

4.52 According to the Local Government and Shires Association submission on the Department of Local Government's Position Paper on *Asset Management Planning*, capacity and skills building programs are being rolled out in other states with initial consultancy based programs in Queensland (LG Asset) or Victoria (STEP Program) requiring funding of at least $2 to $3 million.

4.53 The Department of Local Government also released a Position Paper on *A New Direction For Local Governmen*[22]*t* in October 2006, which asked for submissions by 9 March 2007. One of the elements identified is good governance. Some of the proposals on achieving this element included the following:

4.54 Proposal 1.1: Peer reviews of councils – To speed up the Promoting Better Practice (PBP) each year and broaden the opportunities for learning across the sector, some PBPs could be conducted by councils and then reviewed by the Department with voluntary peers from other councils. Reviews could be conducted by a mixture of Departmental staff and accredited volunteers from other councils (elected and staff). This could encourage the principle of mentoring.

4.55 Proposal 1.2: Strategic planning assistance for councils – Strategic planning is currently a gap in many councils. Good governance would be severely hampered without a strong strategic framework. It is proposed to provide support and training to councils on this element of governance as part of the integrated planning and reporting reforms.

Best Practice

4.56 Sound policy is also discussed in the Position Paper on *A New Direction for Local Government*. The Department of Local Government regularly issues policy advice to councils which covers topics and guidelines such as pecuniary interest guidelines; public private partnership guidelines; compulsory acquisition guidelines. Its proposal 3.1 suggested the development of a policy directory of best practice on the website to also encourage councils to use this facility to share good practice.

4.57 The *Discussion Paper* also raised the following questions for comment:

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[22] Department of Local Government, *A New Direction for Local Government*, A Position Paper, NSW, October 2007

4.58 Is there a best practice model (or models) councils should adopt in relation to PPPs or should councils decide the most appropriate model in accordance with their own particular needs and the individual nature of each project? Should an agency of government provide information about available models to assist councils?

4.59 About a third of the submissions received in response to the *Discussion Paper* said that they were unaware if a best practice model existed and that it is the responsibility of state government to develop and communicate about a best practice model. Another third were aware that a best practice model existed but believed that it needed to be more flexible to ensure that councils could use it to facilitate PPPs rather than be constrained by the model.

4.60 Infrastructure Partnerships Australia provided the following response to the question:

> "Currently there is no centralised agency which could advise councils on the best possible model that could be adopted for their PPP projects. At present councils face difficulties in terms of high transaction costs and compliance procedures in dealing with PPPs. Smaller councils are particularly disadvantaged. It would be imprudent to suggest a single model to deal with PPPs as the project requirements and Council procedures would be, to some extent different to each council. However the Australian PPP market is in a reasonable state of maturity and there are established procedures to make PPPs work and can be adapted at the local government level. A central advisory body (PPP Advisory Board) would benefit councils in terms of technical feedback, legal and financial matters concerning project scoping, procurement, design and construction and ongoing operation".

4.61 If the Department of Local Government's proposal 3.1 in its Position Paper on the development of a policy directory of best practice on the website to promote councils to share good practice is implemented, this could also be an avenue to promote and share the best practice models on PPPs.

4.62 The need for sufficient resources to assist councils with this task was canvassed by the Department of Local Government's Position Paper on *A New Direction for Local Government*. One of the proposals included:

4.63 Proposal 4.1: Asset management plans – It is proposed to introduce an asset management system, which is consistent with the national framework. As previously discussed, this will be informed by the work of the Infrastructure Task Force and is likely to include: a long term asset management plan linked to a long term financial plan for at least 10 years; condition assessment service levels determined in consultation with the community; standardised reporting/terminology; a phasing in period with support tools; peer review (rather than audit). The framework will link to the integrated planning project with any planning and reporting requirements incorporated into the new planning system (in Proposal 5.1).

4.64 The Position Paper also canvassed meaningful planning, in which plans must result in actions and outcomes for the community rather than to just satisfy statutory requirements. Proposal 5.1 covers integrated planning and reporting. The new system proposes to include a 10 year strategic plan (known as a Community Strategic Plan), which will be revised and rolled forward each four years. A core feature will be a four year Delivery Program. The plan will link with State and regional plans.

Working Across Council Boundaries

4.65 The Department of Local Government's Position Paper on *A New Direction for Local Government* also identified connectedness as an essential element. Some of the proposals included the following:

4.66 Proposal 6.1: Benchmarks – There are few benchmarks across the sector against which any council can assess performance. It is proposed to develop a small number of key indicators, which will take into account the recently endorsed draft national framework for asset management financial reporting and sustainability.

4.67 Proposal 6.2: Regional / Cluster indicators – Under the new direction, where the whole sector is the focus, councils would decide themselves who they will form alliances and business arrangements with. Councils are invited to put proposals forward for Council Business Clusters (either on geographic basis or functional basis or both). Measures will be established for each cluster to monitor efficiencies and service improvements and be evaluated as part of the PBP reviews. Some models of clusters include: shared administrators; co-operatives; partnerships; alliances' service level agreements.

4.68 Proposal 6.3: General Manager contracts to enable working with neighbouring councils – It is proposed that part of the performance measure of a general manager should include how they work for the betterment of the whole system such as contributing to council business clusters and other sharing arrangements.

4.69 Proposal 6.4: Resource sharing guidelines – As part of the Strategic Alliance Network, it is proposed to prepare guidelines on the various models with practical advice on how to establish a resource sharing arrangement or Council Business Cluster.

4.70 The *National Financial Sustainability Study of Local Government* also made similar recommendations to improve efficiency, effectiveness and scale for internal reforms by some councils: 'Further realise the gains from greater economies of scale and reduce unit costs via approaches such as regional or shared service provision, outsourcing, use of state wide purchasing agreements etc.

4.71 The Department of Local Government's Position Paper on proposals for regional or business clusters, working with neighbouring councils, and resource sharing echo similar issues raised by submissions in response to the *Discussion Paper* which had posed the following question:

4.72 Is the bundling of projects across council boundaries a viable option and would it assist councils to enter into PPPs and provide a greater incentive to developers?

4.73 Around one third of submissions received in response to the *Discussion Paper* were supportive of bundling projects across council boundaries. Approximately half provided a 'maybe' response or a qualified response conditional upon certain circumstances or factors such as the type of project or locality. The primary argument in support of bundling was that it would provide the economies of scale, which is necessary to attract private sector involvement. The reservations expressed about bundling related to the differences between neighbouring councils with regard to plans, needs, expectations and processes as well as the risk associated with undertaking such a complicated process.

4.74 However, if the Department of Local Government's Position Paper proposals for regional or business clusters and resource sharing are adopted these may be relevant to the concept of bundling of projects across council boundaries as an option to assist councils and the private sector entering into PPPs.

4.75 The LGSA submission to the NSW Standing Committee on Public Works' Inquiry also commented that the bundling of projects:

> "would also provide the opportunities for councils to 'bundle' their collective expertise and other resources so that they have the capacity to successfully engage in a PPP. This would be consistent with current resource sharing initiatives such as the Strategic Alliance Network and the group purchasing activities of Local Government Procurement (LGP)".

4.76 The submission received from KPMG in response to the *Discussion Paper* argued that aggregation of projects could be an effective strategy to generate scale in infrastructure procurement, which in turn, has the potential to create transactions which may be better suited to PPP delivery. However, in their transaction experience, although regional collaboration is possible but it could be difficult to achieve. KPMG referred to Queensland where aggregation of council projects has been achieved but it has been facilitated by certain measures such as:

- Linking aggregation of projects to the provision of State subsidies;
- Prescribing a level of transaction aggregation through State legislation and regulation, and;
- Coordinating aggregation through a specialist state agency or infrastructure delivery organisation such as LG Infrastructure Services.
- The LGSA (NSW) submission supported integrated strategic planning and reporting as well as asset management and financial planning including developments such as:
- Legislative amendments that will require long term asset management and financial planning (at least for 10 years).
- Consistent asset management systems and practices based on IPWEA (Institute of Public Works Engineers Australia) International Infrastructure Management Manual and the National Infrastructure Financial Management Guidelines.
- Consistent financial reporting framework for asset management and significantly improving reporting requirement (special schedule 7).
- Initial basic (core) approach to asset management as a minimum level for all NSW councils.

4.77 The LGSA further commented that

> "these measures will greatly improve the capacity of councils, identify priorities, provide direction and greater long term certainty. While not the primary objective, these improvements will create a better environment for PPPs".

Recommendations

RECOMMENDATION 3:

State government policy should acknowledge that if local government needs to adopt a total asset management system then all options and opportunities must be explored and made available to local councils including PPPs

RECOMMENDATION 4:

Any government reforms to integrated strategic planning and reporting as well as asset management and financial planning for local councils should include provisions for PPPs.

RECOMMENDATION 5:

The roll out of the capacity and skills building program being proposed by the NSW government with regard to local government's adoption of a total asset management system and integrated strategic planning and reporting should be adequately funded to assist local councils perform this task effectively.

RECOMMENDATION 6:

The proposed provision of support and training to councils on good governance and strategic planning assistance (integrated planning and reporting reforms) should incorporate planning or training assistance on models of PPPs, relevant tools, guidelines and templates on PPPs, in order to take advantage of the economies of scale associated with the implementation of a proposed roll out of capacity and skills building programs

RECOMMENDATION 7:

The concept of bundling of PPP projects across neighbouring council boundaries should be considered and addressed in current resource sharing initiatives such as the Strategic Alliance Network and the group purchasing activities of Local Government Procurement (LGP), as well as within any government reforms to regional or council business clusters and resource sharing guidelines.

RECOMMENDATION 8:

Government reforms on developing a policy directory of best practice on the NSW Department of Local Government website should include models and best practice in relation to PPPs.

Chapter Five – Planning Issues

Council as Consent Authority

5.1 In the *Discussion Paper* the Committee posed the question: Is it appropriate that councils remain the consent authority for any of their own PPPs? If not, which is the most appropriate body to undertake the task?

5.2 The vast majority of submissions received from councils were in support of councils remaining the consent authority for any of their own PPPs. Alternative models suggested in some submissions included using a neighbouring council, using the New South Wales Government, a probity audit body or a combination of these methods or bodies. Only one submission received from a council argued that that councils should not remain the consent authority for their own PPPs.

5.3 Infrastructure Partnerships Australia's submission to the Discussion Paper agreed with the majority view:

> "In principle the councils should be the consent authority to ensure their buy in to the process and to build momentum for greater reform and accountability. That said, the NSW Government could adopt a greater role of facilitation in this area through the provision of PPP Advisory Board (consisting of pre-qualified professionals and consultants with sound knowledge about the processes and outcomes). Without losing any control of risk, there is ample scope for the State government to be proactive in assisting councils to accelerate their capital works program through better strategic advice and facilitation with quality advisers".

5.4 Similarly, Mr Gregory South, General Manager, Corporate and Finance, Landcom, who appeared at the public hearing held on 19 September 2007, responded that:

> "…But I think from our prospective dealing, we like to deal at the local level as well…I think if you do not buy in at the local level through all of those processes in some form, then the likelihood of a successful development and one that is accepted by the public out there in the particular area is less likely…"

5.5 The Deputy Director General of the NSW Department of Local Government who appeared at the public inquiry hearing on 19 September 2007, also responded that:

> [regarding other consent authority for PPPs rather than the councils making those decisions]…"Not necessarily. The guidelines spell out that dual role. It is about making sure that it is transparent and separate. So, I am not sure that it would necessarily improve it, because there are ways of making it really clear…The alternative is to go to some sort of new bureaucracy. We want the councils to own this. This is another area where we are picking up the issue of resource sharing, and some of the councils, particularly in the rural areas, are embracing that. One council could do the development approval process for another one, and we are encouraging that process. So, there are ways around it without creating a whole separate bureaucracy to manage it. I am not convinced it would improve it. As long as the various roles of the council are clear and transparent – and we have suggested some ways to deal with that. The ones that come forward have not presented as a problem, none of them have raised it as an issue…It is something we could cover off in any training or information we provide".

5.6 In their submission to the Discussion Paper, the Local Government Managers Australia (NSW) responded to the above question by commenting:

> "It is appropriate for councils to remain the consent authority. At present Councils have to determine development applications relating to council property whether or not a PPP is involved. In all such cases, there is external planning assessment of the development applications. This is to ensure objective assessment and probity. There

> should not be a different approach when a PPP is involved. The mandatory involvement of a probity auditor will ensure that suitable controls are in place and decisions are based on objective assessments. Appropriate checks and balances should be included in government guidelines".

5.7 Ernst and Young argued that involving other bodies would only serve to create delays in the approval process:

> "Yes they should. We are of the view that interposing another approval body would create substantial complexity and time delays in the process. We question where the skills and resources to provide an appropriately staffed agency could be found if another body were tasked with providing an approval role on PPP type transactions".

5.8 KPMG also believed that councils could manage their own approvals provided that they were rigorous and transparent:

> "Council regulatory roles and procurement roles are not necessarily incompatible and they can be viewed as different ways of serving the public interest. Equally, however, the combination of these roles can raise the potential for conflicts of interest, particularly where large private sector developers are involved. This issue arises with all major capital procurements undertaken by Councils and its resolution is not a precondition to pursuing PPPs. However, PPPs do tend to attract a high level of public interest and scrutiny and it is therefore important that Councils manage these potentially conflicting responsibilities in a rigorous and transparent manner.

5.9 Delegation of fundamental council responsibilities such as planning approvals or procurement decisions to other authorities is unlikely to be effective or accepted by local government. Furthermore, if such delegation were to be a precondition for undertaking a PPP project, it would be likely to create a strong disincentive to pursuing the project using the PPP procurement method.

5.10 It may be noted, however, that in some other jurisdictions, relevant approvals for various dimensions of PPPs are provided by a different agencies, including the relevant council. For example, in Queensland, PPPs would typically be considered to be financial arrangements and as such would require approvals by Treasury under the *Statutory Bodies Financial Arrangements Act*. Subsidies are approved by the Department of Local Government based on technical advice from agencies such as the Department of Natural Resources. Planning and development issues may be subject to other State Government legislation.

5.11 Major projects (including PPPs) will be more likely to be determined by the Minister for Planning under Part 3A of the current *Environmental Planning and Assessment Act 1979*. However, the Act was amended by the *Environmental Planning and Assessment Amendment Bill 2008*, which was passed by the Legislative Council on 17 June 2008 and given assent on 25 June 2008.

5.12 The new amendment legislation enables the Minister to delegate decision making powers to the new decision making body (the Planning Assessment Commission). However, this will not include critical infrastructure projects. The Planning Assessment Commission will have determination powers but the actual assessment of projects will continue to be done by the Department of Planning, which will make recommendations to the Planning Assessment Commission. The Minister may request the Commission to provide advice on other development or planning matters and the Commission may hold a hearing or undertake other investigations. The Planning Assessment Commission will also be responsible for determining regional development where no regional panel has been established. Provisions in the new legislation will include probity and accountability measures for commissioners on the Planning Assessment Commission.

5.13 The amendment legislation will also have provisions to deal with Joint Regional Planning Panels, which aim to ensure that projects of regional significance are determined by independent experts, particularly developments where councils have an interest in the proposal. Councils will continue to be responsible for undertaking the assessment of development applications as they currently do. Regional panels are not subject to direction by the Minister for Planning or a council in the exercise of their functions. However, they will need to comply with procedural requirements set out in the Act, the Regulations and any relevant guidelines. There are accountability provisions for the operation of panels.

5.14 There are provisions in the new amendment legislation for the establishment and operation of independent hearing and assessment panels. A council may establish a panel where it feels it is appropriate, and a council must also establish a panel where an environmental planning instrument requires it.

5.15 It seems that once the above amendments have been put in place, a PPP project may come under one of the above: Planning Assessment Commission or Joint Regional Planning Panels, if the project is of major significance; or an independent hearing and assessment panel established by the council. These changes would provide scope for independent expert assessment, and could address any concerns (such as probity, expertise, conflicts of interest, corruption) with regard to the appropriateness of councils being the consent authority for their own PPPs.

5.16 The aim of the establishment of regional panels is to address a key concern expressed by the Independent Commission Against Corruption in relation to corruption risks associated with local council decision making.

5.17 The Agreement in Principle speech explained that the types of development that will be dealt with by regional panels will be covered in a State environmental planning policy, with the following classes of development proposed for inclusion:

> “designated development; Crown development and private infrastructure greater than $5 million – for example, hospitals, educational facilities, and waste facilities; commercial or retail development over $20 million; residential and mixed use development over $50 million; development where council is the proponent or has a significant financial interest in the proposal; and certain subdivisions and other development in the coastal zone that are currently dealt with under part 3A of the Act, which will transfer some decisions back to regional areas. The panel will also be responsible for undertaking reviews of council determinations where a third party has a right to seek a review”.

Changes To Developer Contributions And Local Council Contributions

5.18 Other changes in the new legislation which could affect future development of PPPs at the local government level relate to developer contributions (the new Part 5B) and a new two-tier system for local council contributions for key community infrastructure.

5.19 Part 5B is a new part covering developer contributions. It sets out key considerations for determining, collecting and spending contributions. The key considerations are:

- Infrastructure should be delivered within reasonable times
- The impact of the contribution on whether the development is affordable

- The contribution is based on a reasonable apportionment of new demand and existing demand
- Reasonable estimate of the cost of infrastructure
- Estimates of demand are reasonable.

5.20 Under the new system, councils will still be able to seek a direct contribution (the soon to be former section 94), or an indirect contribution (the soon to be former section 94A flat rate one per cent levy), but not both. The indirect levy will generally remain limited to one per cent of the development cost but councils will be able to seek a higher rate from the Minister for Planning in the same way as they can for additional community infrastructure. The council must demonstrate that a legitimate case exists for the increase in the maximum percentage of the levy by providing a business plan and an independent assessment of the proposed contribution that addresses the key considerations as set out above.

5.21 With regard to the new two-tier system for local council contributions, councils can levy for key community infrastructure without approval as they currently do. The list of key community infrastructure includes land works and buildings; drainage and water management works; local roads; bus stops; sporting, recreational, cultural and social facilities; parks; and car parking. It also includes district facilities that have a direct connection with the development that is subject to the contribution.

5.22 However, councils will have to seek approval of the Minister if they want to get a contribution for any other kind of community infrastructure. The council must demonstrate that a legitimate case exists for the extra contribution by doing a business plan and the independent assessment must address the key considerations. The same approval requirement will apply when councils use a voluntary planning agreement to get the extra contribution. The approval of the Minister for Planning will be needed not just for additional community infrastructure but also for the provision of any public infrastructure that could be obtained under a planning agreement beyond key community infrastructure.

5.23 Under the new arrangements, councils will continue to hold and manage their community contributions except for Sydney's north west and south west growth centres. The amendment legislation will establish a Community Infrastructure Trust Fund to be managed by the Treasury. In those areas, the Government has committed to provide $7.9 billion in infrastructure (of which $2 billion will be funded by NSW taxpayers).

Community Land

5.24 Most councils did feel that legislative restrictions in relation to community land do provide problems in relation to PPPs.

5.25 Lithgow City Council submitted that:

> "The legislative requirements for community land use are onerous and have the potential to be an impediment to PPPs. The Department of Local Government in its Practice note for 'Public Land Management' cautions councils about the alienation of a public asset for commercial use. This legislation may also frustrate the private sector and therefore become an impediment to the creation of PPPs."

5.26 Similarly Blacktown Council argued:

> "It is considered that if a council is to enter into a PPP for redevelopment of its property assets, it should initially undertake due diligence on the status of the land involved as

> well as comprehensive planning and determination of project objectives and desired outcomes for the project. These processes generally take a considerable amount of time and adding resolution of land classification and zoning issues to the process, can cause further delays to projects and opportunities. The restrictions may deter private sector interest in the projects due to the myriad of processes such as rezoning and reclassification or amending Plans of Management, that need to be undertaken to give clearances to the site.

5.27 The private sector agreed with councils on the issue.

> Infrastructure Partnerships Australia said that they believed that if PPPs required release of community lands the existing laws do act as impediments to the process. It was argued that “Any necessary changes to such legislation should incorporate views and perceptions of the sections of the community affected by such changes.

5.28 Ernst & Young submitted that:

> “Community land assets are those, generally speaking, that are least efficiently employed by councils and frequently provide significant opportunity for exploitation in development style transactions. The process councils need to follow to change the designation of community land use does hinder councils taking a more commercial view of the use and value of their land portfolio.

5.29 Whilst the restrictions on community land use were not considered insurmountable by the majority of stakeholders who submitted, most councils did feel they were placed under far more restrictive regulatory burdens in relation to their land than other public and private landholders.

5.30 However, it was largely agreed that it was the responsibility of each council as a first priority to determine if it had the legal right to develop any land that would be potentially used in a PPP.

Chapter Six - Expert Assistance for Local Government

6.1 The *Discussion Paper* posed a number of questions as to how councils can be given greater expert assistance in relation to their PPP proposals and management. The Committee examined a number of other jurisdictions which were already providing this type of assistance.

Other Jurisdictions

United Kingdom

6.2 The United Kingdom has two agencies to facilitate PPPs, one at central government level (Partnerships UK) and one at local government level (Public Private Partnership Programme [4Ps]). The 4Ps is local government's own project delivery specialist, set up by the English and Welsh local authority associations in April 1996, with cross party support.

6.3 4Ps is financed by, and accountable to, local government. During 2006/07 it received Government funding of £4,447,000 from the Department of Communities and Local Government through the Public Private Partnerships Programme.

6.4 The 4Ps assists local government in four key areas: project support; skills development; gateway reviews; and best-practice know-how. Expertise is drawn from lawyers, accountants, project managers/mentors, network groups and brokers. The 4Ps is also governed by a Board which is appointed by the UK's Local Government Association.

Queensland

6.5 On August 2005, LG Infrastructure Services was launched to offer a comprehensive range of support services to Queensland local governments in relation to infrastructure and service provision, by providing support at each stage of the project delivery lifecycle. The initiative was loosely modelled on the UK Public Private partnership Programme (4Ps).

6.6 LG Infrastructure Services is a State authority which is owned by the Local Government Association of Queensland and the Queensland Treasury Corporation in equal shares.

6.7 LG Infrastructure Services offers the following project support to Queensland local government:

- Project evaluation: including options analysis, risk analysis, financial modelling and business case development;
- Working with government: including applying for subsidies and satisfying regulatory and statutory approval requirements;
- Project delivery: helping local governments to select a best practice delivery model, and ensuring that fair, open and transparent processes are undertaken in implementing the chosen model;
- Capital raising: including both private and public financing;
- Project monitoring and review: for the full range of requirements for existing projects; and

- Project reconstruction and recovery: for projects that encounter difficulties.
- The model adds value to local government by:
- Generating economies of scale in infrastructure services provision;
- Increasing bargaining power;
- Reducing the cost of infrastructure provision;
- Expanding the range of choices in the assessment and implementation of infrastructure projects; and
- Acting as a central repository of knowledge on procurement issues.
- LG Infrastructure Services provides its services to Queensland local government on a fee for service basis, according to commercial principles. However, all key decisions are left to the councils involved.

Victoria

6.8 Partnerships Victoria was introduced in Victoria in 2000. It provides a framework for a whole-of-government approach to the provision of public infrastructure and related ancillary services through PPPs. It focuses on whole-of-life costing, project risks, and optimal risk allocation between the public and private sectors. There is a public interest test and ‘core’ public services must be retained.

6.9 Partnerships Victoria projects account for about 10 per cent of annual public asset investment commitments. There have been 16 Partnerships Victoria projects worth approximately $4.5 billion in capital investment.

6.10 Partnerships Victoria is currently examining the reasons behind the failure of local government to engage in PPPs and has found that it is generally due to the following: financing is too complex; there is a general skills gap; there is a lack of high-level commercial skills; there is also a lack of high-level engineering skills (except in relation to roads); and the cost is seen as prohibitive.

6.11 After examining the Queensland model, the Victorian Department of Treasury and Finance has decided not to establish a separate agency to assist Victorian local councils with their PPPs. This is largely due to the fact that, unlike Queensland, local councils in Victoria do not have control over water. The Department therefore feels that there will not be sufficient local government PPPs in Victoria to merit a dedicated agency.

6.12 However, Department of Treasury and Finance have been extensively involved in various local government PPPs such as Banyule Council’s Greensborough Project and intend to continue providing such assistance in the future. Local councils are offered access to designated external consultants who are engaged by state government at discounted rates. The decision has also been made to designate a central agency of state government to co-ordinate and manage all of the other state agencies such as Transport and utilities, which need to be involved to optimise council PPP developments.

Assistance for NSW Councils

6.13 In its 2006 *Inquiry into Public Private Partnerships* the NSW Public Accounts Committee (PAC) explored the concept of a central PPP unit, ‘separate from but related to NSW Treasury, tasked with assembling the skills required to negotiate and provide management advice for PPPs' (NSW Public Accounts Committee 2006, p.64).

6.14 The PAC had examined the PartnershipsUK model and questioned whether a similar framework would be advantageous to NSW agencies. The Committee received a 'mixed response' to the issue, with government agencies such as NSW Treasury and NSW Health arguing against it and various key industry bodies such as the Australian Constructors Association, Planning Workshop Australia and Infrastructure Partnerships Australia arguing for an centralised unit model (NSW Public Accounts Committee 2006, p.65).

6.15 The PAC did not examine the local government situation in any great detail and did not speak to either the Local Government and Shires Association or any NSW councils. However, a number of non government agencies such as Maddocks Lawyers and Unions NSW expressed concern that the local government sector may be ill-equipped to manage PPPs and that the NSW Department of Local Government lacked the resourcing 'to provide the necessary support for its responsibilities in response to the PPP legislation'. Ultimately, the PAC recommended:

6.16 That the Government consider adoption of a support structure for PPPs managed by Local Government along the lines of that developed and operated by 4Ps in the United Kingdom, which incorporates peer support, systems support and sharing of expertise (NSW Public Accounts Committee 2006, p.70)

6.17 In its *Discussion Paper* the Public Works Committee posed the following questions:

- **Should there be a central NSW government agency assigned the responsibility of co-ordinating and managing all other state government agencies involved in local council PPPs?**
- **Should there be a new agency to educate, train and provide access to external expert advice to local government in relation to PPPs?**
- **If so, what should the key functions of this agency be and how should it be constituted and funded?**

6.18 The majority of submissions that the Committee received which specifically addressed these issues argued strongly in favour a central NSW government agency. Comments included:

6.19 Local councils would probably prefer that the mechanisms involved could be better addressed through a dedicated state public authority with appropriate expertise managing all public PPPs. (Tweed Shire Council submission)

6.20 Fairfield City Council suggested any centralised agency should include the provision of contractor panels, similar to those offered by the NSW Department of Commerce, to assist councils develop and procure PPPs. It was argued that this could:

> "potentially reduce the bargaining position of the private partners yielding better outcomes for councils and should simplify the vertical arrangements between councils and State and/or Federal government agencies" (Fairfield City Council submission).

6.21 Some councils provided more qualified support to the proposal: Yes if it could improve the following: Certainty surrounding projects – overcoming numerous changes to projects publicly announced; Shorter time frame for project planning and implementation; Risk mitigation; Profit realisation that meets internal benchmarks.

6.22 Having a champion in the State government sector to act as a ‘one-stop-shop’ for local government projects would be a major benefit to attracting the private sector to PPPs and reducing costs. Unfortunately, this does not seem feasible given the large number of agencies involved in a PPP.

6.23 The Committee subsequently undertook discussions with NSW Treasury about the issue as it was felt that the NSW Department of Local Government did not have the capacity to offer this type of assistance and had a potential conflict due to its regulatory functions.

6.24 Treasury acknowledged that they did not have a direct line of communication with councils and did not currently feel that it was appropriate that they do so. At the same time it was acknowledged that the Department of Local Government did not have a large amount of corporate knowledge in financial matters.

6.25 This leaves local government in a somewhat isolated position, with no agency at state government level that can offer assistance. Councils’ only option is to therefore employ external advisors which will incur substantial expense, particularly when proposals are only in very preliminary stages, prior to being considered by the Project Review Committee.

6.26 Treasury did indicate that they were willing to explore some methods by which they could provide reasonably fast preliminary advice to councils regarding potential developments. Treasury also has a panel of external consultants which it could make available to councils.

6.27 Subsequent to the Committee’s meeting with Treasury it held discussions with the Local Government and Shires Association of New South Wales regarding ways that the Association could better assist councils and perhaps provide an interface with NSW Treasury. The Association indicated their willingness to establish a coordinated PPP reference panel to provide assistance to councils. This reference panel would largely utilise the in-house expertise of councils which have undertaken successful PPPs. The Association believed that this panel could be currently funded through council contributions and paid by individual councils on an “as needed” basis.

6.28 Further, the LGSA also felt that they would be in a position to provide training and other information to councils regarding PPPs on a fee for service basis.

6.29 The Committee strongly favours these proposals as they go some way to addressing the lack of cost effective expert assistance currently available to councils.

RECOMMENDATION 9:

The Local Government and Shires Association should examine the feasibility of establishing a reference panel of experts to assist local councils with PPP proposals.

RECOMMENDATION 10:

NSW Treasury should examine ways in which it can provide greater expert advice to NSW councils in relation to PPP proposals.

RECOMMENDATION 11:

The Local Government and Shires Association should examine the feasibility of establishing training and information sessions for local councils regarding PPPs.

Appendix 1 – List of Submissions

Initial Submissions

1	Downer EDI Limited
2	Penrith City Council
3	Infrastructure Partnerships Australia
4	Property Council of Australia
5	Sinclair Knight Merz
6	Local Government Association of NSW and the Shires Association of NSW

Submissions in response to Discussion Paper

1	Upper Lachlan Shire Council
2	Cowra Shire Council
3	Richmond Valley Council
4	Tweed Shire Council
5	Baulkham Hills Shire Council
6	North Sydney Council
7	Lockhart Shire Council
8	Mid-Western Regional Council
9	Kogarah Council
10	Local Government Association of Queensland Inc.
11	Gosford City Council
12	Dubbo City Council
13	Lithgow City Council
14	Auburn Council
15	Willoughby City Council
16	KPMG

17	Local Government Managers Australia, NSW
18	Shellharbour City Council
19	Penrith City Council
20	Hornsby Shire Council
21	Infrastructure Partnerships Australia
22	Pittwater Council
23	Ernst & Young
24	Wingecarribee Shire Council
25	Deniliquin Council
26	City of Canterbury
27	Parramatta City Council
28	Randwick City Council
29	PricewaterhouseCoopers
30	Blacktown City Council
31	Fairfield City Council
32	WALGA
33	Nambucca Shire Council
34	Clarence Valley Council
35	City of Sydney

Appendix 2 – List of Witnesses

Date	Witness	Organisation
19 September 2007	Greg Incoll, Chief Executive Officer - National	Incoll Development and Project Management
19 September 2007	Ross Woodward, Deputy Director General	NSW Department of Local Government
19 September 2007	Professor Maurice Daly	
19 September 2007	Greg South, General Manager Corporate and Finance	Landcom
19 September 2007	Simone Coombes, Consultant	South East Region Training and Enterprise Centre
9 November 2007	Mr Lloyd Esau, Director, Public Private Partnerships	Multiplex
9 November 2007	Cr Allan Smith, Dubbo City Council Mr Shaun McBride, Strategy Manager	Local Government Association and the Shires Association, of NSW
9 November 2007	Mr Peter Hicks, GM Infrastructure Investment Mr Marco Lee, Graduate Analyst	Leighton Contractors
9 November 2007	Mr John Cooper, Partner	Allens Arthur Robinson

Appendix 3 – Melbourne Study Tour Report

Itinerary

Thursday 22 November 2007	
9.00am	Depart Sydney QF0419
10.30am	Arrive Melbourne
11.15am	Check-in Mercure Hotel 13 Spring Street, Melbourne
2pm	Meeting with Doug Owens, CEO and Simon McMillan, Director City Development Banyule City Council re: Greensborough Development Ivanhoe Service Centre, 275 Upper Heidelberg Road, Ivanhoe
4.00pm	Karyn Palazzano to meet with Chair of Victorian Environment and Natural Resources Committee. Tour of Victorian Parliament for other Members
Friday 23 November 2007	
9am	Tour of Council House Two Melbourne City Council 90-120 Swanston Street, Melbourne
10am	Meeting with Neil Morgan, Assistant Director, Department of Treasury, 1 Treasury Place, Melbourne
11.30am	Inspection of Southern Cross Station SCSA Offices Level 1, Pod B
1pm	Meeting with Don Burns, Facilities and Infrastructure Branch, Department of Education and Early Childhood Development regarding school infrastructure and maintenance. 2 Treasury Place (2^{nd} Floor)
4.45pm	Depart Melbourne QF0448
6:05pm	Arrive Sydney

MELBOURNE STUDY TOUR NOTES – 22-23 NOVEMBER 2007

Thursday 22 November 2007 2pm

Meeting with Doug Owens, CEO and Simon McMillan, Director City Development Banyule City Council, Greensborough Development, Ivanhoe Service Centre, 275 Upper Heidelberg Road, Ivanhoe

Banyule Council is currently undertaking the Greensborough Project. This is a PPP town centre redevelopment proposal which encompasses a Regional Aquatic and Leisure Centre, Council Offices and Community Facilities, Town Square, Greensborough Walk and retail and residential developments.

The Council have found the project enormously complex, with a very long lead time and large amount of stakeholders to be satisfied.

The project had its structure plan finalised in 2003 under the Melbourne 2050 Plan.

Calls for project partners were made. Four were shortlisted, with a consortium called Consolidated Properties being the successful tenderer.

Half of the Greensborough town centre is currently owned by Landlease so the contract specified that there must be a negotiation agreement with Landlease. Landlease have now bought out Consolidated Properties.

Greensborough town centre was extremely run down so the shop owners has been very supportive of the development. Lendlease will contribute $85 million of the infrastructure total of $280 million. Banyule Council contributed $30 million in funds and $10 million in kind. Council will compulsorily acquire four properties. State funding of $7 million has been received. The state government contributed $2.5 million for the recreation centre and pool to “kick start” the project.

The Victorian government has $3 million in its last budget to allow councils to seek advice regarding PPP proposals.

Banyule Council spent $2 million of its own money before the development was even begun.

There are two phases to the development: Phase 1: Commercial; Phase 2: Residential. However, Council does not believe the market is ready for this yet.

Council has managed the project internally along with a principal consultant who has done most of the “legwork”. Representatives from Victorian Treasury were invited to sit in on steering committee meetings and councillors were involved in order to represent community interests.

A large community consultation was undertaken with major stakeholders. Only four submissions opposed the development. There was extremely strong community support.

Approval was given by the Minister in August 2007. The Planning Permit application was made in early 2008 and works are due to commence mid-2008.

From the Council's perspective it is difficult to over-estimate how hard the process has been. The land package has been the most difficult component. A council cannot drive such a project unless it owns the majority of the land.

At the outset Council stated its proposed outcomes and asked the developer to come back with proposals to meet these. It believes that this was the right approach to take.

The Victorian Government is now setting aside funding so councils have access to external advice in relation to PPPs. Banyule has been the first council to receive this.

Council had to complete two years of extremely hard work before it could convince the state government to come on board. It would have been much easier if the state government had been involved at the outset. It would also have saved about twelve months off the project timeframe. Banyule Council believe that the state government has now recognised the need for a collaborative approach in regard to local government PPPs.

Friday 23 November 9am

Tour of Council House Two, 90 Swanston Street, Melbourne

Council House 2 is a 10-storey office building housing approximately 540 City of Melbourne staff, with ground-floor retail spaces and underground parking.

In 2004, the City of Melbourne was faced with an accommodation dilemma. Staff were housed in dated office buildings which although centrally located to the Town Hall, were nearing the end of their lifespan. Rather than relocate staff to alternative offices, Council embarked on an ambitious plan to construct a new office building, Council House 2 (CH2), that would meet its spatial requirements and lead the way in the development of an holistic green environment.

CH2 has been designed to not only conserve energy and water, but the quality of the internal environment of building has also been designed to improve the wellbeing of its occupants. CH2 demonstrates a new approach to workplace design, creating a model for others to learn from and follow.

CH2 has been designed to reflect the planet's ecology, which is an immensely complex system of inter-related components.

The first focus of the design process for CH2 was to gain an understanding of Melbourne's climate and weather patterns. An ecosystem responds to its environment, and its ability to adapt to take advantage of changing weather conditions contributes greatly to the success of the system.

The design team found that responding to the site's climactic conditions highlighted a range of opportunities for energy efficiency, and in doing so gave rise to some of CH2's most innovative features.

The building operates in two seasonal modes (winter and summer), as well as day mode and night mode.

CH2's many parts work together to heat, cool, power and water the building, creating a harmonious environment.

CH2 has the following specifications:

Gross floor area (GFA): 12,536m² comprising:

- 1995m² GFA basement areas
- 500m² net letable area (NLA) – ground floor retail
- 9373m² total NLA
- 1064m² GFA – typical floor

Bike spaces: 80; Showers for cyclists: 9; Car spaces: 20 plus one disabled space. The car park can be converted to office space or other uses.

CH2 COSTS

Total CH2 building cost = \$51.045 million
Little Collins Street precinct development (including CH2 building costs), roadwork, upgrades to other buildings, professional fees, relocation costs, fit-out, art costs, footpaths, landscaping and other costs.

This includes:

- \$29.9 million for the base building (2,334\$/m2 or 58.5 per cent of cost).
- \$11.3 million for sustainability features including a portion of the building cost of purge windows, light harvesting devices, precast ceilings, timber shutters, precast exhaust ducts, solar hot water collectors, photovoltaic cells, chilled water cooling system, shading screens, co-generation plant, air conditioning and beams and slabs. (884\$/m² or 22.1 per cent of cost).
- \$2.8 million on education and demonstration including a portion of the cost of shower towers, multi-use water treatment plant, PCM modules, roof landscaping, and chilled ceiling panels/beams. (218\$/m² or 5.5 per cent of cost).
- \$7.1 million on requirements specific to Council use including a portion of the cost of vertical landscape, balconies, access floors, lift finishes, communication cabling, stand-by generator, security system and building automation system. (553\$/m² or 13.9 per cent of cost).

Friday 23 November 10am

Meeting with Neil Morgan, Assistant Director, Department of Treasury & Finance, 1 Treasury Place, Melbourne

Victorian Treasury is currently concerned about the lack of local government Public Private Partnerships.

Three key reasons have been identified: lack of in-house expertise; cost and size of projects; and risk adverse attitudes.

Local councils tend to be “cold called” by developers about proposals and Treasury finds that councils can be quite naive about this process and the returns they bring for councils.

LG Infrastructure in Queensland has Queensland Treasury as one of its shareholders. Victorian Treasury examined this system but decided against emulating it as in Victoria councils do not have any jurisdiction over water treatment and supply. It is therefore considered that local government in Victoria will not undertake a sufficient number of PPPs to justify such an agency.

In relation to the Greensborough development, Treasury is considering taking over co-ordination of all state government activity as there are at least eight different areas of government involved.

Councils really don’t have the administrative time to devote to PPPs. The general Manager of Banyule Council had been spending four days out of five each week on the Greensborough project. A Treasury officer has also spent at least one day a month assisting Banyule Council with the development. It has been a very risky project. While Council has brought in some external expertise more recently, Treasury has been forced to play a type of a “clean-up” role and Council has had to retrofit various benchmarks.

Treasury has a list of suitable lawyers and consultants which they recommend to local councils. There are agreed discount rates for government.

Friday 23 November 11.30am

Inspection of Southern Cross Railway Station

Southern Cross Station (formerly known as Spencer Street Station) has been redeveloped into a world class station for Victoria. It is a gateway to Melbourne and the regions, and links the emerging Docklands precinct with the central business district of Melbourne.

The station project is managed on behalf of the Victorian Government by the Southern Cross Station Authority (SCSA) in partnership with the Civic Nexus Consortium.

The project includes two components:

- the transport interchange redevelopment (for which the government has entered into a long-term service contract with Civic Nexus); and
- a commercial redevelopment that includes a retail precinct, car parking and offices (these are commercial developments which involve no payment by the government).

Some of the features of the transport interchange include:

- an open design light filled space with full glass frontage to Spencer Street and Collins Street with platform access from both the Bourke Street Bridge and Collins Street extension;
- more passenger information screens with real time train arrival and departure information and comfortable waiting areas;
- a 30-bay coach station;
- secure, sheltered parking facilities for 800 cars and five-minute drop off and pick up area; and
- improved public facilities and new retail outlets.

The project is a key initiative of the Victorian Government's $2 billion ‘Revitalising Victorian Rail’ program, which aims to improve passenger and freight rail service across Victoria.

The contract with Civic Nexus is to design, build, finance and maintain the transport interchange. The contract was executed on 2 July 2002 after a competitive tender process.

In June 2007 the station was awarded the Royal Institute of British Architects (RIBA) Lubetkin Prize for the most outstanding building outside the European Union, and the RIBA International Award. The Station has also collected some Australian awards such as the Australian Construction Achievement Award 2007.

Friday 23 November 1pm

Meeting with Don Burns, Facilities and Infrastructure Branch, Department of Education and Early Childhood Development, 2 Treasury Place, Melbourne

The Department presented the Committee with the following facts and figures:

Government schools
- 1606 schools and approximately 1750 school sites
- Range from one teacher schools to multi-campus secondary colleges
- A decentralised system – major responsibility for buildings and grounds rests with Principals and School Councils

School Maintenance
- School Maintenance System (SMS)
- Long term maintenance strategy based on audit of all facilities by independent auditors
- Provides a ranking for all maintenance items from “1” to “120” more critical
- Audits 1997, 2000, 2006: currently using 2006 data

2005 Maintenance Audit
- Three independent contractors
- Approximately 70 auditors
- Independent Guidelines and Auditor Training
- Software
  - i) Auditor software – Hand held computer
  - ii) Central management system
- 1750 in three months – Point in time

2005 Maintenance Audit
- Every Building element in every building and room on site assessed
- Condition of an asset (poor, worn and fair); and
- Effect on Function (A, B, C & D)
- Criticality
  - i) some building elements that are more critical to the integrity of the building and the health and wellbeing of the occupants
- The criteria combined to produce a ranking 1 to 120
- For the first time the Audit assessed buildings from the perspective of the maintenance impact upon the learning environment.

Maintenance Funding
- Since 1999 the Government has invested over $400 million in school maintenance.
- In June 2006 the State Government allocated $66 million for maintenance works in schools, including:
  - i) $50 million for planned maintenance as identified in the 2006 School Maintenance Audit; and
  - ii) $16 million for maintenance works in school toilets.

Additional $50 million for Planned Maintenance

- Minimum of $1,000 or 24% of the SRP maintenance ($6.5 million) – untargeted
  i) schools to address important audit items in accordance with local priorities.
- General Maintenance Component ($43.5 million)
  i) items identified during the audit with a ranking of between 1 and 7 plus all painting items with a ranking of 8.
- Schools with Capital Works excluded.

2006 Toilet Program
- Toilets refurbished at 146 schools ($12 million)
- Toilet Maintenance ($4.8 million)
  i) Minimum of $1,000
  ii) Audit items ranked between 1 and 20
  iii) Schools with Capital Works excluded

Maintenance Funding
- The Department allocates $41 million to schools each year:
  i) Student Resource Package - $29 million

  $14.5 million for planned maintenance (audit items)

  $14.5 million for unplanned maintenance (broken windows)
- Supplementary Grants for urgent maintenance that arise from time to time ($12million) – Usually new/additional items

  $2 million regional Budget

  $9 million central budgets
- Significant increase in capital works funding has had a flow-on effect on maintenance
- Schools in poor condition given priority for facilities upgrades.

2006 Audit Results by Ranking

DEET – Total maintenance program for 2006-07

Maintenance Funding ($41 minimum)
- Recurrent $29 million direct to schools:
  i) $14.5M minimum SRP funding for SMS items
  ii) $14.5M funding for urgent works (eg broken windows) – can be used for SMS items
- One-off
  i) $7M+ supplementation funding for urgent works from DE&T regions and central office
  ii) $5M targeted to address high priority items identified through the most recent audit
  iii) Top-up grants for priority PRMS items depending on available funds

Other Issues
- Essential Services Audit currently being planned for 2008
- Review currently being undertaken of maintenance practices

  Strengths, weaknesses

  Business opportunities

Appendix 4 – Committee Minutes

Minutes of Proceedings of the Public Works Committee (no. 1)

4 pm Wednesday 27 June 2007

Parliament House

Members Present

Mr Baumann, MP

Ms Fardell, MP

Mr McBride, MP

Mrs Paluzzano, MP

Mr Borger, MP

Mr Khoshaba, MP

Mr Page, MP

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Inquiry into Local Government Private Partnerships for Asset Redevelopment

The Chair circulated a draft terms of reference for an inquiry into Local Government Private Partnerships for Asset Redevelopment.

The committee deliberated.

Resolved, on the motion of Mrs Paluzzano, seconded by Mr Borger:

That the draft terms of reference be adopted as the committee's first inquiry.

The committee adjourned at 4:40 pm until a date to be determined.

Minutes of Proceedings of the Public Works Committee (no. 2)

Wednesday 19 September 2007

Room 814/815, Parliament House

1. Members Present

Mr Borger (Chair), Mr Baumann, Mrs Fardell, Mr Page

2. Apologies

Mr Khoshaba, Mr McBride, Mrs Paluzzano

3. Public Hearings – Inquiry into Local Government Private Partnerships for Asset Development

The public was admitted.

Gregory James Incoll, Chief Executive Officer, Incoll Management.
Witness affirmed and examined. Evidence concluded, the witness withdrew.

Ross Keith Woodward, Deputy Director General, New South Wales Department of Local Government.
Witness sworn and examined. Evidence concluded, the witness withdrew.

Maurice Timothy Daly, Consultant.
Witness sworn and examined. Evidence concluded, witness withdrew.

Gregory Morris South, General Manager Corporate and Finance, Landcom, and Paul Frederick Anderson, Development Director, Landcom.
Witnesses sworn and examined. Evidence concluded, witnesses withdrew.

Simone Coombes, Representative, South East Region Training and Enterprise Centre.
Witness sworn and examined. Evidence concluded, witness withdrew.

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Meeting adjourned at 2.12 pm.

Minutes of Proceedings of the Public Works Committee (no. 3)

10 am Thursday 27 September 2007

Room 1254, Parliament House

Members Present

Mr Baumann, MP	Mr Borger, MP
Mrs Fardell, MP	Mr Khoshaba, MP
Mr McBride, MP	Mr Page, MP

Apologies

Mrs Paluzzano, MP

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2. Current Inquiry into Local Government Private Partnerships for Asset Development

The Committee discussed future possible witnesses for public hearings.

3. Background information on the Victorian local government PPP system

The Secretariat provided information on the Victorian local government PPP system, including Partnerships Victoria and the Public Private Partnerships Leadership Program conducted by the University of Melbourne School of Enterprise.

Resolved, on the motion of Mr McBride, seconded by Mr Baumann, to seek permission from the Speaker to visit Partnerships Victoria.

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The Committee adjourned at 10:50 am until a date to be determined.

Minutes of Proceedings of the Public Works Committee (no. 4)

10 am Thursday 25 October 2007

Room 1254, Parliament House

Members Present

Mr Baumann, MP

Mr Borger, MP

Mrs Fardell, MP

Mr Khoshaba, MP

Mr McBride, MP

Ms Paluzzano, MP

Mr Page, MP

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3. Melbourne visit

The Committee discussed possible dates and additional sites of interest for a visit to Melbourne. It was determined that the visit would be made sometime in the week of 19 to 23 November 2007.

4. Local Government Private Partnerships for Asset Development

The Committee discussed the possibility of publishing a discussion paper after the next meeting of the Committee. The paper is to be distributed to all local Councils.

5. General Business

The Committee discussed the possibility of inviting a representative of the Department of Commerce to a public hearing for the current inquiry into local government private partnerships for asset development.

The Committee discussed some potential site visits to be conducted as part of the 2008 Parliamentary Public Works and Environment Committees Conference.

The Committee adjourned at 11:30 am until a date to be determined.

Minutes of Proceedings of the Public Works Committee (no. 5)

12:00pm Friday 9 November 2007

Room 814/815, Parliament House

Members Present

Mr Borger (Chair), Mr Baumann, Mr Khoshaba, Mr McBride, Mrs Paluzzano

Apologies

Mrs Fardell, Mr Page

1. Public Hearings – Inquiry into Local Government Private Partnerships for Asset Development

The public was admitted.

Lloyd Esau, Public-Private Partnerships Director, Multiplex Limited.
Witness affirmed and examined. Evidence concluded, the witness withdrew.

Allan Smith, Councillor, Dubbo City Council, and Executive Member, Local Government and Shires Associations, and Shaun McBride, Strategy Manager, Finance, Infrastructure and Planning, Local Government and Shires Associations.
Witnesses sworn and examined. Evidence concluded, the witnesses withdrew.

Peter Hicks, General Manager, Infrastructure Investment, Leighton Constructions and Marco Lee, Graduate Analyst, Infrastructure Investment, Leighton Constructions
Witnesses sworn and examined. Evidence concluded, witnesses withdrew.

John Cooper, Partner-Solicitor and Practice Group Leader – National Projects Group, Allens Arthur Robinson.
Witness sworn and examined. Evidence concluded, witness withdrew.
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Meeting adjourned at 3.36 pm.

Minutes of Proceedings of the Public Works Committee (no. 6)

10.30 am Thursday 6 December 2007

Jubilee Room, Parliament House

Members Present

Mr Baumann, MP
Mr Borger, MP
Mrs Fardell, MP
Mr McBride, MP
Ms Paluzzano, MP

Apologies

Mr Khoshaba, MP | Mr Page, MP

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2. Local Government Private Partnerships for Asset Development

The Committee considered the draft discussion paper for the inquiry into Local Government Private Partnerships for Asset Redevelopment.

Resolved, on the motion of Ms Paluzzano, seconded by Mr Baumann, that the Committee table the discussion paper with the agreed modifications to be made by the Secretariat and that it be distributed with a covering letter to stakeholders providing guidance as to the issues relevant to them.

The Committee adjourned at 11:10 am until a date to be determined.

Minutes of Proceedings of the Public Works Committee (no. 7)

10.00 am Wednesday 2 April 2008

Waratah Room, Parliament House

Members Present

Mr Baumann, MP | Mr Borger, MP
Mrs Fardell, MP | Mr Page MP
Ms Paluzzano, MP

Apologies

Mr Khoshaba, MP | Mr McBride, MP

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2. Summary of submissions to the PPP Inquiry

The Committee considered the summary table of submissions received in response to the Local Government Private Partnerships for Asset Development Discussion Paper.

The Committee agreed to invite a representative from NSW Treasury to brief the Committee regarding the provision of assistance to NSW local councils' embarking upon PPPs.

The Committee requested that the summary of submissions be further summarised and presented at the next meeting.

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The Committee adjourned at 10:32 am.

Minutes of Proceedings of the Public Works Committee (no. 8)

10.00 am Wednesday 9 April 2008

Room 1254, Parliament House

Members Present

Mr Baumann, MP	Mr Borger, MP
Mrs Fardell, MP	Mr Khoshaba, MP
Mr McBride, MP	Mr Page MP
Ms Paluzzano, MP	

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2. PPP Inquiry – Submission summaries

The Committee noted that a representative of NSW Treasury has been invited to brief the Committee during the May sitting period with Infrastructure Partnerships Australia to be invited in the future.

The Committee considered the summary of submissions received in response to the Local Government Private Partnerships for Asset Development Discussion Paper.

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The Committee adjourned at 11:00 am.

Minutes of Proceedings of the Public Works Committee (no. 9)

10.00 am Wednesday 14 May 2008

Jubilee Room, Parliament House

Members Present

Mr Baumann, MP	Mr Borger, MP
Mrs Fardell, MP	Mr McBride, MP
Mr Page MP	Ms Paluzzano, MP

Apologies

Mr Khoshaba, MP

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2. Briefing on Inquiry into Local Government Private Partnerships for Asset Development

Michael Schur, Deputy Secretary, Office of Infrastructure Management and Danny Graham, Director, Infrastructure, Asset Management and Procurement from NSW Treasury provided a briefing to the Committee on the role of NSW Treasury in PPPs for Local Councils. Mr

Schur and Mr Graham took questions from the Committee on issues raised throughout the Inquiry.

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4. Other business

The Committee agreed that Catherine Watson should contact David Elliot, Chief Executive Officer of Civil Contractors Federation and inform him that they are able to make a late submission to the Inquiry into Local Government Private Partnerships for Asset Development.

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The Committee adjourned at 12:00 pm*.*

Minutes of Proceedings of the Public Works Committee (no. 10)

10.00 am Thursday 19 June 2008

Jubilee Room, Parliament House

Members Present

Mr Baumann, MP

Mrs Fardell, MP

Mr McBride, MP

Ms Paluzzano, MP

Mr Borger, MP

Mr Khoshaba, MP

Mr Page MP

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2. Briefing on Inquiry into Local Government Private Partnerships for Asset Development

Briefing from Shaun McBride, Strategy Manager Finance Infrastructure and Planning, LGSA and Councillor Alan Smith, Executive Member, LGSA and Brian O'Mara, General Manager, Local Government Procurement Pty Limited, on the LGSA response to the PPP Inquiry. They responded to questions principally related to setting up a 'peer review panel' and promoting PPPs to Councils.

Committee resolved to issue final report on Inquiry at earliest opportunity.

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The Committee adjourned at 12:10 pm*.*

Minutes of Proceedings of the Public Works Committee (no.11)

11.00 am Thursday 26 June 2008

Room 1136, Parliament House

Members Present

Mr Baumann	Mr Borger
Mrs Fardell	Mr Khoshaba
Ms Paluzzano	Mr Page

Apologies

Mr McBride

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3. Final Report on PPP Inquiry

Committee resolved to issue final report. Focussing on establishment of cost neutral specialist panel on Strategic Asset Planning led by LGSA with Treasury officials involving Members of Local Government and Council Managers. Including an educational programme.

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The Committee adjourned at 12:10 pm.

Minutes of Proceedings of the Public Works Committee (no.16)

10:00am Thursday 27 November 2008

Room 1136, Parliament House

Members Present

Ms Andrews	Mr Ashton
Mr Baumann	Mr Khoshaba
Mr McBride	Mr Page

Apologies

Mrs Fardell

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1. Confirmation of Minutes of Previous Meetings

Resolved on a motion by Mr Ashton, seconded by Mr McBride, that the Minutes for previous meeting held 30 October 2008 be accepted.

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2. Consideration of the Report on the Inquiry into Local Government Private Partnerships for Asset Development

Resolved, on a motion by Mr Ashton, seconded by Mr McBride, that the draft Report into Local Government Private Partnerships for Asset Redevelopment be tabled today, with the Submissions received into the Inquiry and transcripts of evidence taken by the committee.

The Committee adjourned at 10:16 am.