

**From:** Richard Koerner [rjkoerner@inet.net.au]  
**Sent:** Thursday, 1 December 2011 2:00 PM  
**To:** Catherine Barker  
**Subject:** Fwd: Re: Predatory Pricing Practices in SEQ  
**Attachments:** Fedtreasury3.doc; NCP1.doc; NCP2.doc; Fedtreasury2.doc

This email contains an attachment that may be work related and must be filed into the DMS. If you need assistance with this please contact the Executive Officer at [xo@qca.org.au](mailto:xo@qca.org.au).

Attn. Cath Barker

Dear Ms Barker,

Further to the e-mail copied below, attached for QCA's information is copy of an e-mail to the General Manager Ministerial and Communications Division The Treasury dated 21 November with attachments.

Kind regards,

Richard Koerner

----- Original Message -----

**Subject:** Re: Predatory Pricing Practices in SEQ  
**Date:** Thu, 01 Dec 2011 13:11:36 +1000  
**From:** Richard Koerner <[rjkoerner@inet.net.au](mailto:rjkoerner@inet.net.au)>  
**To:** Catherine Barker <[Catherine.Barker@qca.org.au](mailto:Catherine.Barker@qca.org.au)>

Attn. Ms. Cath Barker

Dear Ms. Barker,

Thank you for this information.

I have recently received the attached correspondence from The Treasury dated 24 November in response to the letter of 2 November. It confirms households in Coolum Beach and throughout SEQ are now experiencing prevarication by the Federal Government in this matter.

QCA will note reference to failure of Ministers QCA to refer legitimate prices oversight complaints of the Coolum Beach Progress and Ratepayers for independent assessment in the Productivity Commission's Urban Water Sector Report No. 55 pages 297 and 298.

Kind regards,

Richard Koerner

On 30/11/2011 11:01 AM, Catherine Barker wrote:  
Mr Koerner

Thank you for your phone message this morning. In response to your query, the Authority has not been contacted by the National Water Commission or the Federal Government on the matter you have raised.

Kind Regards

Catherine Barker  
Queensland Competition Authority

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**Richard J. Koerner Ph.D.(Qld), M.E.Sc., B.C.E (Melb), MICE**  
**Strategic Management / Econometric Market Analysis - ABN 26 021 850 787**  
**31 Fauna Terrace Coolum Beach Qld. 4573**

2 November 2011

The Hon. Bill Shorten MP  
Assistant Treasurer  
Parliament House  
CANBERRA ACT. 2600

Dear Assistant Treasurer,

I refer to the Productivity Commission's Inquiry Report No. 55 (the Report) entitled Australia's Urban Water Sector, and in particular the discussion of asset valuation methodology and X-inefficiency appearing in Chapters 10 and 11.

Given the request for public submissions relating to governance and institutional arrangements set out in the Inquiry's Issues Paper of September 2010 (Section 8 pages 32-38), deficiencies of Chapters 10 and 11 are most troubling. Material provided as supporting correspondence to Submissions 7, 25, 81, 84, DR91 and DR97 have not been considered adequately and clear evidence of systematic monopoly pricing abuse by GTE's owned by the Queensland Government have been ignored.

I contend that households in Coolum Beach and throughout the Sunshine Coast have long experienced service charges in excess of Maximum Allowable Revenues (as defined under National Water Initiative (NWI) Pricing Principles) in annual budgets of Maroochy Water Services (MWS), Sunshine Coast Water, and Unitywater. Page 303 (paragraph one) of the Report states *it is unlikely that excessive dividend payments have been extracted etc.* despite correspondence from the Coolum Beach Progress and Ratepayers Association to the Queensland Under-Treasurer dated 12 April 2006 suggesting annual overcharging amounting to approximately \$450 per connected property per year. Correspondence describing manipulation of regulatory asset valuations as the improper vehicle used by the Queensland Government to justify excessive service charges has also been provided in the submissions cited above. It is astounding that the Report fails to adequately address a financial scandal now amounting to some \$200 million in excessive service charges, given the Queensland Government's obligations under the COAG reforms relating to water in place since 2004.

I request prompt action by the Federal Government to bring transparency to this ongoing financial scandal in the public interest of all households in South East Queensland, and to initiate refunds of past excessive service charges by fully owned GTEs of the Queensland Government to all aggrieved households.

Yours sincerely,

R. J. Koerner  
Former External Director MWS Advisory Board and Member - Sunshine Coast Regional Council  
Sustainability Advisory Panel

E-mailed 21/11/2011  
Attn. Ms. Mary Balzary  
General Manager Ministerial and Communications Division

Dear Ms. Balzary,

I refer to the letter dated 2 November (that is attached) addressed to the Assistant Treasurer, as Treasury's official recipient of the final "Australia's Urban Water Sector" report #55.

To date no acknowledgement or response has been forthcoming. Can it be expected that disregard of its obligations under COAG water reform agreements by the Queensland Government, as outlined in this and earlier correspondence, will be addressed by the Federal Government in the interests of households throughout South East Queensland?

Also attached for your background information are public submissions from the Coolum Beach Progress and Ratepayers Association to a 2004 Productivity Commission Inquiry entitled "Review of National Competition Policy Reforms".

Yours sincerely,

Richard Koerner

Attachments: Fedtreasury2, NCP1, NCP2

**Coolum Beach Progress & Ratepayers Association Inc.**  
**PO Box 121**  
**Coolum Beach Q 4573**

2<sup>nd</sup> June 2004

NCP Inquiry  
Productivity Commission  
P.O.Box 80  
Belconnen ACT 2616

Dear Sir/Madam,

You have invited public comment on aspects of the effectiveness of the NCP reform package. The Coolum Beach Progress and Ratepayers Association Inc. (CBP&RA) wishes to comment on the issue of NCP outcomes with respect to government business enterprises. In particular we wish to address the question "*Have NCP outcomes been consistent with their stated objectives?*"

Background:

Maroochy Shire Council declared their water and sewerage service provider, Maroochy Water Services (MWS) a commercial business as defined under the Local Government Act, in July 1998. On 11<sup>th</sup> June 1999 this Association posed a number of questions regarding the efficiency of MWS. Answers provided were evasive and generally unsatisfactory. However it was stated that the economic rate of return for MWS in 1998 was 9.26% compared with an average of 4.43% for the twenty members of the Water Services Association of Australia. This was a troubling response as it suggests overpricing. Benchmarking studies of MWS pricing relative to similar entities on the Sunshine Coast also suggest disparate pricing levels. In May 2003 this Association formally requested a Queensland Competition Authority prices oversight investigation of MWS that remains under review by Queensland Treasury.

Provisions of the Queensland Local Government Act relating to Council prices oversight obligations for business enterprises seem ineffective in protecting ratepayers against natural monopoly pricing abuse. Penalties are not prescribed for Council officers misleading elected Councillors in the case of a commercializing business enterprise, nor is an offending Council obliged to refund ratepayers excessive charges collected. It is our belief that ratepayers of Maroochy Shire are being subjected to such pricing abuse despite the objectives of NCP with respect to government business enterprises. The harm done is exacerbated by the long delay by State Government agencies in referring our formal complaint to the Queensland Competition Authority for investigation.

For the reasons outlined above, outcomes intended under National Competition Policy relating to the independent oversight of water and sewerage service charges by a local government business enterprise are not being realized.

Yours sincerely

Peter M. Brown  
President

**Coolum Beach Progress & Ratepayers Association Inc.**  
**PO Box 121**  
**Coolum Beach Q 4573**

13<sup>th</sup> December 2004

NCP Inquiry  
Productivity Commission  
P.O.Box 80  
Belconnen ACT 2616

Dear Sir/Madam,

You have invited public comment on the October 2004 Draft Discussion of the Review of National Competition Policy Reforms.

The Coolum Beach Progress and Ratepayers Association Inc. (CBP&RA) notes that the Draft does not discuss governance, legislative, and prices oversight issues raised in our submission of 2<sup>nd</sup> June, and consequently wishes to comment on Sections 9.3, 9.4 and 9.5 in the light of these omissions.

#### Section 9.3 Governance Arrangements

The focus of the Draft Discussion is directed primarily toward situations where a GBE's pricing is failing to achieve rates of return above its risk free cost of capital. As described in Submission 13, the case of Maroochy Water Services is quite the contrary. It seems to be abuse of monopoly pricing powers by the GBE to achieve rates of return in excess of regulatory ceiling levels, and failure by the Maroochy Council and responsible State Government Agencies to effectively perform their prices oversight responsibilities.

#### Section 9.4 Legislation Review Process

Queensland's Local Government Act attempts to achieve the NCP outcomes envisaged for GBE's in the process of commercializing by the provisions set out in Part 5 Clauses 458CA(1) to 458CP. However, the current legislative treatment of transitional issues in these provisions is weak and ineffective. For example, the more stringent provisions of Part 6 that apply to a fully corporatized Local GBE do not apply to a commercializing GBE in Queensland. This invites a long drawn out process of commercialization. Should the recalcitrant operating management of such a GBE also be supported by an unethical Council, the only recourse available to a citizen's interest group is that of requesting the Queensland Competition Authority (QCA) to investigate.

Whether such an investigation actually takes place depends on a referral decision by the Premier and Cabinet. However, referrals to QCA are infrequent as they are costly and can create precedents that may be considered unhelpful by bureaucrats in bringing transparency to oversight deficiencies by State Government agencies. In Queensland, a request for Local GBE price oversight investigation is first reviewed by the Department of Local Government and Planning and then is sent on to the Treasurer's Department. The time taken in deliberations by these entities can be considerable. In the case of the CBP&RA complaint, the oversight request was made in May 2003 and a final Treasury recommendation to refer the matter has not yet been made. It is unlikely the QCA would complete its investigation short of a further 12 months. Meanwhile the offending Local GBE can continue its likely abuse of monopoly pricing powers without fear of financial penalty, or even an obligation to compensate ratepayers for its ongoing, let alone past pricing practices.

#### Section 9.5 Oversight of monopoly service providers

This section is incomplete considering the material contained in Submission 13 and further outlined above. Consideration is not given to the significant conflict of interest that exists under Queensland's Legislation and perhaps that of other State Governments for a Council's use of its GBE as revenue raising entity and its responsibility to perform price oversight over that same entity. Improper use of

transfer pricing mechanisms can also impede realization of the efficiency gains contemplated under NCP for both the GBE and those elements of the Council's activities not subject to commercialization.

The intent of corporatization under NCP is purported to be:

- (a) establishing efficient and effective commercial business units in the public sector; and
- (b) establishing a framework for operation and accountability of the units.

In the case of Maroochy Water Services as a GBE of Maroochy Shire Council in Queensland, these worthy objectives are not currently being achieved.

Yours sincerely

Peter M. Brown  
President CBP&RA