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28 October 2010

Urban Water Inquiry
Productivity Commission
LB2 Collins Street East
Melbourne Vic. 3165

Dear Sir/Madam,

In making this public submission I draw on prior experience as former external director of the Maroochy Water Services Advisory Board (MWSAB), treasurer of the Coolum Beach Progress and Ratepayers Association (CBPRA), and Vice President Planning and Control of ARCO Australia Coal. I refer to the Commission's Issues Paper of September 2010, in particular Section 8 pages 32 -38, and offer the following submission:

Since the Queensland Government committed to water reforms spelled out in the National Water Initiative (NWI) agreements with the Commonwealth in mid 2004, governance and institutional arrangements have deteriorated and remain ineffective. I dispute the Commission's contention expressed on page 32 that progress towards reform has been made in South East Queensland. Households in Coolum Beach and throughout South East Queensland are being systematically deprived of both financial transparency and statutory protection against pricing abuse by government monopoly business entities providing water and sewerage services that is their entitlement under NWI Pricing Principles. This is a consequence of the Queensland Government's ongoing refusal to refer legitimate prices oversight investigation requests to the Queensland Competition Authority (QCA) for independent assessment under Part 3 of the Queensland Competition Authority Act.

Good governance provides the framework within which agencies can operate effectively embracing principles of accountability, transparency, and ethical behaviour. Supporting documentation relating to failures of the Queensland Government to embrace NWI reforms is enclosed. It is provided in response to questions posed on page 33 of the Commission's Issues Paper, and I now refer to enclosure "A".

Following notification of past manipulation of working capital between the public sector financial records of Maroochy Council (Council) and Maroochy Water Services (MWS) recorded in financial information for the years 1999/00 to 2002/03, the MWSAB was dissolved by Council on 10 December 2003. As a result of this action and recruitment of a replacement senior financial officer in mid 2002, balance sheet transparency relating to MWS was lost to the public domain. Subsequently that same officer was appointed senior financial officer of SCRC following the amalgamation of the three Sunshine Coast councils in March 2008.

Enclosures "B" and "C" record Council's refusal to restore balance sheet transparency for this declared Government Monopoly Business Activity (GMBA). That refusal to restore financial transparency was condoned by the Minister and Department of Local Government and Planning (DLP&G) having ultimate responsibility for administration of the Local Government Act and Financial Standard is confirmed in enclosure "D". The Department's failure to take up financial transparency issues demonstrates an absence of accountability in the Queensland Government that was surprising given Treasury's preference for re-instigation of preparation of detailed annual reports cited in enclosure "E". It can be noted from enclosure "E" that MWS's regulatory assets increased from \$276.9 million in 2001/02 to \$321.5 million in 2002/03. The Maroochy Annual Report for 2002/03 records revaluations of water and sewerage assets of \$75 million, suggesting that the bulk of this regulatory asset increase arose from revaluations despite assertions to the contrary in note 4 of enclosure "E". It can also be noted water and sewerage asset valuations for MWS recorded in Council Annual Reports from 2002/03 to 2007/March'08 increased by \$612.6 million due to cumulative revaluations alone. Assuming half such revaluations flowed on to Unitywater's regulatory capital base for its distribution assets, some \$25 million in unwarranted annual service charges could be embedded in service charges being passed on to the retail customers of Unitywater in the form of recovery of capital charges in the 2010 Budget of that GMBA.

Enclosure "F" informs CBPRA of the Minister QCA's decision not to refer the May 2003 MWS prices oversight investigation request to QCA, based on Treasury's return on regulatory asset calculations provided in enclosure "E" "*being within the reasonable range*". It should also be noted from enclosure "F" that powers of referral of GMBA prices oversight requests relating to NWI Pricing Agreements are vested with the Premier and Treasurer (Ministers QCA) under part 3 of the Queensland Competition Authority Act.

Enclosure "G" details a more accurate calculation of the return on regulatory assets for MWS developed by the former treasurer CBPRA (RJK). Use was made of return on capital employed financial data previously developed at the request of the MWSAB to estimate more realistic values of regulatory capital than were used by Treasury.

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Enclosures “H” and “J” contain information requests relating to benchmarking comparisons and performance of prices oversight obligations of the SCRC relating to MWS, Noosa Water Services and Calacqua, three water and sewerage GMBAs amalgamated into SunshineCoast Water. There has been no response or further clarifications provided by SCRC or any other agency of the Queensland Government to these requests.

Enclosure “K” is the response from the Treasurer to earlier clarification requests regarding a final refusal of the Ministers QCA to refer the CBPRA’s 2003 prices oversight request to QCA (Ref: TRO-19822 dated 16 November 2007). The Queensland Ombudsman has informed me that Treasury advised the Ministers QCA that CBPRA’s request of May 2003 should be referred in December 2006. The Ministers QCA declined to follow this advice on the basis of the substantial water reform program in South East Queensland.

Enclosure “L” informs the Under Treasurer of substantial unwarranted revaluations recorded for the infrastructure assets of MWS prior to its amalgamation into SunshineCoast Water, and the failure of SCRC to provide clarifications requested in enclosures “H” and “J”.

Enclosure “M” alerts the Treasurer to flawed manipulation of assets in the financial statements of MWS that are in breach of NWI Pricing Principles, and requests prices oversight referral of the 2010/11 budgeted charges of Unitywater, together with a prices oversight investigation of the bulk water price projections determined by the Queensland Water Commission.

Enclosure “N” is the Treasurer’s response to enclosure “M”. Enclosure “O” is my response alerting the Treasurer that valuations developed by KPMG in 2007 do not conform with NWI Pricing Principles, resulting in the prices oversight referral requests for SEQwater, Linkwater, and Watersecure contained in enclosure “P”.

Enclosure “Q” provides e-mail communications with the Treasurer highlighting clarification requests relating to assertions contained in enclosures “E” and “F”. To date no response to such clarification requests have been received.

Enclosure “R” is a public submission made to QCA regarding the limited terms of reference given by the Ministers QCA for interim price monitoring in South East Queensland. Enclosure “S” provides an e-mail communication exchange with QCA relating to that public submission. Please note the information provided by the QCA on 8 October 2010 relating to its inability to perform effective prices oversight.

I contend this documentation presents a grim picture of the state of governance and institutional arrangements relating to water reforms in South East Queensland since this Government’s agreement to embrace the water reforms. To address the present sorry situation there is an urgent need to change existing governance and institutional arrangements by providing powers within the Commonwealth to initiate independent prices oversight investigations by the QCA when that agency is impeded from performing its duties by the Queensland Government. This may require that the QCA in future becomes a regulatory agency independently administered by the National Water Commission.

Serious shortcomings relating to public sector audit processes emerge from water infrastructure asset manipulation and other financial irregularities outlined in this documentation. Should the Productivity Commission require further information and/or background correspondence relating to this submission, I am happy to provide it.

Yours sincerely,

R.J. Koerner (RJK)

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Enclosures:

- “A” E-mail communication from RJK to Chair MWSAB dated 1 December 2003;
- “B” Letter from CBPRA to CEO Maroochy Council dated 17 February 2004;
- “C” Letter from G.Lavery to CBPRA dated 10 March 2004 (Ref: grl:mxp);
- “D” Letter from Minister DLG&P to CBPRA dated 6 December 2005 (Ref:L/05/02271);
- “E” Letter from Ministers QCA to CBPRA dated 25 September 2004 (Ref: TRO-06280);
- “F” Letter from Ministers QCA to CBPRA dated 16 June 2005 (Ref: TRO-10952);
- “G” Letter from CBPRA to Under Treasurer dated 12 April 2006;
- “H” Letter from RJK to CEO SCRC dated 2 March 2009;
- “J” Letter from RJK to CEO SCRC dated 1 April 2009;
- “K” Letter from Treasurer to RJK dated 4 February 2008 (Ref: QTO-00946);
- “L” Letter from RJK to Under Treasurer dated 24 May 2010;
- “M” Letter from RJK to Treasurer dated 10 June 2010;
- “N” Letter from Treasurer to RJK dated 26 July 2010 (Ref: QTO-09535);
- “O” Letter from RJK to Treasurer dated 30 July 2010;
- “P” Letter from RJK to Treasurer dated 13 October 2010;
- “Q” E-mail communications from RJK to Treasurer 18 dated August to 7 October 2010;
- “R” Public submission from RJK to QCA dated 26 September 2010;
- “S” E-mail exchange with QCA dated 7 September to 8 October 2010.