

28 April 2011

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

Dear Sir/Madam,

I refer to the Commission's Draft Report and the Issues Paper of September 2010, in particular Sections 8 and 9, and offer the following public submission relating to that Draft:

With respect to the information requests that appear on pages L1 and LVI; I am not familiar with the detailed provisions of the Commonwealth Corporations Act (2001). Adoption of this legislation would only be useful if penalties for monopoly abuse by government controlled natural monopoly service providers are comparable in severity to those that private sector corporation boards of directors and senior management presently experience under ACCC legislation.

Submission #9 (and #59) have provided the Commissioners with evidence of maladministration and misconduct at the highest levels of the Queensland Department of Local Government, the Queensland Department of Natural Resources (now Water), and Queensland Treasury. It is most disappointing that this Draft is silent with respect to that documentary evidence. It suggests failure of the Productivity Commission to demonstrate concern for the wellbeing of households in Coolumb and throughout S.E. Queensland suffering past and ongoing monopoly pricing abuse at the hands of water and wastewater service providers owned and controlled by the Queensland Government.

Sections 8 and 9 of the Issues Paper invited public submissions relating to governance practices. Submission #9 (and #59) addressed the lack of essential elements needed for good governance such as accountability and transparency. I have received correspondence from Ministers of the Queensland Government confirming such failures that was forwarded to this Inquiry in time for consideration in the Draft.

The discussion of institutions and governance arrangements in pages 472-474 of the Draft fails to afford submission #9 (and #59) due process. Information relating to the Queensland Competition Authority's independent oversight of monopoly business activities for the urban water sector in S.E. Queensland is misleading (see page 474) given the conflicting objectives described in Box 3 page XXIII and on pages 288-289. Given the experience of the Coolumb Beach Progress and Ratepayers Association (CBP&RA), reference to the Queensland Ombudsman on page 474 should also include discussion of the process and outcome of maladministration complaint # 2007/12525.

In June 2004 CBP&RA made a public submission to the Productivity Commission's Review of National Competition Policy Reforms alerting the Commission of monopoly pricing practices of Maroochy Water Services. Comments were also offered on that Inquiry's draft Report. I sincerely hope that Submissions #9 (and #59) with all supporting correspondence will not also be ignored in this Inquiry's final Report.

Yours sincerely,

Amy-Rose West (Ms.)

Enc: Submission CBP&RA to NCP Reform Inquiry dated 4 June 2004;
Comments submitted by CBP&RA on draft Report dated 13 December 2004.

Cc General Manager Ministerial and Communications Division – The Treasury

Coolumb Beach Progress & Ratepayers Association Inc.

**PO Box 121
Coolum Beach Q 4573**

2nd 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 11th 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

13th 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 2nd 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