

From: [Richard Koerner](#)
To: [Catherine Barker](#)
Subject: Fw: Supplementary correspondence relating to 2012/13 SEQ prices monitoring investigation
Date: Tuesday, 25 June 2013 12:11:58 PM
Attachments: [Councilprices oversight1.pdf](#)

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.

Dear Ms Barker,

Further to the extract from Maroochy Water Services Advisory Board (MWSAB) papers forwarded yesterday, attached for the QCA's consideration are further materials defining statutory obligations under Qld. legislation for council's administration as regulator of commercial business entities that are also national monopoly service providers.

Please note the responsibilities of Council's CEO and senior council officers for ensuring proper administration of prices oversight obligations relating to annual budget preparation for such entities.

Again, the attached extract is a public document.

Kind regards,

Richard Koerner
CC Councilpricesoversight1.pdf

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

From: [Richard Koerner](#)
To: [Catherine Barker](#)
Sent: Monday, June 24, 2013 12:10 PM
Subject: Supplementary correspondence relating to 2012/13 SEQ prices monitoring investigation

Dear Ms Barker,

Further to the communication of 29 May regarding prices oversight obligations of councils for water services commercial business entities, attached is an extract copied from Maroochy Water Services Advisory Board papers citing relevant legislation.

It is suggested that under the Local Government Act, Maroochy Council (and SCRC) have statutory obligations as regulator regarding non-current asset valuations and determination of the regulatory capital base for MAR assessment in establishing budgeted revenues.

It should also be noted that this attachment is a public document.

Kind regards,

Richard Koerner
Cc Councilpricesoversight2.pdf

1.0 BASIS OF AGREEMENT

1.1 Purpose

This Annual Performance Plan is an Agreement that is intended to outline the commercial objectives, financial performance targets and activities of Maroochy Water Services for the 2002/2003 Financial Year. The Performance Plan is consistent with Council's Corporate Plan and supported by Maroochy Water Services' 2002-2005 Business Plan. *- not so!*

The Performance Plan is an Agreement made between the Manager, Maroochy Water Services and the Chief Executive Officer, Maroochy Shire Council.

Application of the Key Principles of Commercialisation

The Performance Plan is established on the basis of implementing the four key principles of Commercialisation.

1. Clarity of Objectives

The objectives of Maroochy Water Services are defined in its Mission Statement.

To provide quality water supply and sewerage services to customers within Maroochy Shire in a commercially and environmentally responsible manner.

The objectives of Maroochy Water Services are further defined in its Business Plan (i.e. Total Management Plan Summary Document).

2. Management Autonomy and Authority

Under fully commercial arrangement, Maroochy Water Services will be operated with the Manager fully responsible for all internal management decisions with engagement of staff and procurement of services on a commercial basis.

3. Accountability for Performance

The Manager, Maroochy Water Services will be accountable for compliance with the performance targets detailed in this Annual Performance Plan. *where are the targets?*

4. Competitive Neutrality

Under fully commercial arrangements, Maroochy Water Services will be required to establish a commercial basis for both procurement and supply of services including services provided to or by Council. Maroochy Water Services will continue to apply the principles of National Competition Policy in the 2002/2003 year. *- Does this mean all pricing at levels set out under BCH Guide*

1.2 Variations to the Agreement

Either party to the Annual Performance Plan may seek to vary the Agreement at any time. The Agreement may only be varied with the agreement of both parties and must be formalised via a duly authorised addendum to the original Annual Performance Plan. ** There is no money...*

1.3 Responsibilities of Maroochy Shire Council

Within the terms of this Performance Plan the Maroochy Shire Council agrees to always seek to protect and act in the best interests of Maroochy Water Services.

The Maroochy Shire Council and Maroochy Water Services agree elected members and/or officers not employed with Maroochy Water Services will not, without agreement between the Manager, Maroochy Water Services and Maroochy Shire Council, seek to influence the day-to-day conduct of Maroochy Water Services commercial activities.

The Maroochy Shire Council acknowledges that it has a number of roles to fulfil in respect of the operation of Maroochy Water Services. These roles include:

- ❖ Owner;
- ❖ Regulator;
- ❖ Service Provider;
- ❖ Customer; and
- ❖ Custodian.

*As Regulator Maroochy Council
is obliged to perform
prices oversight.*

Council as Owner of the Commercialised Business Unit

Council will protect the interests of ratepayers and act as equity owner in all dealings with Maroochy Water Services. As equity owner, Council may desire to further invest in the business and will expect a return on past and future investments.

As owner, Council will also have roles in:

- ❖ Setting of the terms and conditions related to the employment of "permanent staff" of the business unit (noting that Maroochy Water Services will have budget responsibility for all staff related expenses);
- ❖ The setting of dividend targets based on Council's equity holding; and
- ❖ Setting the strategic business direction of Maroochy Water Services.

Council as Regulator of Service Provision

Council will regulate, set standards, and monitor Maroochy Water Services' activities in relation to:

- ❖ Compliance with the Customer Service Standards;
- ❖ Observance of sustainable environmental and resource management standards;
- ❖ Compliance with relevant local laws;
- ❖ Tax equivalents;
- ❖ Debt guarantee; and
- ❖ Prices justification.

Council as Service Provider

Council is currently in a position to provide Maroochy Water Services with a complete range of corporate services. Maroochy Water Services will enter into tied supply arrangements (under service level agreements) for this financial year. The cost for these services will be based on full-cost pricing. Once the tied arrangements period has ended, Council may allow Maroochy Water Services to obtain these services under contestable arrangements.

** As owners of Unitywater, SCRC and
MBRC is obliged to perform prices oversight
of Unitywater's budget for 2010/11.*

Council as Customer

Council Departments will purchase water supply and sewerage services from Maroochy Water Services under the same terms and conditions as other customers.

Council may also require Maroochy Water Services to provide services at below cost such as when providing pensioner discounts. In such cases, Council will assume the role as a customer for "community service obligations".

Council Custodial Role

Council will retain and enhance its custodial role of providing the general public and Maroochy Shire's ratepayers with cost-effective services and amenities that are consistent with Council's objectives. To this end, Council will maintain Local Laws and enforcement of accountabilities on service providers such as Maroochy Water Services, including the maintenance of Council's Customer Service Standards for provision of water supply and sewerage services.

1.4 Role of the Chief Executive Officer

The role of the Chief Executive Officer, Maroochy Shire Council is to:

- ❖ Establish policies and strategies relating to the operation and future of Maroochy Water Services;
- ❖ Approve the annual and long-term business plans;
- ❖ Recommend and provide the background information for Maroochy Water Services' annual operating budget to Council;
- ❖ Provide a linkage between the Council and Maroochy Water Services;
- ❖ Oversee the performance of the Manager, Maroochy Water Services;
- ❖ Establish performance targets and monitor the performance of Maroochy Water Services in providing services;
- ❖ Monitor financial management; and
- ❖ Ensure that Maroochy Water Services is equipped to meet future needs through adequate and strategic planning and recommending appropriate resourcing.

1.5 Maroochy Water Services Advisory Board

The Advisory Board comprises:

- ❖ Chief Executive Officer, Maroochy Shire Council (Chairperson) or delegate;
- ❖ 2 Directors (Elected Representatives);
- ❖ 2 Directors (Industry Experience); and
- ❖ 2 Directors (Council Executive Management).

The purpose of the Board is to provide professional and expert advice in relation to the Strategic Direction of the Business Unit.

** The Role of CEO includes adoption of QCA's Regulatory Pricing Principles for determination of regulatory assets rather than a Flawed opinion of KPMG resulting in inflated non-current asset valuations.*

1.6 Identification of Maroochy Water Services

Maroochy Water Services will be responsible for identifying itself to its customers. This will include the use of its own logo on any correspondence utilised in the conduct of Maroochy Water Services' business and promotional activities and any dealing with customers and suppliers.

1.7 Group Manager, Business Units and Manager, Maroochy Water Services Declarations

This Performance Plan has been prepared in accordance with the requirements of Section 81 of the Local Government Finance Standard and forms the basis for performance accountability by Maroochy Water Services.

Graeme Preston
Group Manager, Business Units
Maroochy Shire Council

Gary Sabburg
Manager, Maroochy Water Services
Maroochy Shire Council

1.8 Chief Executive Officer and General Manager Governance & Business Declarations

Maroochy Shire Council requires the business of Maroochy Water Services to meet the commercial objectives outlined in this Agreement.

Kelvin Spiller
Chief Executive Officer
Maroochy Shire Council

Jeff Harris
General Manager
Governance and Business
Maroochy Shire Council

7.0 FINANCIAL REQUIREMENTS

7.1 Financial Accountability

Maroochy Water Services will prepare monthly, quarterly and annual financial statements in accordance with the provisions of the Local Government Finance Standard 1994 as amended and will conform with the Statements of Accounting concepts and Australian Accounting Standards as applicable. Financial reporting will be consistent with the requirements of Maroochy Shire Council.

Annual Financial Statements will present the financial results and position of Maroochy Water Services for the financial year ended 30 June 2003.

The Annual Financial Statements will be extracted from Council's Financial Statements, which will be audited by Council's external auditors.

7.2 Debt to Equity Ratio

Maroochy Water Services will work within the originally established debt to equity ratio of 30%. Maroochy Water Services will be accountable for servicing the debt as originally established.

Maroochy Water Services will seek capital debt funding as required to provide working capital and to fund new works provided the debt to equity ratio does not exceed 40% and is in accordance with Council's debt policy.

7.3 Borrowings

Maroochy Water Services will meet the servicing cost of all established debt obligations, including the repayment of principal, interest and administration charges.

Council will negotiate all borrowings for Maroochy Water Services.

In determining the cost of services, Maroochy Water Services will take account of the cost of funds advantage that is derived by State guarantees on borrowings. As an expense associated with borrowings, Maroochy Water Services will include the difference between State guaranteed borrowings and current commercial rates of interest.

Financial forecasts indicate that no borrowing will be required during the period covered by this Performance Plan.

7.4 Proposed Financial Targets

Maroochy Water Services will manage the business based on achieving target rates of return shown in Attachment C and supported by the budget estimates and projections shown in Attachment D.

These are not provided.

7.5 Dividend Target

Maroochy Water Services will pay a dividend to Council (through Council's Treasury Branch) each financial year in recognition of the Council's equity in the Shire's water supply and sewerage assets. The dividend will be equal to 50% of the after tax profit excluding all revenue received for the purpose of funding capital infrastructure and shall exclude

- developer contributions
- capital grants and subsidies
- contributed assets

The target dividend for 2002/2003 is \$5.775 million.

7.6 Audit

Maroochy Water Services will comply with the established internal audit programme of Maroochy Shire Council and will be subject to external audit in accordance with the audit programme organised by Maroochy Shire Council.

7.7 Pricing Policies

The principles of pricing under which Maroochy Water Services will operate include:

Fcb

*MWS will
breach CCA
Price controls*

- ❖ Compliance with the requirements of the Local Government Act 1993 for full cost pricing and use of two-part tariffs for water supply;
- ❖ Charges based on user pays: Maroochy Water Services will price service directly proportional to the costs involved in delivery of the services;
- ❖ Full cost recovery: Maroochy Water Services will aim to recover full costs through charges (subject to Council's revenue policy which may limit charges);
- ❖ Removal of cross-subsidies: Maroochy Water Services will identify any cross-subsidy between schemes or between customer groups within schemes. Where subsidies or industry assistance exists or is required, the subsidies will be made transparent and explicitly account as CSO's; and
- ❖ Full accountability for cost effectiveness through Council's prices justification regime.

Maroochy Water Services will identify the full cost of all services and determine any subsidies that result from Council's revenue policy.

When determining "full cost" for water supply and sewerage services Maroochy Water Services will use a minimum cost of Capital based on the current "Weighted Average Cost of Capital" (WACC) or other target rate of return required by Council.

Full market prices will be charged for goods and services where an open competitive market exists eg, for consultancy services.

Due to the monopoly nature of Maroochy Water Services' business, and to overview the effectiveness of any Council subsidy in industry assistance schemes, Maroochy Water Services will justify all service charges.

Why then is AEC Group D/S "confidential"

The strategies to implement the above are detailed below.

1. Annual reviews be performed on the identification of costs and revenues associated with the provision of water supply and sewerage services to ensure a full cost recovery system is maintained and any imbalances occurring between revenues and expenses be identified and rectified.

2. *Actively review all costs associated with the provision of water supply and sewerage services through its activity based costing system as a step towards identifying cross-subsidies, community service obligations and consumer classes provided with services at below cost.*
3. *Finalise the water and wastewater pricing review performed by AEC Group.*
4. *Fully identify and disclose any cross-subsidies between classes of consumers and community service obligations in annual reports.*
5. *Fully identify and disclose classes of consumers who are provided with water supply and sewerage services at an amount below full cost and the amounts involved in annual reports.*

7.8 Treatment of Surpluses

Maroochy Water Services agrees to contribute an accumulated surplus of \$8.224 million in 2002/2003 to the overall Council position in accordance with the 2002/2003 Original Budget. This accumulated surplus contribution is after allowance for appropriate income tax and dividends to Council for the 2002/2003 year. Any accumulated surpluses generated in excess of this amount may be assigned to the business needs of Maroochy Water Services.