

Complaint:

I refer to Complaint #2010-103546 and correspondence exchanges with the Department of Infrastructure, Transport, Regional Development and Local Government (DITRD&LG). In particular to my letter dated 9 July 2010 to the Hon. Anthony Albanese M.P. I refer also to my letter to The Treasury dated 6 May 2010 to the attention of the Acting General Manager Ministerial and Communications Division, and enclosures "A", "B", "C" and "D".

In correspondence dated 18 October 2010 from The Treasury I was advised to make a public submission to the Productivity Commission's Urban Water Sector Inquiry (the Inquiry). A submission dated 26 October 2010 was then made together with supporting correspondence. The cover letter of this submission was posted on the Inquiry web-page as Submission #9, without the posting of the supporting correspondence essential to public transparency relating to the roles of The Treasury and DITRD&LG in the Federal Government's lack of response to Complaint #2010-103546. I believe this to be a failure of administrative processes in the Productivity Commission's conduct of this Inquiry.

In correspondence from The Treasury dated 6 October 2011, I was then advised to contact the National Water Commission (NWC) should the Inquiry fail to address my concerns, as was the case. A public submission dated 5 November 2010 providing details of these concerns together with supporting forensic correspondence had previously been made to the NWC's 2011 Biennial Assessment (the Assessment). I was not afforded an opportunity to comment on the draft Assessment report and the final report fails to consider concerns raised in the 5 November public submission and in later communications. As was the case for the Inquiry, the NWC's posting of public submissions for the 2011 Biennial assessment did not include supporting correspondence essential for public submission transparency. Failure to post supporting correspondence, failure to afford an opportunity to review the Assessment draft, and failure to consider serious issues raised regarding monopoly pricing abuse in defiance of provisions set out under COAG's National Water Initiative Pricing Principles in the final report represents an unreasonable failure of administrative processes in the conduct of the Assessment.

On 1 November an e-mail (attached) was sent to the Chair NWC requesting that public transparency be provided regarding monopoly pricing abuse suffered by myself and other households in Coolum Beach stemming from the Queensland Government's disregard of National Water Initiative Pricing Principles. Paragraph four of a response from the Chair NWC dated 30 November asserts that it is not the role of the Commission to conduct a review of state-based pricing processes. This is counter to the advice received from The Treasury on 6 October 2011. I am at a loss to understand advice given in correspondence dated 6 October unless it represented continuing accountability avoidance by The Treasury.

Cc: Fedtreasury1.doc
Albanese3.doc
FedTreasurer3.doc
NWC2.doc
NWCresponse.pdf

Desired Actions:

I submit that correspondence cited above suggests serious failures in administrative processes followed by The Treasury, The Productivity Commission's Urban Water Sector Inquiry, and the National Water Commission's 2011 Biennial Assessment with respect to my complaints relating to National Competition Policy water reform agreements between Queensland and the Federal Government.

I request the Ombudsman's investigation of maladministration within The Treasury, The Productivity Commission's Urban Water Sector Inquiry, and the National Water Commission's 2011 Biennial Assessment resulting in cover-up of an ongoing water pricing scandal in South East Queensland. Monopoly pricing abuse counter to provisions set out in COAG's National Water Initiative Pricing Principles suffered by myself and other households served by Unitywater and previous predatory pricing practices of Maroochy Water Services and SunshineCoast Water are now in excess of \$5000 per household and \$200 million collectively.

In order to be afforded natural justice, I request that the Ombudsman investigate administrative failures cited above to assure public transparency in the administrative processes of The Treasury, the Productivity Commission's Urban Water Sector Inquiry, and the National Water Commission's 2011 Biennial Assessment.



Our refs:

2012-100951 (*Productivity Commission*)
2012-100954 (*Department of Sustainability, Environment, Water, Population and Communities – National Water Commission*)
2012-100943 (*The Treasury*)

7 February 2012

Ms Amy-Rose West
26 Spindrift Avenue
COOLUM BEACH QLD 4573

Dear Ms West

Thank you for your complaint to the Ombudsman about The Treasury, the Productivity Commission and the National Water Commission (NWC). Your complaints were referred to me for assessment.

Complaints

You have requested that we investigate matters relating to those agencies' dealings with you in relation to your concerns about predatory water pricing in South East Queensland and the Productivity Commission's inquiry into *Australia's Urban Water Sector* (the inquiry).

Assessment of your complaints

I have considered your complaints carefully. However, I have made a decision not to commence investigations into your concerns. This letter explains why. However, before I go into the reasons for my decision, it may be useful for me to clarify what our office does.

Generally speaking, we can investigate the actions or decisions of Commonwealth Government agencies that relate to a *matter of administration*. This is done with the purpose of forming an opinion whether, in all the circumstances of the case, the action taken by the agency was not unreasonable and in line with its administrative processes.

Our office does not investigate every complaint it receives. For example, if we assess that an investigation is not likely to lead to an individual remedy, we usually decline to investigate a complaint.

The Treasury – our ref 2012-100943

In relation to The Treasury, it appears that you believe it gave you incorrect advice when it encouraged you to contact the NWC. However, I am not able to see that its advice to you was unreasonable.

As such, I do not propose to investigate this aspect of your complaint as I do not see that an investigation would serve a useful purpose.

The NWC – our ref 2012-100954

There appear to be two aspects to your complaint about the NWC:

First, that its processes were not transparent; and secondly, that it “failed to consider serious issues regarding monopoly pricing abuse...”

In support of the first aspect (that its processes were not transparent), you have told me that on 1 November 2011, you sent correspondence to the NWC, requesting that it “undertake a comprehensive forensic analysis” of certain correspondence. You go on to state that soon after you sent this letter, the internet page that contained the public submissions to the 2011 Biennial Assessment “was no longer accessible.”

I understand that the 2011 Biennial Assessment was completed in mid-2011. According to the published report, all submissions were posted on the NWC’s website. I have searched on the NWC’s website but cannot seem to find the published submissions.

I note that, on 29 January 2012, you sent an email to the NWC, seeking information on where the submissions can be found; however, on 1 February 2012, you told me that you have not received a response.

My view is that, at this stage, it is too early for us to consider investigating this issue. I do not think that the NWC has been given a reasonable opportunity to address your email directly. If you have not received a response to your email by late February 2012, please contact us again.

In respect of the second aspect of your complaint (that the NWC failed to consider issues relating to monopoly pricing abuse) I note that, in its response to you dated 30 November 2011, the NWC stated that it “has called for increased transparency in water pricing processes in Queensland...” and expressed its “concerns about the decision by the Queensland Government...”

However, in relation to the monopoly pricing abuse, the NWC also informed you that it does not have a role in “conducting reviews of state based pricing processes...”.

From the information I have, I cannot see that the NWC’s response to you was unreasonable. As such, I do not propose to investigate this aspect of your complaint as I do not see that an investigation would serve a useful purpose.

Productivity Commission – our ref 2012-100951

In relation to your complaint about the Productivity Commission, you have stated that it failed to follow appropriate administrative procedures because it did not publish the enclosures you sent with your original submission to the inquiry.

I have examined the relevant page on the Commission’s website;
<http://www.pc.gov.au/projects/inquiry/urban-water/submissions#initial>

On that page, it states the following:

** Submissions marked with an asterisk have omitted 'In confidence' content - part or all of the submission is not online.*

Hash denotes some attachments are not available online. Contact the project team for access if necessary.

% Percent symbol denotes scanned image PDFs which are not readable by some screen readers.

I have examined the submission you refer to and note the following:

- Submission 9 is your one page submission to the inquiry with a list of Enclosures, which appear to be mainly correspondence between you and other agencies.
- Submission 9 is marked with a # symbol, denoting the submission contains attachments not available online.

It appears then that the Productivity Commission has made a decision not to publish your attachments. I do not think that this necessarily indicates that it has failed to follow appropriate administrative procedures. I suggest in the first instance, you write to the Productivity Commission and ask it why it has made the decision not to publish the attachments. It may be that its reason for doing so is valid and supportable. Any investigation we may commence would be limited to this process only; however, because you can take this action in your own right, I do not propose to investigate this aspect of your complaint.

Concluding Remarks

Overall, I have made decisions not to investigate your complaints. However, I invite you to contact us again if you are not able to resolve the concerns I have identified above.

If you have any questions about this letter, please telephone me on 1300 362 072.

Yours sincerely

Elisha Hill
Senior Investigation Officer

Our ref: 2012-200039

7 March 2012

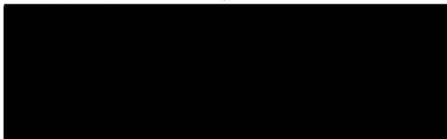
Ms Amy-Rose West
26 Spindrift Avenue
COOLUM BEACH QLD 4573

Dear Ms West

Thank you for your email of 5 March 2012 about the Department of Sustainability, Environment, Water, Population and Communities. We will contact you again when we have had an opportunity to consider the issues you raised.

Meanwhile, I enclose a copy of our brochure *Making a complaint to the Ombudsman* which explains the Commonwealth Ombudsman's role in more detail. This information is also available on our website at www.ombudsman.gov.au. If you have any queries, please contact us using the details at the top of this letter.

Yours sincerely



Dana Nipperess
Investigation Officer