

I make this submission to the Queensland Competition Authority as a response to the Draft Report and the QCA/MBRI consultation meeting of the 10th October, 2019 in Fernvale. The Draft Report nominated prices for the irrigation Pricing Path of 2020/24 and particular for those sections that pertain to the CBRWSS. My name is Ken Schmidt and I farm at Rivermeade in Fernvale and I have current Water allocations numbers. WA-46 and WA-47 for irrigation.

Introduction

I am a member and a past chairman of the MBRI. I have been forced by Government to participate in pricing path negotiations with the QCA on two occasions 2012/2014 and more recently 2018 /2020. Reference to the QCA's website indicates that their mission statement (quoted later) is to ensure fairness ("fairly") in negotiations between Monopoly Government Corporations, and the community customers serviced by those corporations. MBRI is a very small group of Irrigators with scarce resources and a voluntary committee and a gross water allocation that fits within the margin of error in Hydrological calculations. And yet the following facts indicate, that the reality is that the QCA patently ignores the requirement for fairness

The facts are presented under the following Headings:

- 1. The QCA 's role as independent economic regulator.**
- 2. Assessment of Benefit.**
- 3. Volumetric charges.**
- 4. Water Solutions advice to QCA.**
- 5. Changes between 2012/2014 and 2018/2020.**
- 6. 10th October consultations QCA/MBRI.**
- 7. Executive Summary.**

1. The QCA 's role as independent economic regulator.

The following is an extract from the QCA website where it claims that:

"We are Queensland's economic regulator. We prevent monopoly businesses from manipulating prices or terms in their market—and we do that by setting or monitoring prices, or through other arrangements. The businesses we regulate are in charge of vital infrastructure in Queensland, such as railways and ports, or they deliver essential services, such as water and energy. Because of regulation, prices are competitive, and those who need to use infrastructure can do so fairly."

MBRI are unable to identify any evidence of QCA meeting its own declared Mission as the Regulator. The following is a record of a phone call between a QCA representative and the MBRI chairman of 14th November 2012, 6 weeks prior to the issue of the Draft Report for the 2014/2018 pricing path. This record was then circulated to the MBRI committee. The call is indicative of QCA predetermining a price and ignoring stakeholder submissions.

PHONE CALL FROM A QCA REPRESENTATIVE 14TH NOVEMBER 2012-11-15

Phone no 32220557 1.42pm and returned call 3.15pm

His first comment was that he believed we were on a speaker phone and I said yes but there was no one else here and it left my hands free. He advised that they were going to accept our request for an extension of time and we would receive a letter tomorrow. However, they were rethinking the whole timetable because of delays they had experienced with Seqwater who had been told by Gov to pay off 65 people and there was a resultant saving of \$6M. The financials had only just been received and they would now be issuing the Draft Report on the 21st December 2012 and would be giving us until 22nd February to respond. The Queensland farmers Federation meeting would still happen on the 30th November and there would be a consultation meeting in Fernvale around the 24th January 2013. He thanked us for our letter which had prompted their decision!

I said that was good news, but he did not want to get off the phone.

The key things that he said was that Seqwater's costs now down to \$19.7 from 23.2 M and that Seqwater was very unhappy with the QCA. I responded that that was not a reduction of \$6M so they had in fact got \$2m more rather than a reduction if what he said about lay off at Seqwater was true. He waffled for a while quoting figures and then said that there were three possible charges that could be applied to The Central Brisbane Scheme, \$62 per ML, \$40 or \$2 per ML. I advised him that none were acceptable, but I was interested in how \$2 came about. He said that they were bound by Gov Rules and one of the rules was that where a recommended new price exceeded existing by more than the CPI then the rule was the existing price + \$2. He then said that his possible final recommendation would be \$23.25 which was the average of the Logan, Lockyer the other schemes in The SE Qld area. While that is interesting information, we were only interested in our long-time right being respected and a \$0 per ML being the fair decision. He said that was unrealistic and that they had legal eagles all over John Craigie's submission and they were unanimous in their advice that John had cleverly set out his reasoning but that the current legislation was sustainable. I asked him for a copy of the advice, and he advised the key parts of it would be in the Draft report. As well as that it was "privileged". He also said that the QCA was bound by the ministerial Reference as well as a binding obligation to ensure Seqwater was paid adequately. I responded saying that the irrigators also had a longstanding right to be allowed to take the water and it was my obligation to ensure they maintained that right and we would be waiting for the Draft Report before making any comment on the matters he had been putting forward. He then said well of course, I/he was not the final arbiter and nothing he had said could be guaranteed would be in the Draft report, but that in his experience there was always considerable negotiation between the Draft and Final reports and he expected that would be the case here but only in reference to The central Brisbane because it was new ground. He then went back to the meeting in Fernvale and said that it was QCA's brief from Government to increase the efficiency of rural water use and there was actually water traded at that Fernvale Meeting and price per ML was another incentive to making water use more efficient and encouraging trading. I said I could not speak for other larger water schemes but since taking over as Chairman I had spoken to a very high %age of the Allocation holders. Of course there were people who might want to trade their allocation and there were also people to buy it but if that was the intention of the QCA then tackle the trading system rather than putting financial pressure on the whole system for a very small financial benefit to Seqwater. I also said that the trading price is affected by several factors which QCA seemed to ignore. The availability, the contract and the trading price were all part of genuine trading and influenced the quantum traded. He came in strongly saying QCA had no part in the contract conditions and that this contract had probably been signed by all irrigators in QLD that were taking water. I advised that that did not make it right and if he really was a practical economist he would realise that contract conditions could often be the most significant factor in establishing a price and even more so where a contract for services

appeared to include little or no service. He then changed tune completely and said maybe they would have to look at the Contract. He then went on what was almost a soliloquy about how he loved his work at QCA because he really did feel it was worthwhile work and the Gov monopolies hated them, but they were always completely independent in the way that they addressed things. What could I say when it eventually finished? I let him know that I loved my work too, but where are we going with this unguaranteed conversation. He asked why we were so suspicious about QCA's motives in these deliberations because he said he felt something different when talking with Mid Brisbane rather than the other schemes. I said apart from the obvious that like it or not they were a government-controlled department. The people and the irrigators in this area had for many years and the last 3 years in particular been knocked around by Seqwater without there seeming to be any sign of a change when mistakes were made and this was just one more pressure point. Some have suspicions that it could be all about gradually removing the water allocation back to city use. Can't he see that we will be prepared to fight if the Draft report is insensitive to what we feel are our rights. But for now, we will wait for the Draft report and then make our decisions as to what action we take. I said as far as some of his comments e.g. \$2 per ML why would I even repeat that to anyone when the cost of collection would far exceed the revenue. He thanked me for my frankness and the conversation ended.

2. Assessment of Benefit.

QCA have consistently assumed benefit to MBRI members i.e. they benefit Hydrologically from the construction of Wivenhoe and Somerset Dams and benefit from the Regulatory Framework, the following paragraphs set out why this is a seriously flawed assumption which has been extremely damaging to my own business and other MBRI members. All of the following are already a matter of record from MBRI.

I believe that a comprehensive examination of all the benefits and disbenefits arising from the imposition of regulatory frameworks in this scheme would result in irrigators being in net disbenefit.

A clear example of where irrigators suffer a disbenefit from the prevailing regulatory framework relates to flood operations of Wivenhoe and Somerset dams. In developing this framework, the rural disbenefits – and the corresponding relationship with urban benefits – were clearly investigated and articulated in a 2014 optimisation study¹ that preceded, and ultimately informed, the updated (and current) operational procedures within the Flood Mitigation Manual for the two dams². I personally participated and contributed to the Flood Commission of Enquiry in 2011/12 that preceded the Optimisation Study

¹ *Wivenhoe and Somerset Dams Optimisation Study Report*, Department of Energy and Water Supply, 2014.

² *Wivenhoe Dam and Somerset Dam Manual of Operational Procedures for Flood Mitigation (Revision 14)*, Seqwater, October 2016.

I note that the optimisation study examined a range of alternative flood mitigation strategies for Wivenhoe Dam including a 'Rural Strategy' (which aimed to minimise disruption to rural life by keeping bridges and crossings open while limiting inundation of urban areas and protecting the safety of the dam) and 'Urban Strategies' (which aimed to limit inundation of urban areas while protecting the safety of the dam). The optimisation study included identifying a 'Bypassing the Rural Strategy' alternative

The report concluded that:

Hence, it is proposed that the original Urban 3 alternative be unchanged³.

The operational procedures in the updated Flood Mitigation Manual ultimately favoured an urban strategy over the rural strategy. This deliberate trade-off that is embedded in the regulatory framework for managing floods is a clear example of where irrigators suffer a relative disbenefit compared to urban residents.

The following examples of disbenefit indicate several situations that would offset any assumed benefits from the Regulatory Framework.

- *The great majority of irrigation infrastructure is affected by dam releases of 50 to 55 cumecs. Seqwater have maintained for the past 12 years that they are unable to offer a prescribed notice period before releases are triggered*
- *Irrigation cannot be used when the bulk of the rainfall has been in the catchment rather in the Mid Brisbane*
- *The significant costs and risk of retrieving the infrastructure on steep riverbanks in darkness*
- *Serious damage to riverbanks e.g. 2015 survey of irrigators indicated gross damage of \$350,000*
- *Up to 6 different issues relating to the Flood Operations Manual in the past 10 years. All require irrigators to assess and possibly change their farming and safety practices at their own cost. Evidence from dam optimisation studies that the early damaging releases included in the Flood Operations Manual is to mitigate flows in Brisbane at a cost to rural irrigators*
- *Continuing damage from hydraulic draw down from accelerated reductions in releases-numerous examples available*
- *Compare the 1974 flood pictures to the 2011 situation. Damage associated with farming infrastructure such as fencing which in 1974 remained relatively clean of debris as compared to 2011 when fence lines were damaged by the speed of the released*

³ DEWS, 2014, page Liii.

water and the debris suspended in the flood water. My father Noel Schmidt has personally witnessed the outcomes from both floods

- *No advice prior to 2011 to either Shire Council or the farming community that flood management had declared the Mid Brisbane to be a flood retention basin to mitigate flooding in Brisbane*
- *Premature restrictions on irrigators taking water because of serious maintenance issues dropping the FSL in both Wivenhoe and Somerset currently and in 2007 when constructing the fuse plugs.*
- *For QCA to ignore these matters would be a serious breach of their own mission statement and No other WSS has considered the value of Regulatory benefits when determining the price per ML.*

3. Volumetric charges.

By QCA's own definition there can be no volumetric charge in the CBRWSS. Include references.

There are no costs involved for Seqwater. Should CBRWSS take no water there would be no change whatsoever in Seqwaters costs...

The conclusion has to be that there are no costs directly incurred through the volume of water taken and therefore there can be no justification for a Volumetric charge

4. Water Solutions advice to QCA.

SLR have confirmed that there is no definable service provided by the dams to the irrigators.

Water Solutions have confirmed that:

- the IQQM modelling by the State for the WRP preserved the status quo, namely that the pre dam and post dams modelling undertaken by the QWC at the development of Wivenhoe Dam is reflected in the IQQM model that underpins the WRP.
- even within the flawed approach there is no net benefit once detriment and benefit to irrigators is considered

The Water Solutions report in its approach, tenor and assumptions:

- are inconstant with the requirements of the Referral Notice

- demonstrates prejudice and bias
- canvasses issue that are clearly irrelevant

Accordingly, QCA only has the SLR report that addresses the question of whether the infrastructure owned by Seqwater provides a service. In those circumstances the QCA is required to accept the SLR Report submitted by Seqwater

5. Changes in circumstances between QCA Pricing Paths in 2012/2014 and 2018/2020.

- MBRI can identify nothing whatsoever that has changed in the facts supporting Pricing Paths in 2013 to 2020.
- Yet the difference in QCA's recommended charge in 2020 compared to 2013 is a reduction by 76%. If the volumetric charge is removed, to comply with QCA's own definitions then the 76% becomes 84%.
- In the case of QCA's flawed assumption that Irrigators receive a "net benefit" then MBRI members alone will have paid \$1,243,649 more than an appropriate amount.
- If as MBRI and Seqwater submit, irrigators receive "no service" and no "net benefit" and the recommended price is zero then irrigators have been overcharged by an approximate sum of \$1,480,535 over the period 2014/20
- Put in perspective it means irrigators should pay nothing for 24/25 years to rectify this impact on farming in the Mid Brisbane region
- By relying on assumptions of service and benefit QCA are in danger of initiating substantial cross subsidies between consumer groups even though that may not be their intention,

6. QCA Irrigation Workshop 10th October 2019 in Fernvale

- QCA represented that they take into account social considerations and equity when producing their reports for pricing Paths. The facts in point 5 above would not support this claim
- QCA acknowledged that \$0 is a price, changing their long-held view that this was not the case.
- MBRI members drew attention to the complexity of these pricing paths which place an unrealistic demand on Voluntary bodies supporting consumers. Table 3 was contested but rejected by QCA on the basis that QCA's involvement is not continuous. While some of the amounts quoted by MBRI have been recalculated and are now verified by Seqwater the fact that QCA's own figures demonstrate the failure by QCA to protect consumers by

\$6.8million and the following Revised Table 3 demonstrates that the QCA forecasts extended only by inflation show a \$33,282,000 over recovery from consumers by Seqwater in the period 2013/2020. This can hardly be classed as a successful achievement for the “Independent Economic Regulator” introduced to protect consumers interests. Those consumers that QCA protect “fairly”, also collectively pay \$2,500,000 for such protection in this pricing path alone.

Year	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
SEQ opex	21.557	16.562	15.511	14.417	12.371	11.6	12
QCA/Govt Recommnd	18.2	18.5	18.9	19.3	20.1	20.8	21.5
Difference	3.357	-1.938	-3.389	-4.883	-7.729	-9.2	-9.5
Cumulative over recovery	3.357	1.419	-1.97	-6.853	-14.582	-23.782	-33.282

- **Notes re the table above- green is estimated**

7. Executive Summary.

- At no stage has QCA acted independently or complied with their own role as “Independent Economic Regulator” in the pricing process.
- The facts set out above show that it is unlikely that prudence and efficiency have been properly applied by QCA or its preferred consultants.
- SLR have confirmed that there is no definable service provided by the dams to the irrigators.
- QCA only has the SLR report that addresses the question of whether the infrastructure owned by Seqwater provides a service. In those circumstances the QCA should be required to accept the SLR Report submitted by Seqwater/MBRI.
- The only logical conclusion is that irrigators do not receive a service and therefore are outside the charging regime for the CBRWSS.
- CBRWSS should be excluded from the Pricing Path process and any costs genuinely incurred by Seqwater should be the subject of direct negotiation between MBRI and Seqwater.

Ken Schmidt