MBRI Inc.
MID BRISBANE RIVER IRRIGATORS
Promoting Effective Sustainable Catchment Management

26th April, 2013.

Mr John Hall
Chief Executive Officer
Queensland Competition Authority
GPO Box 2257
Brisbane Qld, 4001

Dear Mr Hall,

Subject: Imminent release of the QCA Final Report for the CBRWSS

We enclose a package of information that we have today submitted to the Minister for Energy and Water, in connection with the imminent publication of the Final Report on irrigation water pricing for the CBRWSS.

Our visit to your office on 5th April to review the Final report and the subsequent telephone call Wilkinson/MacDonald of 18th April 2013 confirmed that no matter what documentation and data we brought to the attention of the QCA in numerous letters and responses, the QCA Final Report would reflect an intention to charge a price per Ml for irrigation water irrespective of the merits of the case. It also reflected a lack of will to rigorously address matters that MBRI brought to your attention either because of lack of funds or because there was a predetermined outcome to be reached by the QCA.

MBRI contends that most of the critical information that justifies a Zero price was known to the QCA prior to the preparation of the Draft Report and in that case could have removed the need to incur the massive expenditure in consultants and QCA resources.

We wish to place on record that should the QCA, after consideration of this package, proceed to release the Final Report on the CBRWSS in its current form, then this would be a perverse outcome for MBRI members. We seek your cooperation to postpone issue of the Final Report on the CBRWSS until there is a more objective and fair review of all the matters placed before the QCA over past months.

Yours Faithfully,

[redacted]

Tom Wilkinson
Chairman MBRI

MBRI Inc
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Promoting Effective Sustainable Catchment Management

The Hon. Mark McArdle
Minister for Energy and Water Supply
PO Box 15456
CITY EAST QLD 4002

26th April, 2013

Dear Minister

QCA Irrigation Price Review – Central Brisbane River WSS

The Queensland Competition Authority (QCA) is expected to present its Irrigation Price Review 2013-17 to you soon, including recommendations on water charges for irrigators in the Central Brisbane River Water Supply Scheme (CBRWSS). MBRI has repeatedly expressed concerns about how and why the review was triggered by the previous Government.

The review was commissioned without prior consultation, and we now understand that the former Queensland Water Commission had previously determined a zero charge to apply to the CBRWSS.

QCA apparently cannot find the relevant documentation for that zero price determination. Its location is clearly a matter for QCA and Government, not a community organization like MBRI, and should be a high priority. It is understood that the zero price was struck because no benefit accrued to CBRWSS irrigators from the construction of either Somerset or Wivenhoe Dams, a point MBRI has made from the beginning of the review process.

MBRI has also questioned the appropriateness and interpretation by the QCA of the previous Ministers' Referral Notice. MBRI's concerns are clearly set out in letters dated 12 Nov 2012, 7 Dec 2012, 4 Jan 2013 and 1 Apr 2013. Our detailed Response to the Draft Report repeats and consolidates our position that QCA's process has been flawed by lack of natural justice and fairness. MBRI does not accept as valid the counter responses by QCA to our issues and concerns. Those responses are not backed by proper investigation and analysis and remain unsupported by documentation. They include a refusal by QCA to take into consideration relevant material, including the history of water allocation and pricing in the CBRWSS and the legal status of earlier decisions.

MBRI has remained actively engaged with QCA through the entire process to ensure QCA has an understanding of our views and was always able to use the knowledge and expertise of MBRI members. This is reflected in MBRI's extensive Response to the Draft Report, a copy of which was provided to you. Despite this, relevant documentation from previous government entities, including the former QWC, remains unavailable. Relevant government agencies, including QCA, SEQWater and your Department have the capacity and the knowledge to source all relevant key information. They have failed to do so in a timely manner. MBRI requests for access to such documents is met with suggestions that such documents are difficult to find, especially since QWC operations were devolved to other entities.

MBRI is disappointed that the QCA process has been so unproductive and inefficient. A staged decision process would have obviated the need for thousands of pages of consultants' advice, fruitless or biased economic evaluation and financial modeling, and saved the costs associated with generating those documents. QCA has repeatedly referred to lack of resources as a reason for so many of its questionable assumptions and the bias evident in its approach, making this seem even more wasteful.

MBRI has maintained all along that no service is provided by SEQWater because the 7,000 ML is drawn from unsupplemented water sources within the system. If this is correct, how can there be any price other than zero related to "services"?

The attached document seeks to state some of the flaws we identified in the QCA process. In the interests of transparency, and to encourage QCA to reflect on the integrity of its processes, a copy of this letter and attachment have been forwarded to the QCA.

MBRI believes that the QCA itself can conclude that it is appropriate to include a zero price in its Final Report for the Central Brisbane River WSS. Should QCA fail to do so, MBRI will be looking to its options, including calling on the Minister to reject recommendations.

MBRI is also firmly of the view that best practice outcomes can be achieved by moving CBRWSS irrigators to local management. Rolling small-scale users together with the very large urban water supply users has resulted in the distorted outcomes illustrated in the Attachment and detailed in MBRI's Response. MBRI considered the previous Government's inclusion of the irrigators was a serious error, and a shift to local management will deliver the desired outcomes without the perverse impacts that QCA's pricing method has delivered in its Draft Report.

Yours faithfully,

[redacted]

Tom Wilkinson
Chairman, MBRI

Attachment to the MBRI letter dated 26 April 2013 to
The Hon. Mark McArdle, Minister for Energy and Water Supply

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Background

The Queensland Competition Authority (QCA) was directed by Ministers of the previous Government, under Section 23 of the *Queensland Competition Authority Act 1997*(QCA Act) to recommend irrigation prices to apply to Seqwater Water Supply Schemes from 1 July 2013 to 30 June 2017.

A Draft Report on Seqwater Irrigation Price Review 2013-17 was released in December 2012. The Draft Report was released after the QCA received from Seqwater A report prepared by Parsons Brinckerhoff entitled Hydrologic Assessment of the Headworks Utilisation Factor's (HUFs) dated March 2012.

Introduction

This submission considers a range of issues with the QCA Draft Report and the subsequent "consultation". There are a number of key errors and omission and a number of prejudicial statements that have compromised the process and are a concern for the relevance of any outcome from the process.

The Ministerial Direction at 1.5 provides: "The Authority is to have regard to the level of service provided by Seqwater to its customers of the water supply scheme, including for capital expenditure on existing assets or for the construction of new assets."

MBRI disagrees with QCA on:

- starting points in the QCA Draft Report
- starting position for charges
- criteria to be used for charges
- apportionment of charges under the QCA criteria
- assessment of the level of service
- calculation of the value of the level of service.

Consultation

The Draft Report and consultation were premised on assumptions that taint the process.

The Draft Report from the QCA contains a number of statements indicative of prejudgement about water pricing issues. The resultant prejudice and bias flow through the draft report, the ongoing consultation and provision of material to MBRI. These faulty assumptions and the prejudged starting point have diverted the focus from key issues and has masked a number of issues that remain outstanding.

QCA's approach has also shifted a burden of proof onto MBRI. This is not appropriate, given the critical information, while largely publicly available, was government information, and that QCA (not MBRI) has the resources and the remit to investigate the issues in properly preparing the Draft Report and subsequently undertaking the consultation.

It is difficult to see how the QCA has discharged its obligation to consult, when it has produced a Draft Report and engaged in subsequent discussions outside the Ministerial Direction and without reference to key information.

There is a clear impression that pricing decisions have been prejudged, leaving only a false negotiation about "how much". It is apparent that the decision has long ago been made to impose pricing and the process was about "cutting the cloth" to fit, not the careful, deliberative process that QCA is obliged to undertake.

Regulated Section

The QCA has wrongly construed the concept of "regulated" and "supplemented".

The phrase "regulated section" only means that the control of the flow of water in the system is "regulated" through in-stream works. It is presumptive for the QCA to argue that being in a regulated system provides a level of service. QCA has not established the necessary connection.

The statement below is in MBRI's submission, wrong in both fact and law, and biases the consultation process

> *"the irrigation WAE in the Central Brisbane River WSS is supplemented (that is, benefits from the water storage infrastructure)".*[1]

The connections between "supplemented" and "benefits" and "level of service" are not established anywhere in the Draft documents or in subsequent meetings. Whether a system is deemed under the ROP to be "supplemented" because of the discharge into the system of dam water does not establish that there are services provided, and should not be determinative of pricing issues. The use in the ROP of the term is about stream and water management, not pricing, and it is wrong for QCA to establish a connection to a benefit

The SunWater commentary on "supplemented" applies equally here.

The failure of the HUF to provide a useful indicator for Seqwater, has nothing to do with the flood storage. The values used by the QCA in its calculation are all Resource Operations Plan based numbers which exclude volume above the nominal full supply level. The parameters of the Water Management Plan and the Resource Operations Plan are not adept to providing a level of service assessment.

The initial and continuing equating by QCA of the CBRWSS to all other Water Supply Schemes defies logic.

The 7,000 ML cap includes water rights that were issued:

- pre Somerset Dam;
- after Somerset Dam was built but before Wivenhoe Dam was built; and
- after Wivenhoe Dam was built.

In no case were any of the water rights dependent on the water stored in the dams.

The logic of the Draft Report appears to be that prior water rights, somehow acquired by SEQWB at no cost, are now to be charged back at full price related to services including dam infrastructure This is faulty logic and demonstrates QCA's prejudgement.

[1] Chapter 3 page 13 - Draft Report Seqwater Irrigation Price Review: 2013-17 Volume 2 Central Brisbane River Water Supply Scheme December 2012 states at (f)

How similar is Central Brisbane WSS?

The presumption that the Central Brisbane Water Supply Scheme is the same as all other Water Supply Schemes has been pervasive. The QCA has ignored a number of issues in its Draft Report that point to this being a very different scheme to other Water Supply Schemes.

Firstly, the HUF failed to provide any meaningful indicator of relevant services or costs. This should have been the first signpost that the QCA approach to the Central Brisbane Water Supply Scheme was wrong.

Secondly, the Announced Allocation Rules were discarded by SunWater. This is the reason why SunWater looked to the HUF as solution for ascertaining levels of service.

The QCA's reverting to the Announced Allocation Rules is illogical, despite calling them "adjusted HUF". It is creating an alternative process without reference to existing work of SunWater on HUF, without reference to the principles that underlie HUF and without utilising any element of HUF in proposing an "adjusted HUF".

Thirdly, the QCA could not readily identify an alternative approach to HUF. With the Announced Allocation Rules and the HUF not being relevant approaches for the development of criteria, QCA should have resolved this issue prior to the release of the Draft Report.

Without Parsons Brinckerhoff demonstrating how the base condition works, it is unclear how they can conclude the "actual benefits gained".

As SunWater has clearly stated in analysing HUF:

> *"For supplemented water supply schemes, the benefit derived from bulk water assets essentially relates to the ability of the storage headworks to store flows during wet periods and then subsequently make releases during dry periods and combine with (i.e. supplement) natural flows within a scheme thereby ultimately meeting the water demands of water entitlement holders"*[2]

Accordingly, there is no demonstrated benefit to the Central Brisbane River Water Supply Scheme. If Seqwater is seeking from QCA payment for a level of service, the onus rests on Seqwater to show that there is in fact a benefit and that this benefit provides a "level of service", and on QCA to establish that any pricing is causally related to benefits. It should not be for MBRI to disprove something that has not been proved.

Table 1.1 of the Parsons Brinckerhoff Report supports the position of the MBRI. In developing the Table, Parsons Brinckerhoff have assigned probabilities to nominated scenarios. The Probabilities show that as between the scenarios, the probability of supply reflects the consistent performance of inflows as against the system based on storage management. There is effectively no change between storage and inflow performance over the nominated Drought Period. The probability of access remains unchanged over the 20 year period. That is, MBRI water access is independent of the dam storage.

Either with or without minimum inflows this work supports a baseflow water in the system that would sustain the Medium Priority Water Allocations.

The failure to identify criteria for the "level of service" detracts from the Draft Report and the consultation.

The QCA has also overlooked other clear differentiations of the Central Brisbane River Water Supply Scheme from other irrigation schemes, including:

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2 SunWater Headworks Utilisation Factors - Technical Paper 3 September 2010

- the history of asset development in the system;
- the history of the water rights in the system, including the:
    - 7,000 ML cap, reflective of run of river conditions and not "the yield" created by the dam;
    - extra yield still available in the system;
- that the decision not to create a water supply scheme under the general water acts is more indicative that the State did not consider the assets provided a benefit to the class of people entitled to a Part 4 licence under the *Water Resources Act 1989*;
- assuming that the water allocations were issued by Seqwater (as in a SunWater Scheme) , when the water licences were issued historically by the State agency under the general water acts;
- the flood management service of the dam assets provide benefits to CBRWSS water users, (which MBRI submits they do not);
- recognition of State directions on flood management, whether in the Flood Operations Manual or at the direction of the Executive and its impact on:
    - the level of service;
    - appropriateness of allocating costs attributable to flood issues to Medium Priority Water Allocation Holders;
- the failure to make any discount for the asset "flood service" and focussing on "water supply service";
- the previous maximum entitlement from the assets being 345,000ML from Brisbane River
- the capacity to extract more yield from the system under the Resource Operations Plan.

The QCA has relied on preconceived ideas, as published in the Draft Report, and inappropriately equates CBRWSS to other Water Supply Schemes with no connection or relevance to the CBRWSS.

MBRI has pointed out on a number of occasions the differences between the Central Brisbane Water Supply Scheme and other Water Supply Schemes. The QCA continues to decline to revert to a base position to develop a pricing model.

Water Entitlements on issue

The QCA approach to calculating the water entitlements on issue is flawed.

The volumes attributable to the Stanley River Water Supply Scheme should be quantified so that they are properly included in the QCA criteria for apportioning costs.

The QCA has elected to use 7,041 ML as the basis for making its assessment. While the number comes from the Resource Operations Plan it is not appropriate for use.

The QCA has adopted criteria for its calculation. Under the criteria the QCA should be using all water entitlements that meet the QCA criteria. This should include the Stanley River Water Supply Scheme Water Entitlements as under the QCA criteria, theses water entitlements receive a benefit.

It appears acceptable to the QCA to assume the previous Government's Ministerial Direction allows it to ignore the Stanley River Water Supply Scheme for the subsequent process of allocating costs. However based on the premise of the QCA, the water entitlements currently issued elsewhere in the system would clearly have a "benefit". Accordingly they should be included in the total volume of water available for irrigation and factored into any assessment of the level of service.

Accordingly 7,041ML is a wrong estimate of the extractive rights under the QCA model. This means that any cost allocation is wrong and overstated. Such an assessment effectively results in a cross subsidy from the Central Brisbane Water Supply Scheme to the Stanley River Water Supply Scheme.

Water Entitlement

There is no case for ignoring the history of the system.

The QCA has taken a position taken that it is legitimate to ignore water entitlement history. This has been used by the QCA to justify the QCA views on pricing and place the QCA decision within economic theory.

This approach to start the QCA's investigation without the underlying factual context in the Central Brisbane Water Supply Scheme is problematic. The QCA commentary attempts to characterise a "line in the sand" approach.

In so doing the QCA argues that the past arrangements are irrelevant to its task. Such a position may indeed be convenient to the QCA, especially if it had predetermined that a charge must apply, but the QCA fails to take a balanced view of the available information.

MBRI has asserted from the beginning that there are legal and historical issues that QCA must take into account in its pricing analysis. QCA's refusal to consider these issues is a failure on its part to undertake the task it is charged with under the Act.

Prior to the release of the Draft Report, the QCA should have investigated the history of water entitlements and infrastructure. This would have provided better context for the QCA to argue the nature of the assets that provide a "level of service". Exploring the legal interpretation and government policy on pricing does not address the substance of the issues raised by the MBRI concerning the "level of service". Further, QCA has refused to provide MBRI with any documentation substantiating its view as to the legal and policy basis of pricing on a "line in the sand" basis, or ignoring the historical and legal past.

The assets in the Central Brisbane River Water Supply Scheme referred to in the QCA Draft Report were not built for irrigation purposes:. they were built to provide water for urban use. When the assets were built they were developed under either a specific Act of Parliament or under the *Water Act 1926* or the *Water Resources Act 1989.*

Accordingly, the decision to provide a volume of allocation to the South East Queensland Water Board and its successors was made under the general water acts in accordance with the water rights regime in Queensland. The South East Queensland Water Board was charged with recovering its costs from the supply of water to Local Governments for urban demand. Put simply the SEQWB water allocation was the denominator for the costs.

This included the concurrent processes that were occurring in the rest of Queensland for the predecessor to SunWater under the general water acts and under the Irrigation Act. Specifically where infrastructure was built, water rights sold and water charges levied.

The general water acts and specific Acts allowed for:

- Somerset Dam to be built by the Brisbane City Council;
- the issue of water licences permitting the extraction of water from the system below Somerset Dam;
- Parliament to enable the construction of Wivenhoe Dam to further regulate flows in the Brisbane River;
- Seqwater to be provided with an Allocation from Wivenhoe Dam;
- reservation to the State of the rights to continue to issue water licences for irrigation purposes up to a cap of 7,000 ML after construction of the Wivenhoe Dam;
- the State to administer the water licences and the rights concerning extracting water from the Brisbane River on an ongoing basis after the construction of Wivenhoe Dam.

This process enabled the 7,000 ML to be recognised, preserved and managed by the

State agency (then the Water Resources Commission) under Part 4 of the *Water Resources Act 1989*.

Those licences already issued under Part 4 of the *Water Resources Act 1989* (including those carried forward from the *Water Act 1926*), were to continue.

The government agency administering the Act continued to allocate licences under Part 4 of the Act after construction of Wivenhoe Dam. Accordingly the State continued to exercise it powers under Part 4 of the *Water Resources Act 1989* to make water allocations available, just as the agency had done prior to the construction of the Wivenhoe Dam.

Accordingly the 7,000 ML in the cap includes water rights that:

- were on issue pre Somerset Dam;
- were issued after Somerset Dam was built but before Wivenhoe Dam was built;
- were issued after Wivenhoe Dam was built.

The cap of 7,000 ML preserved the urban water entitlement from encroachment from Part 4 licences under the *Water Resources Act 1989*, and the 7,000 ML was not a "grant" made from the dam infrastructure. Thus the water allocations in the Central Brisbane River Water Supply Scheme were not asset related.

This is consistent with the limited powers of the South East Queensland Water Board and its responsibility of recovering its costs based on its Water Allocation.

As a consequence South East Queensland Water Board should have been already managing its asset base, on arrangements that reflected its role and powers limited to urban water.

This position can be contrasted with SunWater schemes, where the water allocation that was issued, was allocated to the Water Resources Commission or the Primary Industries Corporation. These water allocations were related to the construction of assets in the system for the purposes of creating "nominal allocation" and for the subsequent issue of water licences under the general water acts and the irrigation acts.

In addition for the Brisbane River, the State agency continued to manage access to stock and domestic water under section 36 of the *Water Resources Act 1989*.

Accordingly attempting to cast the water allocations of the Central Brisbane River Water Supply Scheme as benefiting from the infrastructure omits to deal with the position that the Water Allocations did not benefit from that system. They were natural flows administered by the State.

The administrative process of converting Part 4 licences under the *Water Resources Act 1989* to Water Allocations in the Resource Operations Plan does not advance the QCA's pre-determined position.

The prior rights were called Part 4 water licences, the subsequent right was called a "Water Allocation". Nothing else changed concerning the nature of the source of the extractive rights.

The QCA posits that the MBRI must overcome the "base position" constructed by the legal and policy positions it adopts without full disclosure to MBRI. This is not accepted.

The QCA has not provided the correct context for the Water Allocations and has assumed an incorrect starting position. The QCA cannot claim to have discharged its primary obligation of establishing the Water Allocations were afforded a "level of service".

Given the entire Draft Report and the subsequent "consultation" were based on wholly unsupported assumptions, the QCA process is flawed.

Water Allocation

The conversion of a prior Part 4 licence to a Water Allocation does not affect the underlying access condition or water right.

QCA in effect seeks to change the allocation regime by imposing a price for Water Allocations that were licences administered by a government agency as if they were not licences. The QCA has not demonstrated how, when the licences were converted to Water Allocations, there was any change in the underlying costs structure or cost base of those allocations.

Put simply the allocations under Part 4 were from the underlying yield of natural water in the system and not part of the asset yield (ie from the dams). An administrative process of creating the Water Supply Scheme and issuing a Water allocation has not changed the source of the extractive right or the responsibility of Seqwater to recover its costs from its urban water customers. The change has important implications for management of water in the system but is completely unrelated to the pricing questions that QCA is concerned with.

Failure to differentiate between Water Allocations

The QCA has confused the Seqwater customer class.

The class chosen by the QCA is not the class of people entitled to extract water from the system who meet the meet the QCA "benefit" criteria.

As previously mentioned there are other water entitlements located in the system that the QCA should be using.

This prejudicial, and incorrect, assumption meant that the "consultation" was fundamentally flawed from the outset and there is little that has occurred subsequently that would indicate that the QCA has assessed the system properly.

Compensation

In defining a "level of service" for economic and pricing purposes, the QCA also needs to address Executive decisions that reduce that "level of service".

Over and above the usual structure within Water Supply Schemes; Announced Allocations and Critical Water Supply Arrangements; Ministerial Directions during severe water shortage, Wivenhoe currently is operating under decisions by Executive Government.

The current decision by the Executive is to artificially decree a lower level of the Wivenhoe Dam, to a level below the nominal operating level of Wivenhoe Dam is a relevant factor. The current Executive decision places the volume in Wivenhoe at 88% of the nominal Full Supply Level.

This current maximum operating level is based on an Executive direction that requires the release of water from Wivenhoe Dam until the water level reaches 88% of the nominal Full Supply Level.

This artificial starting point brings forward a reduction in Announced Allocations for the Medium Priority Water Allocation holders. The consequence is that the risk of a Medium Priority Water Allocation receiving a lower Announced Allocation has been increased. That is, certainty of supply is reduced and the level of "service" less because of the dam management than it would be just relying on natural flows.

While the QCA position of adopting a "mean" is not accepted, the "mean" adopted by the QCA would need to be adjusted as it has been skewed by the Executive decision. The QCA has not provided any mechanism to deal with this impact on its interpretation of the "level of service"

If it recommends a price other than zero the QCA must also provide advice on:

- the method for calculation of the Part A and Part B tariffs;
- the discount to be applied to the Part A and part B tariffs, while the Executive is exercising its powers to reduce the volume of water stored in Wivenhoe Dam.

This is consistent with:

- COAG policy on compensation for reducing water rights;
- QCA's position on the flood management;
- the position in this paper on the way in which flood management benefits others far more than QCA's suggested allocation of costs.

Asset base

The basis for determining which assets are included in the QCA Draft Report is flawed.

The asset base used to determine the "level of service" from Seqwater is also flawed. There is no regard to:

- Somerset Dam not providing any service, as the entirety of the original capital cost was and continues to be devoted to supplying urban (now High Priority) entitlements. When constructed by the Brisbane City Council, the Council was given an extractive right by the State under the Acts in place at the time.
- this water right of the Brisbane City Council co-existed with licensees under the general water acts. These licensees included Esk Shire Council and the existing irrigation water licensees that were subsequently subsumed into the 7,000 ML cap.
- the State's right to issue water licences in the system continued unabated after Somerset Dam was built. There has been no change in the operation or purpose of Somerset Dam.
- why Local Government entitlements were structured on a pre and post Wivenhoe costing approach. The relevant legislative change preserved the base extractive volume of the Local Governments as "free of charge" for the volumes already subject water licences (see Appendix to this Attachment). This is the same rationale for the 7,000 ML.
- water taken by the Local Governments that was in excess the "free of charge" volume was to be charged at bulk water prices. This volume was the pre-existing entitlement under Part 4 of the *Water Resources Act 1989*.
- Wivenhoe Dam not being built for irrigation purposes. The dam was constructed for flood management and for urban water supply. The QCA approach effectively retrospectively decides that the purpose of the Wivenhoe Dam included irrigation water supply thereby imputing a level of service that never did, and does not now exist.
- the QCA failing (it follows) to establish that the assets are for irrigation purposes or that the assets provide a level of service above that received by water licensees under Part 4 of the 1989 Act. The QCA has proceeded on a wrong assumption, unsupported by evidence. This wrong assumption in the Draft Report tainted the entire consultation process.
- Seqwater was not granted the right to sell or otherwise deal with the 7,000 ML water allocation. Those rights were outside its authority under the *South East Queensland Water Board Act 1979* and all subsequent enactments based on these provisions.
- the relationship of the State agency issuing Part 4 licences as the controller of the water allocation in the system. The QCA characterises the water as a Seqwater asset that was charged with a "zero" cost to users. The 7,000 ML was from the natural system, available independently of the assets. The system was never envisaged as providing a "level of service" or a benefit as contented by the QCA, but a regulated system, affording water management tools to the regulator.
- the fact that the Central Brisbane River Water Supply Scheme is yet to be established for metering.

Past Price Decisions

The failure to address past decisions on pricing for Seqwater and irrigation customers is a fundamental flaw.

It is understood that there has already been a price determination concerning Seqwater and the Central Brisbane River Water Supply Scheme. The QCA has not referred to the previous decision on pricing by the QWC, made when the QWC was the decision maker on Seqwater pricing and cost recovery under the SEQ Water Grid.

The lack of disclosure by QWC, Seqwater and the QCA about the previous decision is problematic, given the outcome was a zero Part A charge and zero Part B Charge.

The current Water Supply Agreement under clause 9.1(a) operates under the QWC decision to provide for zero Part A and Part B charges.

The failure to identify and disclose the QWC price decision and the reasons for the determination are highly prejudicial to the CBRWSS irrigators for a number of reasons, including:

- the Draft Report, by omitting to mention and deal with the QWC decision, gives the impression that this is an "initiating" decision when it is not. For other Water Supply Schemes, QCA refers to previous state of pricing to provide context for the current views in its Report. Moving from a zero charge has number of implications for other elements of the QCA decision making process.
- the Draft Report by not addressing the previous QWC determination is incomplete and has prejudiced the consultation process to the point of rendering the consultation meaningless. Specifically framing a consultation process around a flawed, biased and incomplete factual context renders the consultation meaningless, and therefore inconsistent with QCA's statutory obligations.
- If the current price under the Water Supply Contract with Seqwater is zero it is assumed that both the QWC and Seqwater would have the material that set out the decision on Seqwater recovering from the Water Allocation holders and the background to that decision.

Setting a Price

Given the starting premises for the Draft Report and the consultation, the entire process has been conducted on incomplete information, false assumptions, prejudgement of the outcome and bias.

As previously stated the "consultation" on price is flawed. Accordingly MBRI submits that responses to the flawed Draft Report and the consultation process are tainted by the report's failings and should not be relied on by the QCA as a true indication of a person or entity's views.

Any briefing or advice that purports to connote acceptance of a price would be an inaccurate reflection of the process.

Given the QWC decision is a current charging policy for Seqwater it cannot be ignored in setting a new price. Where the QCA intends to set a price that is not zero, then it is incumbent on the QCA to

- consider the rationale of the previous decision;
- explain what has changed since the previous decision and the basis of the QCA variation from that approach; and
- provide a price path consistent with that base price.

Discussions around Price

Given the starting premises for the Draft Report and the consultation, the price discussions have been conducted on a flawed process.

Some of the prejudice shown by the QCA includes:

- statements that $0.00 is not a price. This is patent nonsense, as argued by MBRI in its Response to the Draft Report. QCA, under the Ministers' Direction and the Act, is perfectly capably of determining there should be no price or that the price should be zero. As there is zero service, a zero price reflects the service value. This will remain the case until meters are installed at the operator's expense and the operator incurs some actual capital cost directed to providing a service to the Medium Priority Water Allocation Holders;
- setting a price to create a "market". This is an irrelevant consideration and outside the scope of the Ministerial Direction. That said there are other ways to provide an incentive for water trading, addressed below.

MBRI is of the view that QCA's rejection of zero as a valid value was a tactic was used to force people into a false discussion on "what price", reflecting the predetermination that QCA would recommend a price whether or not supported by the evidence, law, history or otherwise.

Discount for the Flood Operations of Somerset and Wivenhoe Dams?

The reference to Flood Operations are overtly simplistic.

The broad view that the flood operation benefits downstream users misapplies the purpose of flood mitigation. While the view expressed by the QCA is consistent with the flood mode for SunWater Dams, it is another indication of misanalysis of the context within which the Wivenhoe and Somerset Dams are operated and the specific legislative framework for management of floods.

While the information is all publicly available the narrow interpretation by the QCA is a significant understatement. The flood operations of Seqwater have been the result of much public scrutiny.

It is clear from the publicly available information that the flood operation of the dam is to minimise the impact of flooding downstream of Wivenhoe Dam. It is also clear that the operation is subject to consideration of inflows from Lockyer Creek and Bremer River.

Accordingly the beneficiaries of the flood management activities are the urban communities downstream of the dam, principally Ipswich and Brisbane. While the QCA may posit that the Water Allocation holders benefit from the flood management activities, this benefit is not in proportion to the benefit derived by the downstream communities. MBRI continues to contend that CBRWSS irrigators actually suffer detriment from flood releases, as detailed in the Response to the Draft Report.

The QCA approach ignores the flood operation manual and the priorities of Seqwater in managing flooding under that manual.

Flood management should be approached as a community service, and costed as such because the community as a whole benefits from proper and successful management of flood waters. Irrigators receive no special benefit from flood water releases and should not rationally be charged additionally for the cost of building and maintain flood infrastructure.

If the QCA insists on apportioning flood operations to MP Water Allocation holders, then it should also establish the rebate to apply when Seqwater uses the Water Allocation Holder's land to manage floods and/or causes damage to property through the release.

Dam Safety

The reference to Dam Safety is overtly simplistic.

It is also clear that the dam safety standard is focussed on loss of life and future flood scenarios. The Somerset and Wivenhoe Dam assets will not provide any improvement to the safety of downstream Water Allocation Holders. In fact they increase the risk that if the dam safety measures are activated their properties and assets will be significantly impacted or even obliterated.

The narrowness of the considerations by the QCA is problematic in terms of consultation.

Metering will introduce a capital cost (and facilitate trading)

Water markets can be created in a number of ways. The QCA Draft Report is simplistic and narrow in its understanding of market formation and creation in the Central Brisbane Water Supply Scheme

As noted above, market facilitation is not a matter within the Ministers' Directive and is not a proper consideration for QCA in this pricing review.

QCA appears to have adopted an ideological position that pricing water will introduce trading, and that trading is inherently positive. QCA has failed to consider properly the impact of metering, which is likely to: :

1. Facilitate trading by irrigators who seek to avoid capital investment in meters; and
2. encourage ongoing trading of entitlement surplus to need by irrigators seeking to avoid the ongoing costs of holding a water allocation arising from meter reading, maintenance and billing costs.

Setting a non-zero price is not a necessary precursor to encouraging trade.

Volumetric Adjustments

If the QCA criteria is adopted, then the change in system operations and allocations have not been factored into the criteria.

The current volumes do not reflect the reduction in extraction from the Brisbane system for urban water, the retention of water allocations from the system under the ROP and other system changes. These changes have resulted in a 25% inflation in the percentage share of Medium Priority Water Allocation Holders (from 1.9% to 2.5%). MBRI argues in its Response that capacity is a more accurate and robust reflection of proportions than extractions.

Cross subsidy

The QCA Report does not deal with the cross subsidies created by the QCA approach.

As indicated previously there is a real risk that there is a cross subsidy that a price above zero will create undesirable cross subsidies.

Engagement

The whole process was flawed from the start.

Participation in the process by the MBRI and Water Allocation Holders should not be considered acceptance of a process or an outcome, given the issues raised below.

Responses to hypothetical questions do not connote acceptance of the hypothetical context, accordingly anecdotal comments about responses to consultation should reflect this fact. The hypothetical question approach is indicative of the predetermination by the QCA that there must be a non-zero price placed on the water regardless of service levels or other factors.

Specifically when users were questioned around "price prepared to pay" by QCA staff, the context was for consumption purposes based on supply under a contract, not for the charges under the Water Supply Contract. This also occurred in the context where the QCA had already established a flawed context for consultation on price.

Accordingly, discussions on "willingness to pay" for the purchase of a water allocation is not a suitable consultation process where it endeavours to illicit a price to pay for Part A and Part B charges. As well when trying to discuss a price for services, values and asset, it

is not consultation, when the price assumption is wrong and the decision prejudicially determined.

At the heart of the issue appears to be an objection by QCA, Seqwater and the Department to irrigators receiving what is prejudicially labelled "free water" from an asset. It is however clear that the water is derived from natural system sources, independently of the assets. The water is "free" as there is no underlying cost to its entry into the system as there is with dam releases that top up water supply in dry times.

Local Management

Central Brisbane River Water Supply Scheme is highly amenable to the local management.

Relevantly to the issue of local management, the CBRWSS:

- has only recently been made the subject of a Resource Operations Plan;
- until the Resource Operations Plan, there was no Infrastructure owner who managed the water licence holders allocations and access to water;
- no State "irrigation assets" were used to create the scheme;
- is no real arrangement or agreement between Seqwater and the irrigators (see detailed arguments in MBRI's Response);
- management of the CBRWSS has only recently been transferred from the government agency to Seqwater;
- extraction rights are an insignificant proportion of the daily releases and natural system inflows.

The State is currently investigating Local Management and the current Central Brisbane River Water Supply Scheme.

Accordingly the QCA should be clear on what costs would be payable to Seqwater under the following arrangements:

- for Seqwater to recover funds in accordance with the categories in clause 1.1 of the Ministerial Direction
- for those amounts that would be or have been attributable to meter installation, as an allowance in favour of Seqwater during the price path
- for those amounts that would be or have been attributable to meter reading and maintenance, as an allowance in favour of Seqwater during the price path
- for those amounts that would be or have been attributable to managing billing and customer services, as an allowance in favour of Seqwater during the price path

Specific Issues with the Draft Report

An example of the disconnect demonstrates the lack of connection between the QCA exercise and the obligations impose on the QCA by the Ministerial Direction.

While it is important to not take issues out of context, the following extract from the Draft Report, and the notes added by way of footnote reference, are illustrative of the issues raised in this paper. At page 243 the Draft Report states:

> *Applying the Authority's general approach to setting fixed charges would result in an opening Part A charge of $2/ML. However, such an approach does not have sufficient regard for Seqwater's legitimate commercial interests[1] and is unlikely to promote water trading[2]. As no charge has previously applied[3], the Authority expects that introduction of charges to result in increased water trading as some irrigators who do not use their WAE may seek to avoid the fixed charge[4]. The Authority considers that water should move to its best and highest value use, and the trading from an unproductive owner, to a productive owner will increase agricultural output and economic activity. Accordingly, the Authority considers that the fixed charge should promote trading[6].*

Commentary is as follows:

1. This is only relevant where the QCA can establish a level of service. As the level of service has not been established, the remainder of the paragraph makes no sense.
2. Promoting of water trading is not a purpose of the Ministerial Direction. The inclusion in the Draft Report is indicative of not dealing with the Ministerial Direction but pursuing an economic agenda.
3. There is currently a charge of $0.00 under the previous decision of the QWC.
4. Fails to acknowledge the impacts of meter installation on "avoiding costs"
5. Fails to acknowledge the ongoing impacts of meter installation on "avoiding costs"

Conclusion

Given the late stage of the process it is appropriate to:

- continue current arrangements at a zero price
- start a proper process for determining the level of service that is reflective of the Central Brisbane River Water Supply Scheme
- facilitate the Central Brisbane River Water Supply Scheme moving to Local Management

Appendix

The following provisions represent the pre-existing condition under the *South East Queensland Water Board Act 1979*, Ss 45 to 47, and s36 and Part 4 of the Water Resources Act 1989.

Water Resources Legislation Amendment (No. 1), No. 18, 2000
Conditions for company allocation
Inserted into the WATER RESOURCES REGULATION 1999

PART 3A—WATER ALLOCATION

Allocation for South East Queensland Water Corporation Limited

15A. (1) A water allocation of 345 000 ML a year (the "company allocation") from the sources mentioned in subsection (2) is fixed for South East Queensland Water Corporation Limited (the "company").

(2) The sources for the company allocation are—

(a) the impoundments of the Wivenhoe, Somerset and North Pine Dams; and

(b) the section of the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir.

15B. (1) The conditions stated in this section are imposed on the company allocation.

(2) The maximum volume of water the company may take from the impoundment of the North Pine Dam in a year is 59 000 ML.

(3) The company must make available from the company allocation to Esk Shire Council, free of charge—

(a) 220 ML a year for use for the Town of Esk; and

(b) 270 ML a year for use for the Town of Lowood.

(4) The company must make available from the company allocation to the Glamorgan Vale Water Board, free of charge, 250 ML a year for use for the Glamorgan Vale Water Supply Area.

(5) The company must make available from the company allocation, free of charge—

(a) a sufficient volume of water, but not more than an aggregate of 7 000 ML a year, to meet the rights to water of licensees authorised under licences issued under part 4 of the Act to take water for irrigation purposes from the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir; and

(b) a sufficient volume of water to meet the riparian rights of persons under section 36 of the Act relating to any of the sources to which the company allocation relates; and

(c) a sufficient volume of water to meet the rights to water of other persons under authorisations under the Act if the authorisations—

(i) are in force on the commencement of this section; and

(ii) relate to any of the sources to which the company allocation relates.