MBRI INC.
MID BRISBANE RIVER IRRIGATORS

Promoting Effective Sustainable
Catchment Management

4TH February, 2013

Mr E J Hall,
Chief Executive,
Queensland Competition Authority,
GPO Box 2257,
BRISBANE QLD 4001

Dear Mr Hall.

MID BRISBANE RIVER IRRIGATORS INC. - SUBMISSIONS

We have received your letter of 18th January 2013 regarding the above and note that an extension of time from 22nd February to 11th March 2013 has been granted by the QCA to the MBRI and its members to submit responses to the Draft Report.

I also wish to clarify a number of matters. The final result of 10 attendees with allocations at the meeting of the 24th January justifies the concerns I raised prior to the meeting. The previous discussions between Mr MacDonald and I were held prior to 23rd November 2012. At that stage the meeting time was not indicated. My concerns expressed to you before the meeting were limited only to the unsuitability of 2.00pm for a meeting of this nature.

At 11.00am on 21st January I spoke directly to you regarding our disappointment that QCA had what appeared to be only a single reference in the draft report to the 81 submissions made by MBRI. This was entirely consistent with the comments of your staff member directly to me at the meeting of 30th November 2012, to the effect that no weight would be given to MBRI submissions as they did not nominate a price per ML. I should point out that it is wrong to say that MBRI does not nominate a price. We have consistently held the view that the water should continue to be available at no price, that is zero dollars. The comment appears to be a pre-judgement that the outcome will not be as put forward by MBRI. That is, QCA officials appear to approach the question of pricing lacking the impartiality that a public decision maker should bring. This prejudicial approach is of grave concern to MBRI and its members.

As of 4th February we have not received the issues paper promised at the meeting of the 24th January 2013. We set out below our concerns about the outcomes from this meeting and what we consider is the oppressive approach taken by the QCA towards MBRI at that meeting.

We consider the opinion of QCA as to the continuing entitlements that MBRI lacks the necessary facts and research that would support a just outcome. In those circumstances no opinion should have been offered.

Our observations throughout the QCA presentation were that the data is not in fact cost reflective. The amounts removed from Seqwater estimates and financials seem to be directed towards meeting a predetermined figure, and appear to be based on arbitrary percentages, assumptions or judgements.

The percentages determined to apply in lieu of an HUF calculation are not based on the real facts about the use of the assets to provide the service, which in any case remains undefined at this stage. The infrastructure created at Wivenhoe and Somerset is grossly in excess of the needs for the current water supply and therefore operating costs are disproportionately high. Further, as discussed below, the infrastructure is irrelevant to MBRI members' access to and taking of water as a matter of historical fact.

The statement that there are no usage figures for irrigators in the central Brisbane is plainly wrong and demonstrates the failure of QCA to use the hard data that is available to inform decision-making. Logbooks have been provided since 2005, first to DERM and then to Seqwater. Those logbooks not only show the usage with hard data, but would demonstrate the unusual distortions in usage factors arising from 3 years of Section 25 restrictions, and two years of reconstruction following devastating floods. It would be an atrocious misuse of the QCA's considerable power to base part B costs on inappropriate usage guesses. When this Scheme returns to normality Seqwater would have a windfall at the expense of irrigators.

Central Brisbane WSS is so different from the other WSS in the South East, that to take an average of these schemes in establishing an appropriate tariff is misleading. It is certainly not cost reflective and has no relevance other than to try to match it to a set of massaged financials.

The extreme imbalance in the resources available to the MBRI compared to the resources available to Seqwater, QCA and SKM, makes the achievement of natural justice highly unlikely, and increases our concern as to the oppressiveness of this process. Our experience in the Flood Commission of 2011/12 indicates that SKM are already a long-standing consultant direct to Seqwater. Your statement at the meeting of 24th January that they had signed a document advising there was no conflict of interest is insufficient to allay our concerns.

The QCA's acceptance of the high costs of testing Wivenhoe Dam water seems to be based on irrelevant considerations. While we remain of the view that MBRI allocations are not at all dependant on, and do not use that infrastructure, the correct comparison would in any case not be Wivenhoe Dam's costs and specifications by the costs relating to dams solely for irrigation. We reject Wivenhoe-based costs as genuinely reflecting the costs associated with supply of water in the Scheme.

We understand that QCA consider the conditions of contract have no relevance to the price per ML recommended by the Authority. We see it as a pointless exercise to set a price where none has been previously required under the supply contract due to the Government's own acceptance of our pre-existing rights to that water on a zero price basis.

This is supported by the fact that there is no standard of service defined. Wivenhoe Dam was never constructed for irrigation purposes and prior to its construction, irrigators enjoyed similar rights to other such as Glamorganvale Water Board to draw water at no cost downstream of the junction of the Upper Brisbane River and Stanley River and from the creeks and base flows that also enter the river system all below Somerset dam.

A thorough investigation into our pre-existing rights is a vital to any consideration of pricing. The failure of QCA to undertake such an investigation by simply asserting it was not required under the referral notice, or that it was not known by QCA to currently exist, is in our view an abrogation of QCA's responsibility to make its decisions in light of all relevant facts. It has an oppressive effect on a small community organization like MBRI because it forces us to expend significant time and resources, and may result in MBRI having to undertake legal action to establish our rights.

MBRI remains of the firm view that nothing has changed since irrigators licenses were converted into allocations and they became customers of SEQWater as a result of the amendments to the Water Act applying from 2005. From the Explanatory Memorandum and Hansard it is clear that SEQWater was still subject to a statutory condition to supply up to 7,000ML pa to MBRI irrigators at no charge (but irrigators would have to pay the costs associated with installation of water meters). Nothing in the Moreton ROP changed that situation. Irrigators were deemed to have allocations years prior to that on the basis it was not to be charged as the pre-condition on SEQWater's own water allocation.

MBRI will also make further submissions to you about business viability, a matter we believe to be highly relevant to the pricing determinations. This has been highlighted by the recent massive increases in electricity tariffs and the resulting cost of pumping water.

The MBRI has specific detailed responses being prepared to meet the closing date of 11th March, including on the question of business viability and the impact of increases in electricity tariffs.

We consider it unjust that a small group such as MBRI has been forced to expend its scarce resources evaluating and challenging the publicly resourced findings of a major government agency that is, from our perspective, not acting impartially and not taking into account all relevant information.

Yours faithfully,

[redacted]

TOM WILKINSON
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