

Submission to
Queensland Competition Authority

In relation to

The Ministers' Referral Notice
Relating to recommending irrigation prices
to apply to irrigators in
Central Brisbane River water supply
scheme

JM Craigie,
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Introduction

The Queensland Competition Authority (the Authority) has been directed to recommend irrigation prices to apply to a number of identified SEQWater water supply schemes from 1 July to 30 June, including for irrigators in the Central Brisbane River water supply scheme.

Under the Ministers' Referral Notice¹, the Authority is not precluded from recommending that no irrigation charge be set for the Central Brisbane River scheme. SEQWater, in its submission acknowledges that its ability to charge is dependent upon no continuing legal obligation to provide water free of charge. In this regard, SEQWater notes it may be directed in relation to pricing matters, following a QCA investigation.²

Characteristics of the Central Brisbane River as a source for irrigation

The Central Brisbane River area stretches some 65 kms from below Wivenhoe Dam to Mt Crosby Weir. The flow in this part of the river is regulated, depending upon releases from Wivenhoe Dam. The catchment behind Wivenhoe Dam represents about half the catchment area of about 14,000 square kms and about half is below Wivenhoe Dam. Above Wivenhoe, the Stanley River catchment from Somerset Dam up represents about 22% of the combined catchment area and the Upper Brisbane about 78%.

Below Wivenhoe Dam the Lockyer Creek drains into the Brisbane River near Lowood. The Lockyer catchment accounts for about 21% of the Brisbane River catchment. Its major tributaries include the Laidley, Tenthill, Ma Ma and Buaraba creeks, which account for roughly half of the Lockyer Creek catchment. The Central Brisbane River catchment accounts for about 4% of the Brisbane River catchment. Its major tributaries besides Lockyer Creek include Banks Creek, Black Snake Creek, Branch Creek, Cabbage Tree Creek, England Creek and Sandy Creek. The stream network is 1,135km.³

The catchments behind Wivenhoe Dam do not control 100% of the water available to irrigators. The catchments behind Wivenhoe Dam represent 67% of the total catchments available. Tributaries downstream of Wivenhoe also provide inflows into the Central Brisbane River that are available for irrigation. These inflows are also part of the regulated supplies available.

¹ See Ministers' Referral Notice under section 23 of the Queensland Competition Authority Act 1997, QGG 2 January 2012 at page 16.

² See SEQWater, *2013-2014 Irrigation pricing submission to the Queensland Competition Authority*, at page 60.

³ SEQ Healthy Waterways Partnership, <http://www.healthywaterways.org/EcosystemHealthMonitoringProgram/2010ReportCardResults/CatchmentResults/WesternCatchments/MidBrisbaneRiverCatchment.aspx>

Catchment	Area km2	Stream network length	% of Area	% Stream network
Stanley	1535	3281	10.93	11.21
Upper Brisbane	5493	11368	39.13	38.85
Lockyer	2974	6056	21.19	20.70
Mid Brisbane	552	1135	3.93	3.88
Bremer	2031	4425	14.47	15.12
Lower Brisbane	1195	2475	8.51	8.46
Oxley	258	522	1.84	1.78
Total	14038	29262		

Source: SEQ Healthy Waterways Partnership

There are 131 irrigators in the Central Brisbane River who hold in aggregate an allocation of 6,771 ML. Whilst 6,771 ML may sound like a lot of water, it is equivalent to an annual average flow rate of just 0.21 of a cubic metre per second. By way of comparison, during the peak of the January 2011 floods Wivenhoe dam released in excess of 4,700 cubic metres per second and the peak flow in the river was assessed at points to be well in excess of that flow rate.

History of Water Pricing

Historically, the Queensland Government has consistently refused to grant requests to charge Central Brisbane River irrigators for water abstraction. A key factor in this policy determination was the absence of a level of service to irrigators that would warrant the imposition of charges. The history was set out in a submission by Mr Mathews dated 27 April 1981. Set out below are some of the points –

- Somerset Dam was constructed under the provisions of Section 6C of the Bureau of Industry Act. The purposes for which the dam was constructed are stated in that section – “For the purposes of ensuring an adequate storage for the supply of water to the City of Brisbane and the City of Ipswich, and for the further purpose of preventing as far as may be destruction by flood waters in or about the said cities.” The provision of water for irrigation was not a purpose for which the dam was built.
- The Act for the construction of Wivenhoe Dam does refer to water storage amongst other things but does not refer to storage for irrigation and neither the Premier’s speech introducing it in Parliament nor any other speeches made in relation to the Bill make any reference to the need for water for irrigation.
- The financial responsibility for the construction of Somerset Dam was divided between the Government, the Brisbane City Council and the Ipswich City Council with the Brisbane City Council being responsible for the major part.

- In 1959 the responsibility for its control and maintenance passed to the Brisbane City Council with the Council absorbing most of the costs and the Ipswich City Council picking up the balance. Immediately after control was vested, the Brisbane City Council applied to the Government for the right to meter all irrigators between the dam and Mt Crosby Weir. The application was refused. At no time between 1943 when the dam was operational and 1959 were irrigators called upon to contribute to the operational costs of the dam. There were further requests but on each occasion they were refused. There had always been ample water for irrigation in the lower reaches of the river and that Somerset Dam had not been intended to improve and in fact had not improved the position of irrigators. This was so even in droughts prior to Somerset coming on stream as irrigators could access large lagoons in the river after flow to Mt Crosby Weir had stopped.
- Without any consultation with irrigators the Minister for Water resources proposed in 1980 that in future all irrigators on the Brisbane River below Wivenhoe should be metered and charged \$4 per megalitre for water. This involved asking the Government to rescind a decision made about 1973 that no such charges should be levied by the Brisbane City Council on irrigators.
- In February 1981 the Water Resources Commission wrote to the irrigators concerned inferring that the justification for the charge is the fact that the two dams make water available to irrigators. There was no justification for the inference as there had been ample water for irrigation before the dams were built and the dams were never built for irrigation purposes. It was completely contrary to the decisions the Government had made on more than one occasion from 1959 that irrigators along the river were not to be charged for using water, even though it may have been released from the dam.
- It was submitted in 1981 that the Central Brisbane River was one of the few areas where there is sufficient water for irrigation without the need for any artificial supplement. The immediate effect of a charge would be to wipe a substantial amount off the value of these properties because a property with a right to irrigate from a river without charges is worth more than the same property with charges. Farms purchase since 1959 were bought with an apparently established fact that irrigation licences did not carry a condition that the water charges were payable and that right must have been a component of that price.
- The request to rescind the decision to meter irrigation pumps and impose charges was granted. In 1981 Cabinet, in deciding not to charge irrigators decided to fix the amount of water abstraction by them to 7,000ML which was considered sufficient to irrigate up to 1,000 ha of land within the area via area based licensing. Beyond that limit irrigators were not entitled to free water.
- In July 1999 a consultation document "Converting the South East

Queensland Water Board into a Joint State/Local Government Owned Company” was circulated to key stakeholder groups, including irrigators. The document states:

There are currently a number of irrigators in the Brisbane River system who receive approximately 7,000ML of water on the basis that these arrangements existed prior to the construction of Wivenhoe Dam. That is, it formed part of their riparian rights. It is envisaged riparian rights will continue under the new SEQWCo structure, as with any other water industry company. It is anticipated the allocation of 7,000ML of water will continue as a condition of the license to be granted to SEQWCo.⁴

- In 2002 the Water (Transitional) Amendment Regulation was promulgated and confirmed the policy decision of the Government under the discussion paper that under the new South East Queensland Water Corporation Limited structure that it must make available free of charge:

(a) a sufficient volume of water, but not more than 7 000 ML a year, to meet the rights to water of licensees authorised under licences issued under part 4 of the repealed Act to take water for irrigation purposes from the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir.⁵

- Since then there has been no consideration of charging for water from the 131 irrigators in the Central Brisbane River reach until now.

Current Situation

In its submission, SEQWater acknowledges that Central Brisbane River irrigators have not been charged for the water abstraction from the river. However, SEQWater considers that this practice of providing free water expired on 7 December 2009, the day being that:

- The Moreton ROP commenced in accordance with the provisions of the Water Act 2000; and
- SEQWater became the holder of a Resource Operations Licence for the Central Brisbane River water supply scheme.

SEQWater submits in its submission⁶ that upon the commencement of the ROP, the irrigators’ historical entitlements were converted into the allocations or other entitlements stated in the ROP. It was submitted that the provisions of the Water Act 2000 then took effect so that the conditions of supply of the allocated water managed under the ROL for the Central Brisbane River WSS were those provided for under a supply scheme contract for the relevant allocation. This

⁴ See *Converting the South East Queensland Water Board into a Joint State/Local Government Owned Company*, at page 11.

⁵ See *Water(Transitional) Amendment Regulation(No 1) 2002*.

⁶ See *SEQWater, 2013-2014 Irrigation pricing submission to the Queensland Competition Authority*, at page 60.

standard supply contract sets out the terms under which a customer is to pay water charges to SEQWater as the ROL holder.

SEQWater submits, *“this provides a legal mechanism for SEQWater to set charges, or for a regulatory decision to be applied, assuming there is no continuing legal obligation to provide water free of charge.”* This was on the basis that SEQWater can be directed in relation to pricing matters, following a QCA investigation.⁷

However, there is obligation on SEQWater in the 2002 Regulation to provide free of charge *a sufficient volume of water, but not more than 7 000 ML a year, to meet the rights to water of licensees **authorised under licences issued under part 4 of the repealed Act** to take water for irrigation purposes from the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir.* [Emphasis added]

It is submitted that the obligation on SEQWater under the 2002 Regulation is not extinguished by the creation of the Standard Supply Contract that was approved by Debra-Lee Best as a delegate of the chief executive of DERM. The obligation on SEQWater under the regulation prevails to the extent that there is an inconsistency between it and the wording in the Standard Supply Agreement to that class of current allocation holders who were, prior to the conversion, a licensee authorised under licences issued under part 4 of the repealed Act to take water for irrigation purposes from the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir. The obligation imposed on SEQWater would not apply where the current holder was not previously a licensee authorised under licences issued under part 4 of the repealed Act to take water for irrigation purposes from the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir.

This does not mean that the Standard Supply Contract is invalid. It just means that the Water Charge is zero for those customers who can establish they were licensees authorised under licences issued under part 4 of the repealed Act to take water for irrigation purposes from the Brisbane River between the Wivenhoe Dam and Mt Crosby Weir.

It is recommended that the Authority make no recommendations on water pricing for those existing customers who were licensees authorised under licences issued under part 4 of the repealed Act. For this group of holders, SEQWater must provide free of charge a sufficient allocation of water to meet their prior licence needs.

Standard Supply Contract

The existence of this Standard Supply Contract is something new to Central Brisbane River irrigators and has come to their attention only through the SEQWater submission to the Authority. Under section 122A of the Water Act 2000, the Chief Executive may approve standard supply contract for an area for the storage and delivery by resource operations licence holders of water under

⁷ Ibid, at page 60.

water allocations. Under section 122A(4) on the day an allocation is granted the standard contract applies to an allocation unless the allocation holder and the resource operations license holder have entered into a supply contract for the allocation. Under section 122A(5) the parties to a supply contract must review the contract within 1 year after the day the contract takes effect. If the contract has not been brought to the attention of irrigators then how can section 122A(5) be complied with?

The standard supply agreement is in substance a default agreement in the event the parties have not entered into a contract of supply. It commences on the commencement date and ends on the day that the agreement is terminated in accordance with the provisions of the agreement. Under clause 21.1 the ROL Holder may terminate the agreement on any of the following grounds:

- a. The Customer (being a natural person) has become bankrupt;
- b. The Customer (being a corporation) has become insolvent; and
- c. The customer breaches a provision of the agreement and has not remedied that breach within a reasonable period.

Where the agreement is terminated as a consequence of a breach, the customer must pay the Termination Amount. Under clause 21.3 the Termination Amount is intended to represent a reasonable assessment of the loss of future profit, increased average operating costs, proportionate share of ongoing fixed costs and decommissioning costs likely to be incurred by the ROL Holder for the works having regard to the quantities of water supplied. The ROL Holder reserves the right to undertake a formal assessment of the Termination Amount at the cost of the customer. The Termination Amount means an amount that represents the Net present Value Rate of the Fixed charges and Consumption charges which would have been payable on the assumption that the customer took the whole of the allocation for a period of ten years after the date of termination (where the customer has an interest in a water entitlement) plus the unexpired term of any Additional Contract entered into.

This standard supply contract is one that would typically apply to an irrigation supply scheme where infrastructure works has been specifically built in whole or part for its irrigation customers and the loss of one or more customers through default creates a revenue void to pay for the capital installation costs of the works. In order to avoid the risk of revenue loss falling to the ROL Holder, the inclusion of a clause covering a Termination Amount provides a mechanism to partly recover scheme costs over a period of ten years from the date of that default. The relevance of this and many of the provisions in the Standard Supply Contract are lost with the Central Brisbane River irrigators as there is no infrastructure constructed specifically to benefit them.

SEQWater bears no risks in the event a Central Brisbane River irrigator defaults on the standard supply contract for the following reasons:

1. The history above shows that the dams were never specifically built with the purpose or function of supplying irrigation water to Central Brisbane River irrigators.

2. There are no financial consequences to SEQWater at present under the Standard Supply Contract as no meters and no water charges have ever been applied.
3. The unused water continues to be available in future for domestic water holders if stored in Wivenhoe Dam.

Is this really appropriate for Central Brisbane River irrigators, who have riparian rights, to pay the Termination Amount representing the net present value of ten years of charges and loss of profits if there is a default and termination of a deemed Standard Supply Contract?

On the day water allocations were granted to the 131 irrigators, these irrigators may apply to amend, transfer, lease or deal with the allocation in whole or part. Since water allocations have become property there has been very little dealing in them despite a number of allocation holders not actually using in whole or part their allocations. These unused allocations are referred to as “dozers” and “sleepers”.⁸ The Queensland Water Commission in its South East Queensland Water Strategy said:

There are a range of reasons why allocations are not being used – for example, some farms that were previously irrigated are now used for less intensive activities. The reasons for these types of changes range from water not being available during the drought to the land having been purchased by hobby farmers.

The QWC has received feedback from some irrigators that these entitlements do not match their business needs. For example, some irrigators have explained that major purchasers are increasingly requiring certainty of supply over a number of years. The irrigators have expressed concern that they cannot match these demands under their existing allocations. Some other irrigators have expressed concern that they often do not receive most of their announced allocations until after the planting season.

As water resource plans are progressively implemented in SEQ, water trading is likely to provide opportunities for expanding production through the movement of under-utilised existing water entitlements. The QWC, with the Department of Environment and Resource Management, will investigate options to facilitate trading in key areas as identified through the rural water advisory group.⁹

There is low awareness amongst many who hold entitlements about trading judging by the lack of transactions for renting out or selling allocations to-date. It is not known whether options to facilitate trading have been identified and a solution found.

The Authority would be aware of the difficulties in promoting and getting

⁸ See Water Commission, South East Queensland Water Strategy, at page 125.

⁹ Ibid.

holders of allocations to attend meetings. Very few irrigators attended the consultation meetings recently held by the Authority. There are many reasons for this, including the extent to which the Authority was able to contact individual water allocation holders and advise them about the meetings and its importance. Some time is needed to ensure holders are adequately informed about the market for trading allocations and the consequences of retaining dozers and sleepers under any future water-charging regime.

In addition, at present it is just not known the extent to which there is a market by irrigators for these tradable water allocations. What is the level of supply of sleepers and dozers and smaller allocations and is the demand for allocations sufficient to absorb them? Those that have small allocations, and it is noted that one holder has an allocation of just 1ML, and those that have no intention to utilize in part or full, may be motivated to dispose of their allocations when the time comes to avoid paying the installation costs of a meter. If the demand is not sufficient then under the standard supply contract the holder of dozers and sleepers and small allocations have two options:

1. Pay the water charges, including the cost of installing a meter, for the term of the standard supply contract which continues until the dozer and sleeper allocations are disposed of;¹⁰
2. Default on paying the charge. This then entitles SEQWater to terminate the contract and seek a Termination Amount representing the net present value of ten years of costs and loss of profits to SEQWater.¹¹

It is recommended that any fixed water charge pricing not be introduced from 2013 for the following reasons:

- 1. a market to facilitate trading in water allocations has not yet been properly established;**
- 2. an assessment of its potential liquidity needs to be undertaken to ensure there is a market for holders of sleepers and dozers to dispose of their entitlements in order to avoid a Termination Amount being applied on payment default;**
- 3. the holders of allocations have not been briefed about the implications of holding allocations under a Standard Supply Contract. Many are completely unaware of the content of the Standard Supply Contract or their rights to review the deemed contract; and**
- 4. an adequate amount of time is needed to enable under-utilised allocations and small allocations to be disposed of without significantly depressing the market price for such allocations.**

¹⁰ See clause 10.4 of the Standard Supply Contract.

¹¹ See clauses 21.2 and 21.3 and the definition of Termination Payment in clause 27.1

Water Pricing

For those holders who cannot benefit from the 2002 Regulation, they may have to pay water charges pursuant to the Standard Supply Contract based upon assessments by SEQWater and recommendations by the Authority.

Clause 11.3 of the Standard Supply Contract essentially provides that in determining the charges, SEQWater must act reasonably and have regard to any criteria which would be taken into consideration under any statutory regime for prices oversight from time to time applying in Queensland. The charges shall be final and binding on the parties unless the same is manifestly unreasonable having regard to the criteria which would be taken into account under any statutory regime for prices oversight.

Clause 9.1 provides that the customer must pay to the ROL Holder:

- a. Water Charges for the Release Services;
- b. For services referred to in clause 8(a) to 8(d) [connection services, disconnection services, extra meter reading services and meter testing services];
- c. For the services referred to in clause 8(e)[further services].

Release Services is defined to mean the services described in clause 3. Clause 3 describes the service as the release of water from the ROL Holder Works as the ROL Holder reasonably estimates will satisfy the likely demand of the customer from time to time.

Under the Ministers' Referral Notice¹², the Authority is directed under section 24 of the Queensland Competition Authority Act 1977 to provide a revenue stream that allows SEQWater to recover, inter alia:

- i) *efficient operational, maintenance and administrative costs to ensure the continuing delivery of water services;*
For the removal of doubt, costs include, but are not limited to:
 - *electricity costs;*
 - *recreation management costs;*
 - *compliance with workplace, health and safety; and*
 - *compliance with Australian and Queensland Government initiatives on water management, planning, trading, accounting, metering and measurement.*

Importantly under the Ministers' Referral Notice the Authority is to recommend irrigation prices for those irrigators that are part of the Central Brisbane River water supply scheme and in doing so to have regard to the level of service provided by SEQWater to them.

The scheme under the Standard Supply Contract and the Referral Notice to the Authority provides safeguards to ensure that there is a sufficient connection

¹² See Ministers' Referral Notice under section 23 of the Queensland Competition Authority Act 1997, QGG 2 January 2012 at page 16.

between the quantum of the water charge to apply and the service provided to the customer. If the quantum was out of all proportions to the service provided and resulted in market failure in the tradability of water allocations then in substance rather than form, its holder is compelled to pay the charge to avoid default and the imposition of a Termination Amount. Given these safeguards, it is unnecessary to consider and review the application of recent High Court decisions including Queanbeyan City Council v ACTTEW Corporation Ltd.¹³

SEQWater in its submissions has chosen to include in a pool of forecast costs over the period which relate directly and indirectly to, inter alia:

- High Class A Priority and medium priority allocations from the Central Brisbane River area from Wivenhoe Dam to Mt Crosby Weir;
- the operations of Somerset and Wivenhoe dams including their other purposes, for example, flood mitigation, recreation, etc.
- the operations of the Flood Control Centre;
- various compliance costs in addition to workplace, health and safety;
- non-infrastructure assets, insurance and working capital needs;
- head office costs relating to the above activities.

SEQWater then allocated a proportion of these costs to the medium priority users as set out in its submission. Presumably the costs not allocated apply to the Water Grid Manager for High Class A priority water allocations for domestic water provision to the Cities of Brisbane and Ipswich and others.

The medium priority users not only include the 131 irrigators but also allocations to Somerset Regional Council; Ipswich City Council, Glenmorgan Vale Water Board, Lowood Golf Club and SEQWater. It is not known the extent to which these other medium priority holders are irrigators and have riparian rights similar to the 131 irrigators. It is also noted that under section 122 of the Water Act 2000 the Standard Supply Contract does not apply if the resource operations holder and the allocation holder are the same person or entity.

It is not possible, based upon the information in the SEQWater submission, to undertake an assessment of what costs actually apply to the service of meeting the 131 irrigators' water needs. Rather than attempt to identify all the concerns arising from the SEQWater approach, Appendix A provides by way of an example some concerns with the inclusion of costs associated with Somerset Dam.

It is recommended that a closer investigation be undertaken to identify the extent to which there are actual direct and indirect costs incurred by SEQWater in the provision of water to the 131 irrigators in the Central Brisbane River scheme and that irrigators be given an opportunity to review and comment upon them.

¹³ [2011] HCA 40.

Inclusion of Somerset Costs

For the purposes of determining the costs of providing water to Central Brisbane River irrigators, SEQWater has proposed that the costs relating to Somerset Dam be included:

The Referral Notice requires the QCA to set prices for the Central Brisbane River WSS. SEQWater has assumed that this is to include the assets contained in the Stanley River WSS (Somerset Dam), on the basis that these two WSSs are managed together. For example, the storage volume of Wivenhoe Dam and Somerset Dam are included in the water sharing rules for medium priority WAE in the Moreton ROP.¹⁴

The Referral Notice directs “the Queensland Competition Authority (the Authority) to recommend irrigation prices to apply to the following Queensland Bulk Water Supply Authority (SEQWater) water supply schemes (WSS) from 1 July 2013 to 30 June 2017 (the price path period): ...vii. Central Brisbane River.” There is no reference to the Stanley River water supply scheme in the Referral Notice and the matters that the Authority must take into consideration are matters specifically pertaining to the provision of irrigation to those included in the Central Brisbane River water supply scheme.

It would be unfair and unreasonable to include costs associated with the operation of Somerset Dam in recommending irrigation prices to apply to irrigators in the Central Brisbane River water supply scheme for the following reasons:

1. The Central Brisbane River water supply scheme consists of the full supply level of the impoundment of Wivenhoe Dam and the Brisbane River downstream of Wivenhoe dam to Mt Crosby Weir, of which, irrigation allocations represent a very small part of the scheme. The Stanley River water supply scheme consists of the full supply level of the impoundment of Somerset Dam on the Stanley River and the Stanley River and its sub catchment area upstream of the Stanley River water supply scheme.
2. Somerset is outside the Central Brisbane River water supply scheme just as all other schemes whose water may eventually flow into the mid Brisbane River water supply scheme area or Wivenhoe Dam, including, for example, Lockyer, Perseverance and Cressbrook.
3. Costs associated with the operation of the Somerset Dam up to the full supply level of its impoundment of 379,850ML have nothing to do with the provision of irrigation water to irrigators in the Central Brisbane River scheme.

¹⁴ See SEQWater, *2013-2014 Irrigation pricing submission to the Queensland Competition Authority*, at page 28.

- a. The Dam was constructed under section 6C of the Bureau of Industry Act. The purposes for which the dam was built are stated in that section as *“For the purpose of ensuring an adequate storage for the supply of water to the City of Brisbane and the City of Ipswich, and for further purposes of prevention as far as may be destruction by flood waters is or about the said cities.”*
 - b. The provision of water for irrigation was not a purpose for which the dam was built.
 - c. Its inclusion would represent an unfair and unnecessary duplication having regard to the location and size of the allocations to Central Brisbane River irrigators. The 131 irrigators have in total 6,771 ML of water abstraction rights per annum under the Central Brisbane River Scheme. This represents 0.44 of one percentage of the combined full supply storages of both Somerset and Wivenhoe of 1,545,050ML.
 - d. The allocation of 6,771 ML to irrigators is important to them but insignificant in the scheme of things. This allocation represents an average base flow of about 0.22 cubic metres of water per second which would represent an insignificant flow that would be capable of being met without requiring Somerset Dam to be constructed for irrigation purposes.
 - e. Whilst the storage volume of Wivenhoe Dam and Somerset Dam are included in the water sharing rules for medium priority WSS in the Moreton ROP it is there merely as a mechanism during a prolonged drought to restrict the amount of water that irrigators can take, irrespective of the inflow contributions of tributaries below Wivenhoe Dam. It is a mechanism to ensure priority is given to High Class A priority allocations:
 - i. Prior to the construction of the dams water would stop flowing to Mt Crosby weir during drought periods but that did not preclude irrigators from accessing lagoons along the length of the river. Now irrigators are subjected to this mechanism to limit access to water.
 - ii. The Central Brisbane River water supply scheme by definition does not include other water schemes such as for Perseverance, Cressbrook and Lockyer so why should it include Somerset?
4. Costs associated with the operation of the Somerset Dam for flood mitigation purposes are irrelevant to the provision of irrigation to Central Brisbane River Irrigators (just as they are for Wivenhoe Dam):
- a. The beneficiaries of any flood mitigation operations are all the communities below the dam including the Cities of Brisbane and

Ipswich and adjacent towns and communities. Water pricing through the WGM for the Cities of Brisbane and Ipswich provides a means for SEQWater to recover these costs from those communities that stand to benefit from undertaking that activity.

- b. In any event costs and renewals associated with the repair and maintenance of the crest gates on Somerset Dam should not be allowed as these gates are never used to temporarily hold back the stated 524,000ML flood storage compartment:
 - i. A review of the Manual of Operations reveals that there is a prescribed procedure for opening and closing the radial gates on Wivenhoe during a flood. There is no procedure outlined for closing the crest radial gates on Somerset during a flood. The only references relate to ensuring that when a flood is declared the crest gates on Somerset must be completely raised open, that is, to allow water to spill over the bottom of the crest gate spillways in an unregulated way.
 - ii. Somerset is essentially a weir to store full supply level allocation with sluice gates at the bottom of the dam to allow larger releases of water into Wivenhoe dam during periods of flood so that the dams can be operated in tandem during flood events.
- c. There is nothing in the Ministers' Referral Notice to the Queensland Competition Authority that specifies or authorizes that a share of these costs should be included when recommending irrigation prices to apply to Central Brisbane irrigators.

A similar approach could be outlined in respect to other costs beyond Somerset being included in an assessment of determining irrigation prices to be recommended to apply to Central Brisbane River Irrigators.