



Melbourne Water Charges - Alison Joseph (+  
response to Melbourne water's Water Plan 2013)  
Alison Joseph to: water, Ron.Ben-David

18/12/2012 11:55 AM

History:

This message has been replied to.

Dear ESC

Please find attached some questions in regards to Melbourne Water's "Waterway" charges and response to some issues raised by Melbourne Water's 2013 Water Plan.

I have done considerable research in regards to "Metropolitan drainage", "Special Drainage/precept" and "waterway" charges. I think some urgent clarification in regards to these charges, and Melbourne Water's legislative authority to impose them, is required.

Unfortunately, I believe everyone (the ESC included) relies on Melbourne Water to ensure that their charges are imposed according to law and applied to only those areas that genuinely receive services.

I believe the ESC needs to take a much closer look at the validity of the "waterway" charge.

It is my understanding that the merger between the Port Philip CMA and Melbourne Water, proposed (but never implemented) by the former government, is not now proceeding. Why then is Melbourne Water charging for "Catchment management" services? Melbourne Water's "conservation" functions could not have been "extended" in November 2005 as it does not have conservation functions in Melbourne - DSE (and Parks Victoria as a delegated land manager) has responsibility for conservation of "waterways land" - see s153 and s175A of the Water Industry Act!!

Yours sincerely

Alison Joseph



- MELBOURNE WATER CHARGES.pdf



- Order Nov 2005 and map Legl 05 406.pdf



MW Board 2005 risk assessment letters.pdf  
Review ESC.ppt



- Alison Joseph presentation Patterson Lakes



## MELBOURNE WATER CHARGES IN THE “EXTENDED AREA”

Melbourne Water makes the following claims in regards to the “waterways” charge in the extended area:

- I. **That the charge was the result of an extension to Melbourne Water's area of operations (the “metropolis”) under s3 of the MMBW Act implemented by an Order in Council of November 2005. Melbourne Water maintains that it was this Order alone that provided its new powers, and that these were not the result of any changes to the Water Act introduced by the Water (Governance) Act 2006. It also claims that this Order gave it “Whole of Catchment Responsibilities”.**

For example, in September 2006 (prior to the assent of the Water Governance Act 2006), Melbourne Water published a document entitled “Extension of Waterway Services Progress Report Upper Maribyrnong Catchment” in which it stated:

*The Victorian Government's Our Water Our Future action plan designated Melbourne Water as caretaker of river health and the authority responsible for regional drainage, waterways and floodplain management for the Port Phillip and Westernport region. This led to the extension of Melbourne Water's waterways boundary by more than 5,000 square kilometres in November 2005, allowing Melbourne Water to take a whole-of-region approach to managing waterways, regional drainage infrastructure and flood protection, and bring about longterm improvements to the condition of rivers in the catchment*

The Order of November 2005 and the map referred to is attached. The Order could not have done what Melbourne Water claimed. It could not have given it responsibility for all waterways in an extended area (and the Order does not even have the intention of doing this). The waterways in the “extended” area, include temporarily an permanently reserved crown land, private land, National Parks, Heritage rivers, State parks, waterways under the control of various authorities etc. Such a “blanket” order could not transfer responsibilities for all this land, and it is also contrary to numerous Acts of parliament (eg Crown Land (reserves) Act, Heritage Rivers Act, Water Industry Act, Conservation, Forest and Lands act etc). A subordinate instrument under s 3 of the MMBW Act could not over ride Acts of Parliament. Other than potentially vest a few drains in Melbourne Water, the Order had no effect (the power to vest land previously contained in s271 of Part X of the MMBW Act had also been removed prior to 2005).

The Order of November 2005 could not have given Melbourne Water “whole of catchment responsibilities”, endorsed the imposition of additional fees, nor transferred control of Crown land. An extension to Melbourne Water's “drainage boundary” would have required a drainage license to be issued under the provisions of the Water Industry Act, while any extension to its Waterway Management District would have required

notice and an Order under the provisions of the Water Act. As such, an Order under s3 of the MMBW Act could not extend Melbourne Water's drainage or waterways boundary.

It should also be noted that the Order was prepared by Melbourne Water itself and then sent to the Governor and the Minister for Water (not the Minister for Conservation). There was no explanation as to the purpose of the Order accompanying the letter to the Governor (see attached Board briefing and letters to the Minister and Governor).

The map of the "extended metropolis" (Legl/05-406) was then incorporate into the Water Act as Melbourne Waters "Existing Waterways and Drainage Boundary" (which it wasn't). The map was never laid before Parliament.

**II. That the charge is the same charge paid in Melbourne since the 1920's ie a "Metropolitan Drainage Charge". Melbourne Water claims the Order in Council of November 2005 just extending the application of this existing charge to a wider area. See:**

[http://www.melbournewater.com.au/content/library/rivers\\_and\\_creeks/our\\_role/waterways\\_charge\\_pdf/frequently\\_asked\\_questions\\_-\\_waterways\\_and\\_drainage\\_charge.pdf](http://www.melbournewater.com.au/content/library/rivers_and_creeks/our_role/waterways_charge_pdf/frequently_asked_questions_-_waterways_and_drainage_charge.pdf)

*The Waterways and Drainage Charge provides funding for a wide range of programs to improve the quality of our waterways, manage drainage, and develop and maintain flood protection and warning systems throughout the Port Phillip and Westernport region. It is a charge for all property owners within our Waterways Management District. About 1.6 million residential property owners currently pay the Waterways and Drainage Charge, which has existed since the 1920s (it was previously called the Drainage Rate).*

Melbourne water claimed in 2008 that it was just extending its existing charges to new areas due to the extension to its operating area brought about by the Order of November 2005 (supported by the fact that the services under the WIRO had remain unchanged since 2003). There were, however, only 2 relevant charges under the MMBW Act prior to the introduction of the Water (governance) Act 2006. These were:

- 1) **A metropolitan drainage charge.** This was a charge that was first imposed in the 1920's. This had been later imposed (in the 1990's) under Part X s281 of the MMBW Act This was a charge for the construction and maintenance of storm water drains.
- 2) **A special drainage charge:** This was a special charge imposed in the waterway management districts of former authorities under the control of Melbourne Water as successor in law to these authorities (eg Patterson Lakes and Koo Wee Rup areas being the Districts of the former Dandenong Valley and Western Port Authority and Rural water Corporation respectively). This had been imposed under Part X s281A of the MMBW Act. This is the "precept" charge levied in Patterson Lakes. The "special area" charges were for the maintenance of levee

banks and specialized drainage and flood protection. This appears equivalent to a “waterways” charge, a charge levied for the maintenance of levee banks and flood protection in waterway management districts of authorities, see the second reading speech of the Water (Waterway Management Tariff) Bill 1999 ( a Bill which prohibited the setting of fees for “waterway” services by CMAs):

25 November 1999 ASSEMBLY

## **WATER (WATERWAY MANAGEMENT TARIFFS) BILL**

### **Second reading**

Ms GARBUTT (Minister for Environment and Conservation) -- I move:

That this bill be now read a second time.

Catchment management authorities were formally established in 1998, when the Water Act 1989 and the Catchment and Land Protection Act 1994 were amended to combine the roles of existing catchment and land protection boards and waterway management authorities. Catchment and land protection boards were regionally based advisory bodies that made recommendations on land management issues such as erosion control and weed management.

Waterway management authorities were authorities established under part 10 of the Water Act and provided services such as building and management of levee banks and the management of drainage schemes.

The Dandenong Valley and Western Port Authority had imposed their “special drainage” charge under Part 10 of the Water Act. Attached is a recent presentation I gave to the Patterson Lakes Review explaining the history of this charge. Melbourne Water’s responsibilities (drainage, floodplain management, and waterway management) are no different to those the DV&WPA had under the Water Act in 1990. As such, it is totally unclear why Melbourne Water would be imposing fees for levee bank maintenance and flood protection, in areas which are not declared flood protection zones and which receive no drainage services whatsoever (eg Macedon Ranges). Perhaps the ESC could explain this?

I note the ESC recent advice to me that:

It is our understanding the term "metropolitan waterways and drainage services" used in the 2012 WIRO, and the term "metropolitan drainage services" used in the 2003 WIRO, accordingly refer to one and the same services (i.e. the scope of services anticipated under the 2003 WIRO definition and the 2012 WIRO definition has not changed in any way).

Under the Melbourne and Metropolitan Water Wastewater and Drainage Services Pricing Order 2001 (published in the Government Gazette on 26 July 2006), a “drainage fee” was defined as:

**“drainage fee” means a fee imposed by Melbourne Water under a tariff under section 280 of the Melbourne and Metropolitan Board of Works Act 1958”**

(a definition which appears to have remained in force until June 2005 – see Melbourne Metropolitan Water, Wastewater and Drainage Services Pricing (Further Amendment) Order 2004 - G 40 30 September 2004).

My understanding is that under the WIRO (2003) the ESC was only able to set fees for “Metropolitan Drainage Service” defined under Part X of the MMBW Act. The ESC has provided advice that this power remains unchanged (and that a “waterway and Drainage

charge under Part 10 of the Water Act is the same charge). Given that the ESC is responsible for the regulation of the industry, and under the WIRO (2012) (and prior documents) required to prevent monopolistic rent seeking, there appears little point in setting prices for services, when the ESC has no understanding of what those services actually entail, their legislative basis, and where they will be applied. The imposition of fees for services that have no legislative authority, or which are imposed on properties that receive no services, provides ample scope for monopolistic rent seeking. In addition, the ESC has power to set prices for “goods and services” provided and not for taxes (as defined in *Air Caledonie v Commonwealth* (1988) 165 CLR 462).

Can the ESC therefore please inform me:

- 1) What specific services are actually provided by “waterway” services?
- 2) What charge imposed under Part X of the MMBW Act correlates with the current “waterway:” charge.
- 3) What is the legislative basis for the charge?

I also wish to raise my concerns in regard to the lack of information contained in Melbourne Water's Water Plan, and in particular the types of services that it will provide for “waterway” fees. It also does not appear to have provided any detail costings of these services. It is my understanding that the “river health initiatives” for which Melbourne Water is attempting to impose charges, is an obligation of the State Government under COAG National Water Initiatives. My understanding is that such work does not fall within “waterways management” services. This is an obligation of the government and a “public good” for which Melbourne Water does not have the power to impose fees, and for which the ESC has no power to set prices. These are not fees for “goods and services provided by or in the regulated industry”.

In addition, I believe Melbourne Water claims that the giving of money to private landowners for work on private land is a “waterway” service for which it can impose fees. I am concerned both at the lack of accountability associated with these “gifts” (ie Melbourne Water does not publish a list of the recipients of these funds), and the legislative basis by which Melbourne Water claims this is a “service” to other landowners. Can the ESC please explain the legislative basis on which Melbourne Water can provide grant to councils, community groups and private individuals and then claim these are “direct services” which benefit properties unrelated to the work carried out? For example, it is my understanding that the entering into agreements with private landowners for work on private land is a non-delegatable power of the Secretary for Conservation under the Conservation Forest and Lands Act, and not a function of Melbourne Water under the Water Act.

Finally I wish to raise my concerns with the ESC in regards to Melbourne Water's claims that customer surveys it has conducted shows support for increases in waterway charges. I believe the design of the surveys are deeply flawed and do not support the claims made by Melbourne Water. In particular, I believe the questions which relate percentage improvements in “river health” and “bay health” to percentage changes in waterway

charges are not based on any scientifically established relationship between these variables. My understanding is the questions' format is based purely on Melbourne Water's own unsubstantiated claims and "aspirational" targets. As such, the basis of the questions put to participants in the survey appears little more than fiction. Furthermore, I believe bay health has actually remained unaltered or declined over the last 4 years, a period in which the waterways charge has increased. As such, it is very likely that the relationship between the variables hypothesized by Melbourne Water has been disproved. This would imply that the questions have been asked on the basis of a totally false premise. Both the questions and the conclusions drawn from them are therefore invalid.

Yours sincerely

Alison Joseph BSc Hon (Psych) MBA







# Victoria Government Gazette

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## Melbourne and Metropolitan Board of Works Act 1958 INCLUDING LAND WITHIN THE METROPOLIS AND EXCISING LAND FROM THE METROPOLIS

Metropolitan Drainage and Waterways  
Order in Council

The Governor in Council, on the application of Melbourne Water Corporation—

- (1) under section 3(3)(a) of the **Melbourne and Metropolitan Board of Works Act 1958** (the Act), **INCLUDES** within the metropolis all the land shown as shaded in light red on plan numbers LEGL./05–406 to LEGL./05–457 lodged in the Central Plan Office of the Department of Sustainability and Environment;
- (2) under section 3(3)(b) of the Act, **EXCISES** from the metropolis all the land shown as shaded in light blue on plan numbers LEGL./05–406 to LEGL./05–457 lodged in the Central Plan Office of the Department of Sustainability and Environment;
- (3) under section 3(5)(a)(i) of the Act, consequent on the extension in clause (1) of this Order, **SPECIFIES** that only the provisions of Part X of the Act shall apply to the land so included in the metropolis;
- (4) under section 3(6)(a) of the Act, consequent on the extension in clause (1) of this Order, **TRANSFERS** all works and property described in the Schedule to Melbourne Water Corporation; and
- (5) under section 3(4) of the Act, **ORDERS** that this Order takes effect on the day on which it is published in the Government Gazette.

### SCHEDULE

(a)

#### **Bass Coast Shire Council**

##### **Blue Gum Drain**

All works and properties of the Bass Coast Shire Council necessary for the management and operation of the Blue Gum Drain that commences at the south-eastern corner of the intersection of Redwood Drive and Manna Gum in the Shire of Bass Coast; then in a generally north-easterly direction to Dunmore Road near the southern boundary of Lot 1, Title Plan TP173336, then in a generally easterly direction to the outfall into the main channel west of Coghlan Road.

##### **Coronet Bay Drain**

All works and properties of the Bass Coast Shire Council necessary for the management and operation of the Coronet Bay Drain that commences at a point on the western boundary of Crown Allotment 70 in the Parish of Corinella approximately 50 metres south of the north-western corner of Crown Allotment 70 in the Parish of Corinella, then in a generally north-westerly direction to the outfall at Western Port near the western boundary of Lot 1, Title Plan TP846656, including the flood retarding basin embankment and spillway within Crown Allotment 70 in the Parish of Corinella, the constructed wetland within Crown Allotment 83 in the Parish of Corinella, and the flood retarding basin embankment and spillway within Crown Allotment 83 in the Parish of Corinella.

##### **Norsemens Road Drain**

All works and properties of the Bass Coast Shire Council necessary for the management and operation of the Norsemens Road Drain that commences at the eastern side of Gellibrand Street at the intersection of Gellibrand Street and Norsemens Road in the Shire

**SPECIAL**

of Bass Coast; then in a generally westerly direction along the southern side of Norsemen Road to the constructed wetland within Crown Allotment 83 in the Parish of Corinella.

**Red Rocks Drain**

All works and properties of the Bass Coast Shire Council necessary for the management and operation of the Red Rocks Drain that commences at the southern side of Settlement Road, approximately 420 metres east of the intersection of Settlement Road and Red Rocks Road in the Shire of Bass Coast, then in a generally northerly direction to the southern boundary of Lot 53, Lodged Plan LP52577, then in a generally westerly direction to the south-western corner of Lot 52, Lodged Plan LP52577, then in a generally northerly direction to the north-western corner of Lot 23, Lodged Plan LP52577, then in a generally northerly direction to the outfall at Western Port near Church Street.

**Smiths Beach Drain**

All works and properties of the Bass Coast Shire Council necessary for the management and operation of the Smiths Beach Drain that commences at the northern corner of Lot 323, Lodged Plan LP57844 in the Shire of Bass Coast, then in a generally south-westerly direction to the northern boundary of Lot 83, Plan of Subdivision Lodged Plan LP57844, then in a generally westerly direction to the north-western corner of Lot 81, Lodged Plan LP57844, then in a generally southerly direction to Back Beach Road approximately 400 metres east of the intersection of Back Beach Road and Smiths Beach Road, then in a generally westerly direction to a point on Back Beach Road that is approximately 200 metres west of the intersection of Back Beach Road and Smiths Beach Road then in a generally southerly direction to the outfall at Bass Strait near Smiths Beach Road, including the flood retarding basin in Reserve No. 1, Plan of Subdivision PS422695, and parcel of land described as Reserve No. 1, Plan of Subdivision PS422695 .

**Hume City Council**

**Anderson Road Diversion Drain**

All works and properties of the Hume City Council necessary for the management and operation of the Anderson Road Diversion Drain that commences at the bifurcation pit on the Brook Street Drain at the north-western corner of the intersection of Anderson Road and Thornton Avenue in the City of Hume, then in a generally northerly direction following Anderson Road to the intersection of Cornish Road and Anderson Road, then in a generally north-easterly direction to the outfall at Blind Creek at a point that is approximately 170 metres east of the north-eastern corner of Lot 1, Lodged Plan LP 77337.

**Brook Street Drain**

All works and properties of the Hume City Council necessary for the management and operation of the Brook Street Drain that commences at the south-western corner of Lot 2, Plan of Subdivision PS415337 in the City of Hume, then in a generally easterly direction to bifurcation pit at north-western corner of the intersection of Anderson Road and Thornton Avenue, then in a generally south-easterly direction at a point on Horne Street that is adjacent to the north-eastern corner of Lot 2, Lodged Plan LP70213, then in a generally easterly direction to a point on the south-western side of Brook Street that is approximately 100 metres north-west of the intersection of Brooke Street and Jackson Street, then in a generally south-easterly direction the outfall at Jacksons Creek near the south-eastern end of Brook Street.

**Francis Boulevard Drain**

All works and properties of the Hume City Council necessary for the management and operation of the Francis Boulevard Drain that commences on the western side of Francis Boulevard at a point that is approximately twenty metres south of the intersection of Francis Boulevard and Lakes Drive in the City of Hume, then in a generally southerly

direction to the intersection of Francis Boulevard and Sunbury Road, then in a generally south-easterly to a point on the south-eastern boundary of Lot 1, Title Plan TP79540 that is approximately 120 metres south-east of the intersection of Frances Boulevard and Sunbury Road, then in a generally south-westerly direction to the south-eastern corner of Lot 1, Lodged Plan LP4533, then in a generally westerly direction to the outfall at Jacksons Creek.

**Heysen Drive Drain**

All works and properties of the Hume City Council necessary for the management and operation of the Heysen Drive Drain that commences at a point on the north-western side of Heysen Drive that is adjacent to the southern corner of Lot 252, Lodged Plan LP56718 in the City of Hume, then in a generally easterly direction to a point approximately 15 metres south of the southern corner of Lot 21, Lodged Plan 118002, then in a generally north-easterly direction to outfall at Blind Creek within Reserve No. 2, Lodged Plan LP 115249.

**Melbourne–Lancefield Road Drain**

All works and properties of the Hume City Council necessary for the management and operation of the Melbourne–Lancefield Road Drain that commences on the northern side of Rolling Meadows Drive at the intersection of Rolling Drive and Melbourne–Lancefield Road in the City of Hume; then in a generally southerly direction to the outfall at the northern side of the flood retarding basin within Reserve No. 1, Plan of Subdivision PS 449236.

**Sunningdale Avenue Drain**

All works and properties of the Hume City Council necessary for the management and operation of the Sunningdale Avenue Drain that commences on the northern side of Notre Dame Drive at a point adjacent to the south-eastern corner of Lot 552, Lodged Plan LP137158, then in a generally southerly direction along the Notre Dame Drive road alignment to the intersection of Sunningdale Avenue and Notre Dame Drive in the City of Hume; then in a generally easterly direction following the Sunningdale Avenue alignment to the outfall at the eastern side of flood retarding basin within Reserve No. 1, Plan of Subdivision PS 449236, including the flood retarding basin embankment and spillway within Reserve No. 1, Plan of Subdivision PS 449236.

**Macedon Ranges Shire Council****Riddells Creek Drain**

All works and properties of the Macedon Ranges Shire Council necessary for the management and operation of the Riddells Creek Drain that commences on the southern side of Main Road, approximately 80 metres south-west of the Main Road and Bolithos Road intersection in the Shire of Macedon Ranges, then in a generally south-easterly direction to the southern side of Sutherlands Road, approximately 120 metres west of the Main Road and Sutherlands Road intersection, then in a generally south-westerly direction to the north-eastern side of Station Street, approximately 130 metres south-east of the Station Street and Main Road Intersection, including the constructed floodway channel that extends along the entire length of the Riddells Creek Drain .

**Romsey South Drain**

All works and properties of the Macedon Ranges Shire Council necessary for the management and operation of the Romsey South Drain that commences at the south-eastern corner of Lot 3, Plan of Subdivision PS306553 in the Shire of Macedon Ranges, then in a generally easterly direction to the south-western corner of Lot 17, Lodged Plan LP128092, then in a generally southerly direction to the south-western corner of Lot 44, Lodged Plan LP111527, then in a generally easterly direction to the south-eastern corner of

Lot 21, Lodged Plan LP111527, then in a generally southerly direction to the south-eastern corner of Lot 61, Lodged Plan LP122290, then in a generally north-easterly direction to the northern boundary of Crown Allotment 26 in the Parish of Monegeetta, approximately 610 metres east of from Portingales Lane, including the constructed channel drain that commences at the north-western corner of Lot S2, Plan of Subdivision PS506812, then in a generally easterly corner to the outfall into the main channel at the north-eastern corner of Lot S2, Plan of Subdivision PS506812.

**South Gisborne Drain**

All works and properties of the Macedon Ranges Shire Council necessary for the management and operation of the South Gisborne Drain that commences at the northern boundary of Reserve No. 5, Plan of Subdivision PS435285 within the Shire of Macedon Ranges, then in a generally northerly direction to the southern boundary of Reserve No. 1, Plan of Subdivision PS430591, including the constructed floodway channel between Lot 1, Title Plan TP113249 and Melbourne Road, the retarding basin embankment, spillway and associated works within Reserves No. 1 and 5, Plan of Subdivision PS435285, and the retarding basin embankment, spillway and associated works within Reserves No. 1 and 3, Plan of Subdivision PS430591.

**Melton Shire Council**

**Arnolds Creek East Branch**

All works and properties of the Melton Shire Council necessary for the management and operation of the Arnolds Creek East Branch that commences at the south-eastern corner of the intersection of Centenary Avenue and Coburns Road within the Shire of Melton, then in a generally southerly direction to outfall at Arnolds Creek waterway within the Western Freeway road reserve approximately 50 metres south-west of Reserve No. 1, Lodged Plan 56817.

**Arnolds Creek West Branch**

All works and properties of the Melton Shire Council necessary for the management and operation of the Arnolds Creek West Branch that commences at a point approximately 20 metres east of the western boundary of Reserve No. 1, Lodged Plan LP 132553 within the Shire of Melton, then in a generally south-easterly direction to outfall at the High Street, Melton.

**Cambrian Way Drain**

All works and properties of the Melton Shire Council necessary for the management and operation of the Cambrian Way Drain that commences at a on the southern side of Cambrian Way within Reserve No. 1, Lodged Plan LP 132553 within the Shire of Melton, then in a generally southerly direction to the junction with Arnolds Creek West Branch, including the constructed open channel and underground pipe along the alignment of the Cambrian Way Drain.

**Centenary Avenue Drain**

All works and properties of the Melton Shire Council necessary for the management and operation of the Centenary Avenue Drain that commences at a point on the northern side of Centenary Avenue that is adjacent to the south-eastern corner of Lot 412 Lodged Plan LP211284 in the Shire of Melton; then in a generally westerly direction along the northern side Centenary Avenue to the intersection of Centenary Avenue and Bulmans Road, then in a generally southerly direction along the western side of Bulmans Road to a point that is approximately 15 metres north-east of the north-eastern corner of Lot 2044, Plan of Subdivision PS505307, then in a generally westerly direction to outfall at Arnolds Creek West Branch near the north-western corner of Lot 2052, Plan of Subdivision PS505307, including the duplicated pipe adjacent to Lots 2049–2051, Plan of Subdivision PS 505307.

**Mowbray Crescent Drain**

All works and properties of the Melton Shire Council necessary for the management and operation of the Mowbray Crescent Drain that commences at a point on the northern side of Mowbray Crescent that is adjacent to the western corner of Lot 1359, Lodged Plan LP 209991 in the Shire of Melton, then in generally easterly direction along the northern side of Mowbray Crescent to the intersection of Mowbray Crescent and Kurunjang Drive, then in a generally southerly direction along the western side of Kurunjang Drive to intersection of Kurunjang Drive and Walsingham Crescent, then in a generally easterly direction to outfall at Little Blind Creek approximately 50 metres east of the eastern boundary of Lot 1221, Lodged Plan LD202429.

**Rees Road Drain**

All works and properties of the Melton Shire Council necessary for the management and operation of the Rees Road Drain that commences at the outlet of the retarding basin located within Reserve No. 1, Lodged Plan LP 222510, the outlet being at a point that is approximately 150 metres south of the north-western corner of Reserve No. 1, Lodged Plan LP 222510 in the Shire of Melton; then in a generally southerly direction along the Rees Road reserve to the outfall at the Werribee River, including the retarding basin embankment and spillway located within Reserve No. 1, Lodged Plan LP 222510.

**Tame Street Drain**

All works and properties of the Melton Shire Council necessary for the management and operation of the Tame Street Drain that commences at the eastern corner of Lot 539, Lodged Plan LS 53137 in the Shire of Melton, then in a generally southerly direction to outfall at the southern boundary of Reserve No.1, Lodged Plan LP43931.

**Victoria Avenue Drain**

All works and properties of the Melton Shire Council necessary for the management and operation of the Victoria Avenue Drain that commences at the western corner of Reserve No. 1, Plan of subdivision PS513899 within the Shire of Melton, then in a generally south-easterly direction to a point on the western side of Christina Crescent that is adjacent to the southern corner of Reserve No. 1, Plan of subdivision PS513899, then in a generally southerly direction to the intersection of Victoria Avenue and Kirkton Drive, then in a generally westerly direction along Kirkton Drive to a point approximately five metres south of the south-western corner of Lot 7, Plan of Subdivision PS513899, then in a generally southerly direction to outfall to Little Blind Creek approximately 30 metres south of the southern corner of Lot 52, Plan of Subdivision PS520546 .

**Mitchell Shire Council****Duke Street Drain**

All works and properties of the Mitchell Shire Council necessary for the management and operation of the Duke Street Drain that commences on the northern boundary of Reserve No. 2, Plan of Subdivision PS510520 at Duke Street at a point approximately 210 metres west of the intersection of Duke Street, Dudley Street and Wyatt Way within the Shire of Mitchell; then in a generally southerly to the southern-eastern boundary of Reserve No. 2, Plan of Subdivision PS510520, then in a generally south-easterly direction to the southern side of Taylors Lane at a point that is approximately 160 metres west of the intersection of Taylors Lane and Wyatt Way, including the floodway located along the entire length of the Duke Street Drain.

**Pretty Sally Drive Drain**

All works and properties of the Mitchell Shire Council necessary for the management and operation of the Pretty Sally Drive Drain that commences at the eastern property boundary of Lot 93, Lodged Plan LP211750 at a point approximately 15 metres south of the northern

boundary of Lot 93, Lodged Plan LP211750 in the Shire of Mitchell, then in a generally southerly direction to point approximately 40 metres south of the northern boundary of Lot 93, Lodged Plan LP211750, then in a generally easterly direction to a point that is approximately 10 metres east of the eastern boundary of Lot 97, Lodged Plan LP211750, then in a generally southerly direction to a point on the northern side of William Road that is approximately 70 metres west of the south-eastern corner of Lot 1052, Lodged Plan LP209465.

**Wallan Township Drain**

All works and properties of the Mitchell Shire Council necessary for the management and operation of the Wallan Township Drain that commences at the south-eastern corner of Lot 2, Plan of Subdivision PS324302 in the Shire of Mitchell, then in a generally southerly direction to the northern side of the intersection of High Street and Queen Street, then from the south-eastern side of this intersection in a generally south-easterly direction to the eastern side of Windham Street, approximately 75 metres north of the intersection of Windham Street and Watson Street, including the constructed floodway channel that commences at the intersection of High Street and Queen Street to Windham Street.

**Moorabool Shire Council**

**Cairns Drive Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Cairns Drive Drain that commences at the north-eastern side of Ramsey Court at the intersection of Halletts Way and Ramsey Court within the Shire of Moorabool, then in generally north-easterly direction along Halletts Way road reserve to the intersection of Halletts Way and Links Road then in a generally easterly direction to the intersection of Clarke Street and Cairns Drive, then in a generally northerly direction along the Cairns Drive road reserve to a point that is 20 metres north of the intersection of Cairns Drive and Hogan Court, then in a generally north-easterly direction to the outfall at the Lerdederger River near the eastern boundary of Lot 15, Lodged Plan LP215937.

**Fisken Street Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Fisken Street Drain that commences at the western side of Grant Street at the intersection of Grant Street and Turner Road within the Shire of Moorabool; then in a generally easterly direction following the road alignments of Simpson and Waddell Streets to the intersection of Simpson Street and Fisken Street, then in a generally southerly direction to a point on Fisken Street that is adjacent to the southern boundary of Lot 25, Lodged Plan LP125692, then a generally south-easterly direction to the outfall at the Werribee River approximately 80 metres east of Fisken Street.

**Gosling Street Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Gosling Street Drain that commences at the northern side of the Melbourne-Ballarat Railway line approximately 80 metres north-west of the Ingliston Road crossing, then in a generally north-westerly direction to the outfall at the intersection of Lay Street and Edols Street within the Shire of Moorabool.

**Grey Street Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Grey Street Drain that commences at a point on the western side of Nelson Street that is adjacent to the south-eastern corner of Lot 86, Lodged Plan LP144259 in the Shire of Moorabool, then in a generally southerly direction to the north-east corner of the intersection of Nelson Street and Grey Street, then in a generally easterly direction to the outfall at the Lerdederger River near Grey Street.

**Lerdederg Street Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Lerdederg Street Drain that commences at the south-western side of the intersection of Young Street and Lerdederg Street within the Shire of Moorabool; then in a generally easterly direction to the outfall at the Lerdederg River near Lerdederg Street.

**Links Road Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Links Road Drain that commences at the eastern boundary of Lot 8, Lodged Plan LP148447, then in a generally easterly direction to the pipe outfall approximately 45 metres east of Links Road within the Shire of Moorabool, including the floodway channel along the entire Links Road Drain alignment.

**Maddingley Park Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Maddingley Park Drain that commences at the south-western corner of the intersection of Grant Street, Parwan Road, Station Street and Griffith Street within the Shire of Moorabool; then in a generally north-easterly direction to the north west corner of the intersection of Grant Street, Parwan Road, Station Street and Griffith Street, then in a generally northerly direction to the outfall at the Werribee River approximately 60 metres east of Grant Street.

**Masons Lane Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Masons Lane Drain that commences at a point on the northern side of Clifton Drive that is approximately 20 metres east of the intersection of Clifton Drive and Finin Street within the Shire of Moorabool; then in a generally south-easterly direction to the pipe outfall at the western boundary of Lot 4, Plan of Subdivision 126, then re-commencing from eastern boundary of Lot C, Plan of Subdivision PS428307, then following the Dickson Street road reserve in a generally easterly direction to the intersection of Dickson Street and Joan Court, then in a generally north-easterly direction to the water irrigation channel near the southern boundary of Lot 1, Title Plan TP198832, then in a generally easterly direction to Boyd Street, then in a generally northerly direction to the intersection of Boyd Street and Masons Lane, then in a generally easterly direction to the outfall at the Lerdederg River near Masons Lane, including the flood retarding basin embankment and spillway near the intersection of Joan Court and Dickson Street.

**Robertsons Road Drain**

All works and properties of the Moorabool Shire Council necessary for the management and operation of the Robertsons Road Drain that commences near the north-eastern corner of Lot 17, Lodged Plan LP116225 within the shire of Moorabool; then in a generally easterly direction to the eastern boundary of Lot 11, Lodged Plan LP116225, then in a generally southerly direction to the southern boundary of Lot 11, Lodged Plan LP116225, then in a generally easterly direction along Robertsons Road to the outfall at the Lerdederg River.

**Wyndham City Council****Bulban Road Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Bulban Road Drain that commences at a point on the southern side of Bulban Road that is approximately 20 metres east of the intersection of Bulban Road and Walls Street in the City of Wyndham; then in a generally north-easterly direction along Bulban Road for 990 metres then in a generally south-easterly direction to the junction with the Westleigh Road Drain, then in a generally easterly direction to the outfall at the

Werribee River east of Lot 13, Plan of Subdivision PS425194, including the gross pollutant trap at the outfall of the Bulban Road Drain.

**D1 Drain Upper**

All works and properties of the Wyndham City Council necessary for the management and operation of the D1 Drain Upper that commences at a point on the western side of Bethany Road that is adjacent to the northern boundary of Lot 289, Plan of Subdivision PS343811 in the City of Wyndham, then in a generally southerly direction along the western side of Bethany Road to the intersection of Bethany Road and Deloraine Drive, then continuing in a generally southerly direction to the intersection of Hogans Road and Deloraine Drive, then in a generally westerly direction to the intersection of Hogans Road and Dowling Avenue, then in a generally south-westerly direction to a point adjacent to the south-western corner of Lot 405, Lodged Plan LP211561, then in a generally south-westerly direction to a point adjacent to the south-western corner of Lot 289, Lodged Plan LP207703, then in a generally south-easterly direction to the junction with the Tarneit Road Drain at Heaths Road, including the constructed floodway channel through Cambridge Reserve to Heaths Road and the flood retarding basin embankment and spillway within Reserve No. 1, Plan of Subdivision PS523808.

**D1 Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the D1 Drain that commences from the junction of Tarneit Road Drain and D1 Drain Upper on the northern side of Heaths Road in the City of Wyndham; then in a generally south-easterly direction to a point adjacent to the south-eastern corner of Lot 1366, Plan of Subdivision 91621, then in a generally south-westerly direction to a point on the north-western boundary of Crown Allotment 1A in the Parish of Deutgam that is approximately 670 metres south-west of the north-eastern corner of Crown Allotment 1A in the Parish of Deutgam, then in a generally south-easterly direction to the Princes Freeway approximately 860 metres west of the Hoppers Lane and Sneydes Road Overpass, including the flood retarding embankment upstream of Derrimut Road, the flood retarding embankment adjacent to south-western boundary of Lot 739, Lodged Plan LP213276 and the floodway channel from Heaths Road to the Melbourne Geelong Railway line approximately 1300 m south-west of the Hoppers Crossing Railway Station.

**Hooker Road Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Hooker Road Drain that commences at a point on the south-eastern side of the Hooker Road adjacent to the south-western corner of Lot 42, Lodged Plan LP128652 within the City of Wyndham; then in a generally north-easterly direction to the outfall at the Werribee River north-east of Lot 1, Title Plan TP208677.

**Leigh Street Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Leigh Street Drain that commences immediately north of the south-western boundary of the Reserve on Lodged Plan LP128652 within the City of Wyndham; then in a generally southerly direction to the intersection of Shaws Road and Market Road then in a generally westerly direction along Shaws Road for approximately 190 metres then in a generally southerly direction to the outlet into the Werribee River.

**Lollipop Creek Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Lollipop Creek Drain that commences at a point on the western boundary of Reserve No. 1, Plan of Subdivision PS412868 that is approximately 35 metres south of the north-western corner of Reserve No. 1, Plan of Subdivision PS412868, then in a



generally south-easterly direction to a point on the northern boundary of Lot 252, Lodged Plan LP 85060 that is approximately 160 metres west of the intersection of Greengables Drive and Greens Road, then in a generally southerly direction to a point on the southern boundary of Lot 815, Lodged Plan LP114465 that is approximately 65 metres east of the intersection of Black Forest Road and Olive Way, including the constructed floodway between Greens Road and Black Forest Road and the on line water-bodies immediately upstream of Greens Road.

**Riverside Avenue Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Riverside Avenue Drain that commences at a point on the north-western side of Riverside Avenue that is adjacent to the north-eastern corner of Lot 49, Lodged Plan LP92731 in the City of Wyndham; then in a generally south-westerly direction to the outfall at the Werribee River adjacent to the eastern corner of Reserve No. 1, Plan of Subdivision PS 503811.

**Shaws Road Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Shaws Road Drain that commences at the south-eastern corner of Lot 234, Lodged Plan LP 133066 in the City of Wyndham, then in a generally southerly direction to the southern side of Shaws Road, then in a generally easterly direction for approximately 1100 metres to Railway Avenue, then in a generally south-easterly direction to the outfall at the D1 Drain approximately 600 metres north of Sneydes Road.

**Sneydes Road Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Sneydes Road Drain that commences on the north side of Sneydes Road in the City of Wyndham, at a point approximately 840 metres east of the intersection of Sneydes Road and Princes Highway, then in a generally easterly direction following the Sneydes Road Reserve for approximately 620 metres to outfall to the D1 Drain.

**Southern Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Southern Drain that commences on the south side of Tower Road at a point that is adjacent to the northern corner of Lot 1, Lodged Plan LP 217012, then in a generally south-easterly direction for approximately 125 metres to the eastern corner of Lot 2, Lodged Plan LP 217012, then in a generally south-westerly direction to a point approximately 5 metres south of the southern corner of Lot 3, Lodged Plan LP 217012 within Duncans Road, then in a generally south-easterly direction along Duncans Road to the intersection of Duncans and Loyola Roads, then in a generally southerly direction along Chirnside and Kiely Avenues to the intersection of Kiely Avenue and South Ring Road, then in a generally south-westerly direction to the outfall at Werribee River at the southern boundary of Reserve No 1, Lodged Plan LP13565.

**Tarneit Road Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Tarneit Road Drain that commences at a point on the northern boundary of Lot 1, Lodged Plan LP139919 that is approximately 330 metres west of the north-eastern corner of Lot 1, Lodged Plan LP139919 within the City of Wyndham; then in a generally southerly direction to a point on the northern side of Hogans Road adjacent to the intersection of Hogans Road and Chadway Avenue, then in a generally southerly direction along the western side of Chadway Avenue to the intersection of Chadway Avenue and Meadow Way, then in a generally easterly direction to the intersection of Meadow Way and Loxton Street, then in a generally southerly direction to the intersection of Loxton Street

and Castleton Avenue, then a generally easterly direction to the intersection of Castleton Avenue and Tarneit Road, then in a generally southerly direction to the intersection of Tarneit Road and Golden-Square Crescent, then following the alignment Golden-Square Crescent to the intersection of Golden-Square Crescent and Kathleen Crescent, then in a generally south-easterly direction to the junction with the D1 Drain Upper at Heaths Road.

**Werribee West Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Werribee West Drain that commences at the northern boundary of Reserve No. 1, Plan of Subdivision PS521549 in the City of Wyndham, then in a generally south-easterly direction to a point at Heaths Road that is approximately 210 metres east of the intersection of Heaths and McGrath Roads, then in a generally southerly direction to a point at Black Forest Road that is approximately 200 metres east of the intersection of Black Forest and McGrath Roads, including the constructed floodway channel between the northern boundary of Reserve No. 1, Plan of Subdivision PS521549 and Black Forest Road, the constructed wetland between McGrath Road and Heaths Road and the flood retarding basin embankment and spillway immediately upstream of McGrath Road.

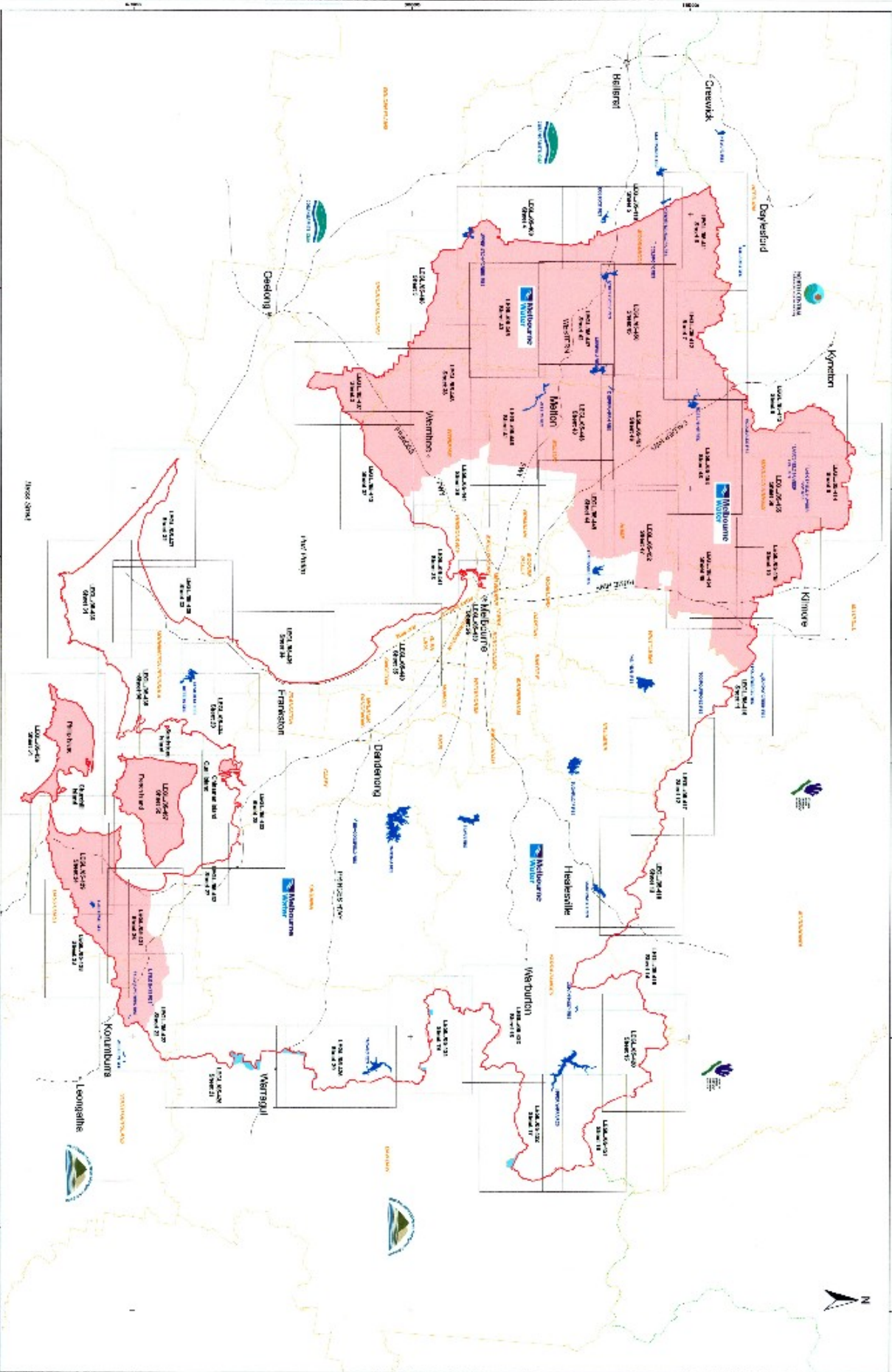
**Westleigh Drain**

All works and properties of the Wyndham City Council necessary for the management and operation of the Westleigh Drain that commences at the northern corner of the intersection of Westleigh Drive and Princes Highway in the City of Wyndham, then in a generally north-easterly direction along the northern boundary of Princes Highway road reserve to the intersection of Galvins Road and Princes Highway, then in a generally easterly direction to the junction with Bulban Road Drain at a point that is approximately 5 metres north of the northern boundary of Lot 13, Plan of Subdivision PS425194.

Dated 15 November 2005

Responsible Minister:  
JOHN THWAITES  
Minister for Water

JUSTINE FRANKLIN  
Acting Clerk of the Executive Council



<p><b>Legend</b></p> <ul style="list-style-type: none"> <li>Drainage Order</li> <li>Waterway</li> <li>Other Waterway</li> <li>Other</li> </ul>	<p><b>Notations</b></p> <ul style="list-style-type: none"> <li>Boundary Order in Council 2005</li> <li>Boundary Order in Council 2004</li> </ul>	<p><b>Legend - The Order in Council</b></p> <ul style="list-style-type: none"> <li>Order in Council 2005</li> <li>Order in Council 2004</li> </ul>	<p><b>Scale</b></p> <p>0 5 10 20 3000</p> <p>Meters</p> <p>Maps compiled by LICIS Pty Ltd for Melbourne Water</p>	<p><b>Melbourne Water</b></p> <p><b>Drainage and Waterways Boundary Order in Council 2005</b></p>	<p>VERSION: 1.0 (2005)</p> <p>SHEET: 1 OF 2</p> <p>PLAN NO: LEG1_05_406</p>
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MELBOURNE WATER CORPORATION

BOARD RESOLUTION

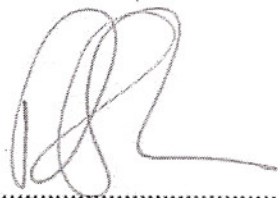
In accordance with Section 32 of the Melbourne Water Corporation Act 1992 and as set out in the Board Paper circulated to the Board entitled "Expansion of Regional Drainage, Waterways Management and Floodplain Services to the entire Port Phillip and Westernport catchment" dated 8 June 2005, the Board approves:

- Application being made to the Governor in Council pursuant to Section 3 of the Melbourne & Metropolitan Board of Works (MMBW) Act 1958 seeking the amendment of the boundary of the *metropolis* and the transfer of associated assets as set out in the attached draft proposed Order in Council and associated maps and asset schedules, and
- The sending of letters in the terms of the attached drafts to the Minister for Environment and Water and the Governor of Victoria, respectively, enclosing this application.



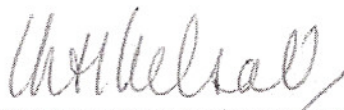
.....  
C Batagol – Chairman

Dated:



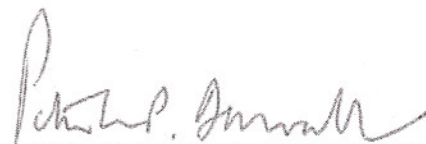
.....  
R Skinner – Managing Director

Dated: 17/6/05



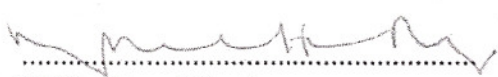
.....  
M Kelsall – Deputy Chairman

Dated:



.....  
P Darvall – Director

Dated:



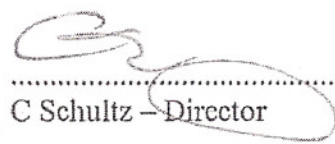
.....  
M Hartley – Director

Dated:



.....  
T Larkins – Director

Dated:



.....  
C Schultz – Director

Dated: 17.6.05

## BOARD CIRCULAR RESOLUTION

8 June 2005

### Expansion of Regional Drainage, Waterways Management and Floodplain Services to the entire Port Phillip and Westernport catchment

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#### RECOMMENDATION

1. It is recommended that the Board approve;
  - Application being made to the Governor in Council pursuant to Section 3 of the Melbourne & Metropolitan Board of Works (MMBW) Act 1958 seeking the amendment of the boundary of the *metropolis* and the transfer of associated assets as set out in the attached draft proposed Order in Council and associated maps and asset schedules, and
  - The sending of letters in the terms of the attached drafts to the Minister for Environment and Water and the Governor of Victoria, respectively, enclosing this application.

#### BACKGROUND

2. The MMBW Act 1958 defines metropolis to be the "area within 20.9215 kilometres of the site of the building known as the post office (corner of Bourke and Elizabeth streets) Melbourne and the area described in the Second Schedule to this Act, and also includes any land (whether within 20.9215 kilometres of the site of the said post office or not and whether within any municipal district or not) which by this Act or by Order of the Governor in Council under this Act is declared to be included in the metropolis, but excludes any area which by Order of the Governor in Council under this Act is excised from the metropolis". Over a number of years the metropolis has been modified to include additional areas as indicated on the attached map (Plan no: LEGL./05-406).
3. The Victorian Government White Paper *Securing Our Water Future Together*, included an action (7.9) for the Government to designate Melbourne Water as the authority responsible for waterway, regional drainage and floodplain management throughout the majority of the Port Phillip and Westernport catchment.
4. To implement this commitment, the following statutory actions are proposed to be undertaken-
  - (i) The waterway management districts of various catchment management authorities that overlap parts of the area to be added to the *metropolis* will be diminished by Order of the Minister for Water under section 96 of the Water Act 1989.
  - (ii) The *metropolis*, under the jurisdiction of Melbourne Water Corporation, will be extended to include an additional area encompassing the limits of the Port Phillip and Westernport catchment in a manner that only applies Part X - *Metropolitan Drainage and Waterways*- of the Melbourne and Metropolitan Board of Works Act 1958 and related provisions of that Act to the additional area.
  - (iii) Under section 201 of the Water Act 1989, the floodplain management functions of the Minister for Water in respect of the additional area will be delegated to Melbourne Water Corporation.

5. The attached map (Plan no: LEGL./05-406) sets out the existing boundary and the proposed new boundary of the metropolis.
6. Section 3(3) of the MMB Act 1958 provides that the Governor in Council by Order published in the Government Gazette, may on the application of the Board, include within the metropolis any land and may excise from the metropolis any area included in the metropolis.
7. The main objective of the proposed Order in Council, in order to implement the Government's commitment in the White Paper, is to give Melbourne Water Corporation metropolitan drainage and waterways powers under Part X of the Melbourne and Metropolitan Board of Works Act 1958 in respect of the additional area to be included in the metropolis. To remove some anomalies arising from the proposed change, the Order also excises some other areas from the metropolis. The Order ensures that the provisions of the Act that are applied to the additional area are only those that relate to metropolitan drainage and waterways. The Order will also transfer the identified and agreed regional drainage assets from Council to Melbourne Water ownership.
8. The exception to this is the transfer of regional drainage assets from Mornington Peninsula Shire Council. Following the abolition of the Dandenong Valley and Westport Authority (DVWPA) in 1991 and the establishment of the *Water Act* in 1995, the Port Phillip side of the Peninsula was included in the Melbourne Water metropolis. By agreement with Government this area was not rated and therefore received no service. This area will now receive service in line with the White Paper and the new areas to be included in the extended metropolis. As the area is already in the metropolis, regional drainage assets cannot be transferred by the Order in Council process. They will be separately transferred by Melbourne Water declaring these assets as main drains in accordance with the Metropolitan Board of Works Act 1958. This will be the subject of a Board paper for the June 2005 Board meeting.

## **PROPOSAL**

9. The Order requires Gazettal to take effect.
10. The Governor in Council, under sections 3(3), 3(4) and 3(5) of the *Melbourne and Metropolitan Board of Works Act 1958* and on the application of the Melbourne Water Corporation, makes a declaration via an Order In Council concerning land within the metropolis. The words within the Order In Council describe what is being declared.
11. The attached letters require the signatures of the Managing Director and the Chairman. The first letter is to the Minister for Environment and Water requesting approval to change and extend the Melbourne Water Drainage and Waterways boundary. The second letter is to the Governor of Victoria making application for the provisions of the Order in Council to be made.

## RISK ASSESSMENT

12. The following are the major risks associated with the successful achievement of the overall project objectives / with this phase of the project.

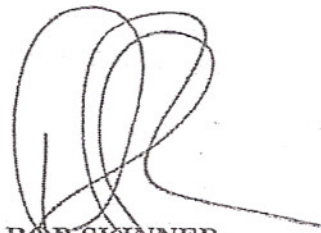
Risks	Accountability/Responsibility	Mitigating Strategies/ Controls
Inadequate funding to support provision of services	DSE / Melbourne Water	Melbourne Water proposes to undertake a minimum level of service following the Order in Council process. Following community consultation, a prioritised works program will be developed and implemented. All expenses will be recovered during the next regulatory period
Price based on different levels of service - reduced revenue from existing areas and increased administration costs.	DSE / Melbourne Water / ESC	Working group with DSE with involvement of ESC to ensure well developed consultation and implementation plan
Unknown financial liabilities associated with Council drainage schemes	Melbourne Water	Following high level due diligence audit conducted by PriceWaterhouseCoopers Melbourne Water is satisfied that based on this information and discussions with Council officers that no major risks exist
Melbourne Water becoming responsible for assets in poor condition	Melbourne Water	Based on high level due diligence audit conducted by PriceWaterhouseCoopers and discussions with Council officers Melbourne Water is satisfied that no major asset condition risks exist. Following the Order in Council process Melbourne Water will undertake a more rigorous asset condition assessment with the view to developing asset management and maintenance programs
Legal / legislative amendments do not provide correct powers	DSE / Melbourne Water	Melbourne Water has taken its own external legal advice regarding the proposed changes

## STAKEHOLDER CONSULTATION

13. Melbourne Water has consulted with affected catchment management authorities and local councils regarding the changes proposed and our respective roles and responsibilities once the changes have been implemented.
14. Melbourne Water and DSE have developed a communications and stakeholder engagement plan that identifies and prioritises actions and key messages to form part of the consultation process.
15. The communications and stakeholder engagement plan has three key components:
  - Communication within Government – relevant Ministers, departments, agencies and authorities;
  - Raising general community awareness – benefits delivered by waterway, regional drainage and floodplain management, and;
  - Local engagement plans – liaising with gap area local councils to develop specific community engagement plans.
16. The communication and stakeholder engagement plan recognises the key role that organisations such as DSE, local government, Port Phillip and Westernport Catchment Management Authority and Southern Rural Water have to play in implementing services into the new areas. A revised Waterways and Drainage Operating Charter is being developed to incorporate service requirements for the extended boundary. This will involve the creation of advisory committee(s) representative of the expanded operating area.



**TONY ANTONIOU**  
ACTING GENERAL MANAGER  
RIVERS AND DRAINAGE



**ROB SKINNER**  
MANAGING DIRECTOR





Melbourne Water Corporation  
ABN 81 945 386 953  
100 Wellington Parade  
East Melbourne 3002 Victoria  
PO Box 4342  
Melbourne 3001 Victoria  
Telephone 131 722  
Facsimile 03 9235 7200  
www.melbournewater.com.au

14 June 2005

Mr John Landy, AC, MBE  
Governor of Victoria  
Government House  
MELBOURNE VIC 3004

Dear Mr Landy

**Application under Section 3(3) of the *Melbourne And Metropolitan Board Of Works Act 1958* to Extend the Metropolis**

Pursuant to section 3(3) of the Melbourne and Metropolitan Board of Works Act 1958, Melbourne Water Corporation hereby applies to have -

- (a) included in the metropolis the land specified in clause (1) of the attached draft Order in Council; and
- (b) excised from the metropolis the land specified in clause (2) of the attached draft Order in Council.

Melbourne Water Corporation also applies, pursuant to section 3(5) of the Melbourne and Metropolitan Board of Works Act 1958, for the other provisions of the attached draft Order in Council to be made.

Yours sincerely

A handwritten signature in black ink, appearing to read "Rob Skinner".

.....  
Rob Skinner  
Managing Director,

A handwritten signature in black ink, appearing to read "Cheryl Batagol".

.....  
Cheryl Batagol  
Chairman

For and on behalf of Melbourne Water Corporation





Melbourne Water Corporation  
ABN 81 945 386 953  
100 Wellington Parade  
East Melbourne 3002 Victoria  
PO Box 4342  
Melbourne 3001 Victoria  
Telephone 131 722  
Facsimile 03 9235 7200  
www.melbournewater.com.au

14 June 2005

The Hon. John Thwaites MP  
Minister for Water  
PO Box 500  
EAST MELBOURNE VIC 3002

Dear Mr Thwaites

**Proposed Alteration to the Melbourne Water Metropolitan Drainage And Waterways Boundary**

In June 2004 the Government released its action plan, *Our Water Our Future*. Action 7.9 (page 148) commits the Government to designating the Melbourne Water Corporation as the Authority responsible for waterway management, regional drainage and floodplain management throughout the whole of the Port Phillip and Westernport catchment.

To implement this commitment, the following statutory actions are proposed to be undertaken:

- (i) The waterway management districts of various catchment management authorities that overlap parts of the area that is to be added to the metropolis will be diminished by Order of the Minister for Water under section 96 of the *Water Act 1989*.
- (ii) The metropolis, under the jurisdiction of the Melbourne Water Corporation, will be extended to include an additional area encompassing the limits of the Port Phillip and Westernport catchment in a manner that only applies Part X - *Metropolitan Drainage and Waterways*- of the *Melbourne and Metropolitan Board of Works Act 1958* and related provisions of that Act to the additional area.
- (iii) Under section 201 of the *Water Act 1989*, the floodplain management functions of the Minister for Water in respect of the additional area will be delegated to the Melbourne Water Corporation.

Pursuant to section 3(3) of the *Melbourne and Metropolitan Board of Works Act 1958*, Melbourne Water Corporation requests that you approve this proposal for changing/extending the Melbourne Water Drainage district as shown on the attached plans along with the other provisions of the attached Order in Council.

Yours sincerely

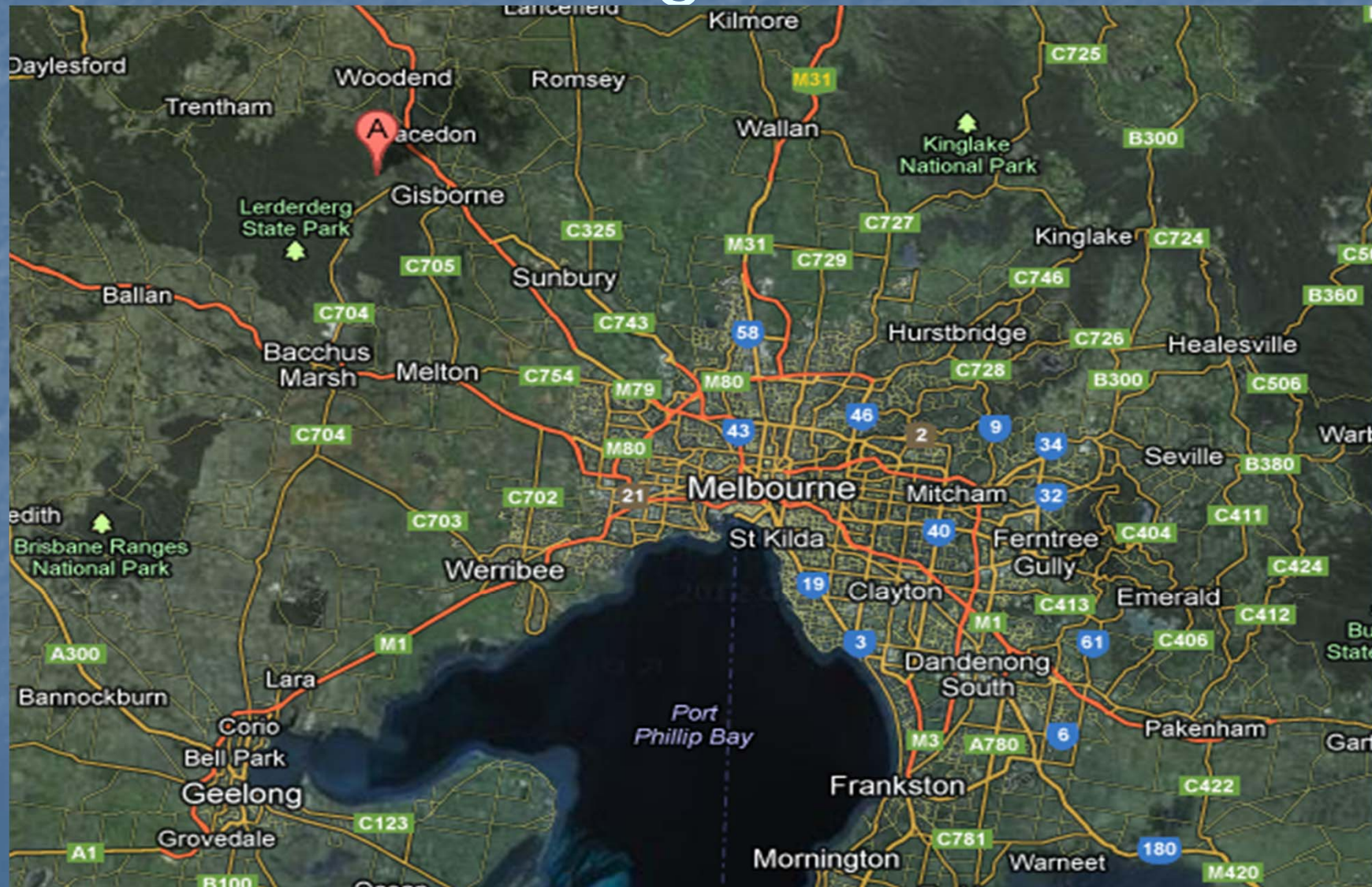
.....  
Rob Skinner  
Managing Director



# Melbourne Water Charges

Alison Joseph Bsc Hons(Psych) MBA

# Bullengarook?



# My Interest

- Questioned the imposition of a “waterways-only” charge in Bullengarook
- MW could not explain the service provided, nor clearly explain the legislative basis for the charge
- Some similarities to Patterson lakes?

## 2008/09 WATERWAYS AND DRAINAGE FEES

Waterways and drainage fees applying within the waterway management district of Melbourne Water are collected by retail water businesses on its behalf. The revenue allows Melbourne Water to undertake works to improve flood protection and stormwater quality, improve drainage infrastructure and protect our waterways and bays.

The Board of Melbourne Water Corporation has resolved to set the following waterways and drainage fees for the financial year 2008/09, applying to all rateable properties located within its waterway management district. Fees are based on the 1990 Net Annual Value (NAV) or Site Value (SV) of the property, subject to a minimum.

Part A - General Fees	Rate in \$ NAV	Minimum Fee
All properties located within the area designated as the Urban Growth Boundary, except those specified in Part B		
• Residential properties	0.8252c	\$62.08
• Non-residential properties	0.8664c	\$81.36
Part B - Special Area Fees		
1. All properties included in the waterway management district as a result of extending Melbourne Water's operating area in November 2005 (including all properties within the Shire of Mornington Peninsula), except those specified in 2		
• Residential properties	0c	\$62.08
• Non-residential properties	0c	\$81.36
2. All properties located outside the area designated as the Urban Growth Boundary, except those specified in 3	0c	\$38.88
3. All properties in the following parts of the area of the former Dandenong Valley and Western Port Authority as at 5 November 1997, which up to 1997, were subject to a special drainage and river improvement rate:		
• Koo Wee Rup - Longwarry Flood Protection District		
- Division A	3.600c	\$56.40
- Division B	2.000c	\$56.40
Part C - Extra Fees at Patterson Lakes	Rate in \$ SV	Minimum Fee
Tidal Waterways properties	0.4269c	\$0.00
Quiet Lakes properties	0.3513c	\$0.00

Note: For more information on the State Government's Urban Growth Boundary, please visit [www.dse.vic.gov.au/melbourne2030online](http://www.dse.vic.gov.au/melbourne2030online).

# Patterson Lakes

- History of charges and relationship to “Waterway and Drainage” charge.
- Whether or not MW and ESC has power to impose “Precept charges”
- What charges should be paid by Patterson Lakes residents?

# 1973 Agreement

- Contract between Council and DVA
- Subject to amendment of DVA Act to impose “Precept” charge (charge on Council).
- Melbourne Water successor in law to DVA
- Imposes obligations on MW in regards to waterways



# “Special Precept”

## DVA Act (1963) as amended 1975

4. After section 33 of the Principal Act there shall be inserted the following section :—

' 33A. (1) (a) Where any works or undertakings authorized by this Act have been requested by a majority of the persons liable to be rated in respect of rateable property in a portion of the district of any municipality or municipalities which would be served by such works or undertakings (hereinafter called " the special precept area") and it appears to the Authority that such works or undertakings are for the particular benefit of the special precept area it may with the approval of the Minister issue a special precept in the form of the Second Schedule to each municipality concerned requiring it to contribute an amount calculated as hereinafter provided and thereupon notwithstanding the provisions of paragraph (b) of sub-section (1) of section 33 the municipality shall be liable to contribute further moneys to the Authority as hereinafter provided.

# Water Act (1989) as of commencement

SCHEDULE 5

Section 117(1)

*DANDENONG VALLEY AND WESTERN PORT AUTHORITY*

*Functions*

- *2. The Authority has the functions given to it under Part 10, including waterway management functions under Division 2 and regional drainage functions under Division 3 of that Part, in respect of the Authority's district.*

DVA listed as authority with Waterways management district in Schedule 12 of Water Act (1989)

= "Waterways Management" Charge

3052 G 43. 6 November 1991

*Melbourne and Metropolitan Board of Works  
Act 1958*

**EXTENSION OF METROPOLIS ORDER**

The Governor in Council, pursuant to subsections 3 (3), 3 (4), 3 (5) and 3 (6) of the *Melbourne and Metropolitan Board of Works Act 1958* ("MMBW Act") and on the application of the Melbourne and Metropolitan Board of Works, orders that:

1. There be included in the metropolis the land within the district and the waterway management district of the Dandenong Valley and Western Port Authority ("Authority") as those districts are defined in this Order in Council and as they exist on the day on which this Order in Council is published in the *Government Gazette* ("the Land").

2. For the purposes of this order—

- (a) the Authority's district shall be taken to be as described in Schedule 5 to the *Water Act 1989* ("Water Act") and as varied subsequent to the commencement of Schedule 5 to the Water Act; and
- (b) the Authority's waterway management district shall be taken to be as described against the name of the Authority in column 4 of Schedule 12 to the Water Act and as varied subsequent to the commencement of Schedule 12 to the Water Act.

*Victoria Government Gazette*

3. No provision pursuant to section 3 (5) (a) (i) or (iii) of the MMBW Act be made.

4. With the exception of any functions exercised by the Rural Water Commission ("Commission") in the Koo Wee Rup Flood Protection Area of its waterway management district as that district is defined in the *Water Act 1989*, the functions of the Tarago Water Board and the Commission continue in respect of the Land (to the extent that each body has functions in respect of the Land as at the date of this Order).

5. All the works and property (including, without limitation, all assets, powers and rights of every description and, to extent that the same is property, the benefit of all contracts of employment) of the Authority vest in the Melbourne and Metropolitan Board of Works.

6. This order takes effect immediately after the coming into effect of the Excision from Metropolis Order of the Governor in Council made this day pursuant to paragraph 3 (3) (b) of the MMBW Act.

Dated 6 November 1991

Responsible Minister:

S. M. CRABB

Minister for Conservation and Environment

DAMIEN O'SHEA

20090 Acting Clerk of the Executive Council

# Definition “metropolis”

(MMBW Act (1958) as amended by  
Melbourne Corporation Act 1992)

3.(7) For the avoidance of doubt it is declared that—

(a) on and from 25 June 1991 the metropolis included the land specified in the Schedule to the Emerald District Water Board and Dandenong–Springvale Water Board

Transfer of Functions Order 1991 published in the Government Gazette on that date;

(b) on and from 1 September 1991 the metropolis included the land specified in the Schedule to the Mornington Peninsula and District Water Board and Pakenham Water Board and Lang Lang Water Board Order 1991 published in the Government Gazette on 28 August 1991;

(c) on and from 6 November 1991 the metropolis included the land specified in clause 1 of the Extension of Metropolis Order published in the Government Gazette on that date.

(8) This Act applies to the land included in the metropolis as mentioned in sub-section (7).

# Melbourne Water Charges 1991-1997

- Metropolitan drainage charge under MMBW Act c1991 (with adjustment?)
- Special Drainage Charge under MMBW Act made retrospective to 1991 by MMBW (Amendment) Act 1997

(Unlike DVA charge it was a direct charge on residents using MMBW rating powers).

# MMBW (Amendment Act) 1997

- “The bill also allows for a special drainage rate to be levied in the future on any benefiting property owner from the Patterson Lakes system. In addition to levying a drainage and river improvement rate, Melbourne Water Corporation will be able to levy a special rate on benefiting property owners in the Patterson Lakes area based on the site value of their properties.”

Hansard, Second Reading May 1997 ASSEMBLY p1116

= “Waterways + Drainage”

## 281A. Special drainage and river improvement rate— Patterson Lakes

(1) This section applies to—

(a) rateable properties within the land included in the metropolis on and from 6 November 1991 as mentioned in section 3(7)(c) which, immediately before that date, were within a special precept area within the meaning of section 33A of the Dandenong Valley Authority Act 1963 established in relation to the Patterson Lakes area; and

(b) any other rateable property which the Board by resolution declares to be benefitted by works or undertakings that serve, and are for the particular benefit of, the area referred to in paragraph (a).

(2) In addition to levying the Metropolitan Drainage and River Improvement Rate in respect of them, the Board may, for the purposes of this Part, from time to time but not oftener than once in every year make and levy a special drainage and river improvement rate in respect of rateable properties to which this section applies.

# Water Acts (Further Amendments) Act 1997

280. Power to impose fees under a tariff

(1) The Board may impose fees under a tariff for the purposes of this Part and of the exercise by the Board of any functions and powers as a delegate of the Minister under Division 4 of Part 10 of the Water Act 1989.



# Water (governance) Act 2006

- Clause 106 amends section 257 of the Act to set out Melbourne Water Corporation's powers to require a payment for services under Division 5 of Part 13 of the Act. This amendment continues Melbourne Water Corporation's powers to impose tariffs in respect of its waterway management, drainage and floodplain management functions and to set charges for things done in the performance of its functions.

# Waterways and Drainage Service

*It funds a range of programs to manage drainage, improve flood protection and warning systems, and improve the quality of waterways throughout the Port Phillip and Westernport region.*

[http://www.melbournewater.com.au/content/rivers\\_and\\_creeks/our\\_role/waterways\\_and\\_drainage\\_charge/waterways\\_and\\_drainage\\_charge.asp?bhcp=1](http://www.melbournewater.com.au/content/rivers_and_creeks/our_role/waterways_and_drainage_charge/waterways_and_drainage_charge.asp?bhcp=1)

# Charges come full circle

- Precept charge imposed by DVA under Water Act in 1989 are for the same services as “waterways and drainage” charges under Water Act in 2012.
- Precept became “Waterways” charge

# Essential Services Commission

- COAG agreements in regards to water pricing which endorsed user-based pricing, transparency, and prevention of cross-subsidization (1994?)
- ESC fixes prices for “prescribed goods and services”
- It is a fee for a service provided

# WIRO (2012)

(b) The following services supplied by or within the regulated water industry are specified as prescribed services in respect of which the Commission has the power to regulate prices:

- (i) retail water services;
- (ii) retail recycled water services;
- (iii) retail sewerage services;
- (iv) storage operator and bulk water services;
- (v) bulk sewerage services;
- (vi) bulk recycled water services;
- (vii) metropolitan *waterways and drainage services*;**
- (viii) irrigation drainage services;
- (ix) connection services;
- (x) services to which developer charges apply; and
- (xi) diversion services.

In 2003 "Metropolitan drainage defined as service under the MMBW Act (1958) in 2012 "waterways" added and now defined as service under the Water Act. ESC has advised that this was not a change in the service.

See also "Melbourne and Metropolitan Water, Wastewater and Drainage Services Pricing Order 2001 for definition of "Metropolitan Drainage Service" VGG 28 June 2001

# No Basis for “Precept Charge”

- There is absolutely no legislative basis for the imposition of a “precept” charge
- Residents appear to be already paying for the same services under the “waterways and drainage” charge
- The ESC has no authority to be setting prices for “precept” charges.

# Charges

In accordance with *Airservices*;

- Fee for service
- Must be a logical relationship between cost of service and charge

VCAT decision suggests that the charges should be regionally based.

- A single charge directly related to the cost of the service you receive in your area, or alternatively a flat “waterways and drainage” fee across Melbourne that everyone pays equally.

# Parks Charge

## “Metropolitan Improvement Fund” former MW land

### ■ Functions of Parks Victoria

7. Functions of Parks Victoria (1) The functions of Parks Victoria are-  
(a) to provide services to the State and its agencies for, or with respect to, the management of parks, reserves and other land under the control of the State; (ab) to provide services to the State and its agencies for, or with respect to, the management of waterways land (within the meaning of the [Water Industry Act 1994](#)) for the purposes of **conservation, recreation, leisure, tourism or water transport**; (b) with the approval of the Minister, to provide services to the owner of any other land used for public purposes for, or with respect to, the management of that land; (c) to carry out such other functions as are conferred on it by or under any Act. (2) In carrying out its functions, Parks Victoria must not act in a way that is not environmentally sound.



## Water Industry Act as at 2005

### 175A. Vesting in Crown of bed, banks and soil of certain watercourses

(1) Despite anything to the contrary in any Act, there shall by virtue of and without further or other conveyance, transfer or assignment than this section, be divested from Melbourne Water Corporation and vested in the Crown, all the bed, soil and banks of the River Yarra Yarra and of all other public rivers, creeks, watercourses and waterways—

(a) within the metropolis within the meaning of the MMBW Act and vested in Melbourne Water Corporation immediately before the commencement of this section under section 60 or 271 of that Act; or

(b) on land included in the metropolis within the meaning of the MMBW Act as mentioned in section 3(7) of that Act and vested in Melbourne Water Corporation immediately before the commencement of this section under an Order in Council made under section 3 of that Act.

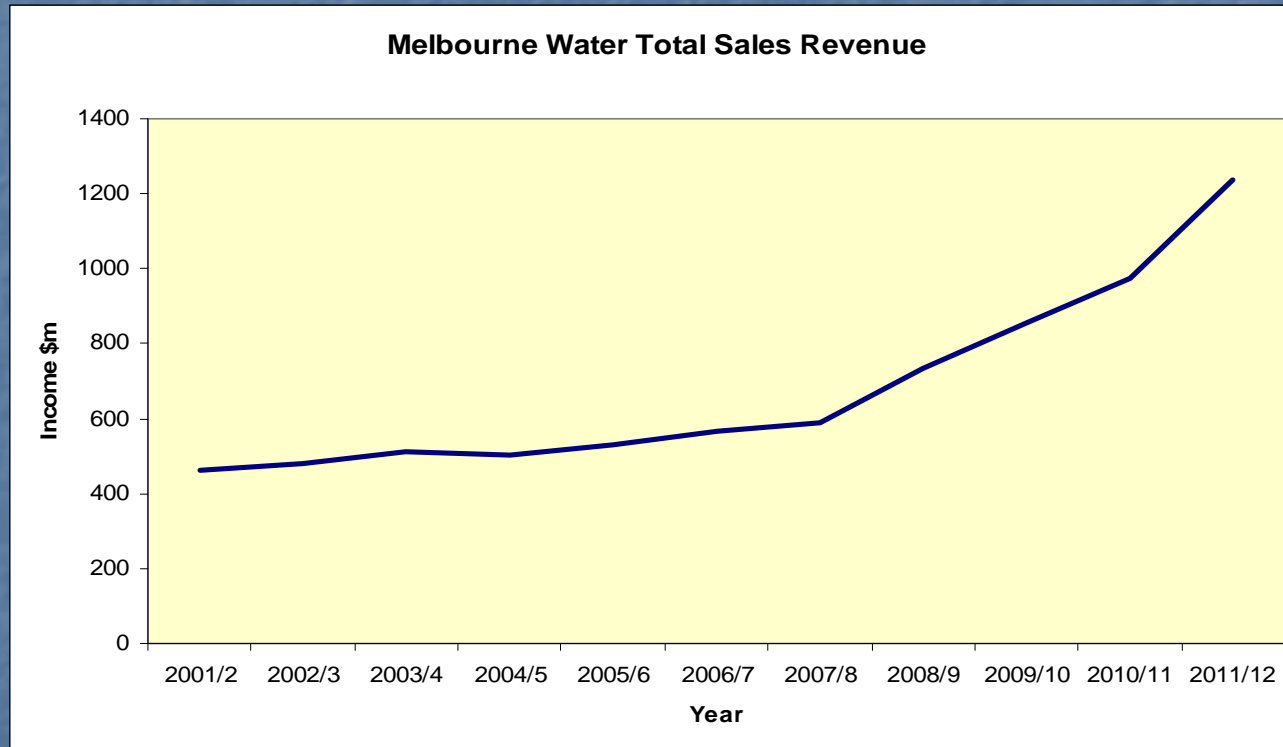
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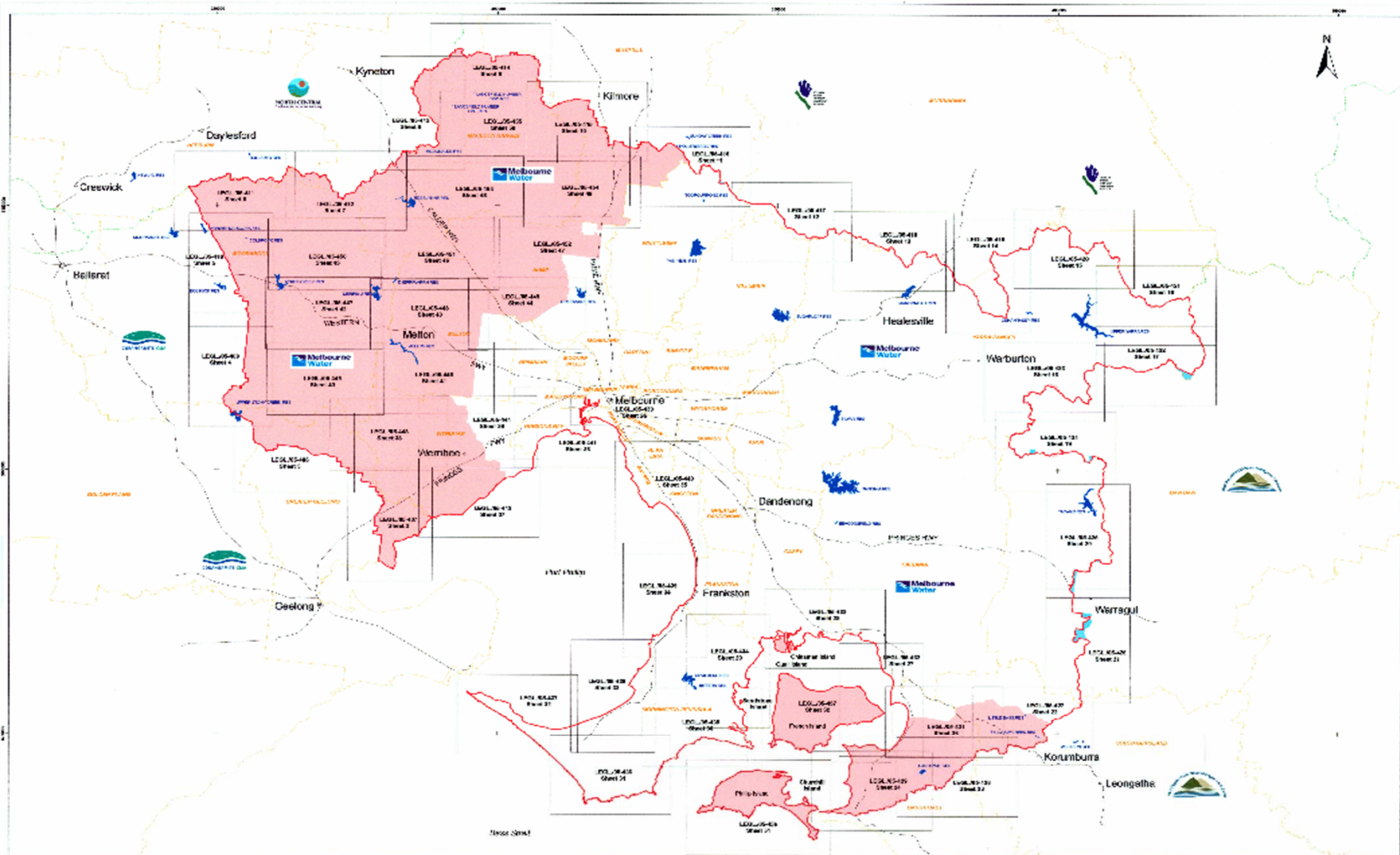
(3) Despite anything in the Water Act 1989 or any other Act, any bed, soil and banks to which subsection (1) applies shall be under the management and control of Melbourne Water Corporation to the extent necessary to enable that body to exercise its functions under this Act or the MMBW Act



# Parks Victoria

- Was MW “metropolitan improvement rate” transferred to DSE when MW’s land reverted to Crown Land (ie a Tax)
- Acts as Trustee/land manager of DSE Crown land (eg waterways, as delegated by DSE).
- Parks and Reserves Trust fund collected by DSE (\$46,000,000 unspent)

# Melbourne Water's Sales Revenue 2001-12





<p><b>Legend</b></p> <ul style="list-style-type: none"> <li>Challenger Boundary</li> <li>LGA Boundary</li> <li>CWA Boundary</li> <li>Major Road</li> <li>Drainage Order</li> <li>Drainage Area</li> <li>Drainage Area</li> <li>Drainage</li> </ul>	<p><b>Notations</b></p> <ul style="list-style-type: none"> <li>Boundaries Agreed to in Court Proceedings and Waiver of Claims of the respective parties</li> <li>Waiver of Claims as at December 2024</li> </ul>	<p><b>Logos of the Councils that have been consulted</b></p> <p> </p>	<p>          Ian Goss               Director of Water Services               Melbourne Water     </p>	<p>          0 5 10 20 30 km               Maps compiled by LICIS Pty Ltd for Melbourne Water     </p>	<p>    <b>Melbourne Water</b>        Drainage and Waterways Boundary        Order In Council 2005     </p>	<p>       VOLUME NUMBER 001 000 02005        SHEET 1 OF 02        Plan No: LEGL/05-406     </p>
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