

3 May 2012

The Commissioner
Essential Services Commission
Level 2
35 Spring Street
MELBOURNE VIC 3000

escwatersubmissions@getstarted.com.au

Dear Sir

Melbourne Water Special Drainage Areas Price Review 2012/13

Following the lodgement by Melbourne Water of the above submission to the Essential Services Commission (ESC) for approval of their proposed prices, I make the following submission for consideration by the ESC that the proposed price increases for Patterson Lakes Tidal Waterways be rejected or substantially reduced to allow an increase only in line with the CPI of approximately 3% as they have failed to set these prices against the principles set out in the Water Industry Regulatory Order (WIRO). In particular, the WIRO principle that requires prices to be set to take into account the interest of customers, including low income and vulnerable customers.

Melbourne Water has failed to apply its own pricing principles of spreading the cost of these services across all properties in Melbourne as they state “this is the fairest possible approach given that everyone benefits either directly or indirectly from healthy waterways and a safe reliable drainage system.”

Melbourne Water states “catchments are geographic areas that drain rainwater from land into rivers, creeks, oceans and bays.

Wherever a property is located, run-off from its surfaces inevitably ends up in the drainage system and in our rivers, creeks and bays.

The waterways charge provide funding for a wide range of waterway management, flood protection and regional drainage services in Melbourne Water’s areas of responsibility, the Port Phillip and Western Port regions.

Our work varies from localised projects to extremely large projects that benefit the entire region.”

Under the Water Act, Melbourne Water utilises its discretion to charge a small group of residents in Patterson Lakes Tidal Waterways a Precept Charge for the maintenance of the Patterson Lakes Tidal Canals. Approximately 800 residents are the only Melbourne residents who are subject to both a Precept Charge and the General Water and Drainage Charge each year.

Melbourne Water argues this charge is based on a 1973 Agreement with the Developer. However, the Developer agreement which was the prevailing agreement when the Assets of Paterson Lakes were handed to Melbourne Water via the DVA provides for the precept rate to be charged to the local council (now the City of Kingston) and there is no provision in this agreement to charge the residents directly. The power to charge residents was provided in the Melbourne and Metropolitan Board of Works Act which has since been repealed and replaced by the Water Act which provides Melbourne Water with the discretion to charge

residents and Councils for works carried out. At this time, Melbourne Water chose only to charge a selected group of residents.

The request for you to now intervene to eliminate or substantially reduce this charge and the planned increase to a small number of Melbourne residents who live on or near the tidal waterways of Patterson Lakes is based on the waterways being a public waterway that are used by and provide benefit to many more Victorians than are being charged for their maintenance.

The tidal waterways are public waterways sitting alongside one of Victoria's busiest public boat ramps, Launchingway at Carrum, and as a result the tidal waterway are well used by boaters, recreational fishers and canoeists from all over Melbourne and Victoria.

The tidal waterways also form an integral part of the flood protection scheme for a large part of Carrum and Patterson Lakes whose residents do not contribute to the maintenance of this flood protection scheme despite the benefit to them.

Kingston Council, while being a beneficiary of the Patterson Lakes residents through their rates, is also a beneficiary that does not pay for their use of the canals. Kingston Council discharge rain water into the canals from their roads which results in both an increase in silt deposits which will need to be dredged and litter which again selected residents, chosen by Melbourne Water, are expected to be responsible for the cost of cleaning this up.

The canals are also affected by downstream flows which bring rubbish into the canals and also provide environmental flows to Kananook Creek at the cost of selected residents.

Melbourne Water now seek to move to full recovery of the maintenance costs of the Patterson River canal system from these selected residents which will over the next eight years result in an increase of 500% plus CPI to the current precept charge paid by residents. This is despite other waterways used for public recreation being fully maintained by Melbourne Water from the General Water and Drainage charge imposed on all Melbourne residents.

The Melbourne Water Precept charges cover both the maintenance of the canals which is a public waterway and have many users and beneficiaries and a number of private jetties. It is the charge for the maintenance of the public waterways for which I seek your consideration as I agree with the approach Melbourne Water are taking with the jetty maintenance with the residents.

This view was supported in the report prepared for the Commission by Strategic Economics Consulting Group in reviewing the 2011-12 pricing submission which stated "Where other residents or members of the public have access to these facilities, then at least some proportion of the ongoing cost could reasonably be covered under the WDC".

Further, Melbourne Water have not take into account the interest of low income customers as the tidal canals have many residents on fixed incomes which if these increases go ahead will force them out of the area.

Yours sincerely,

Neil James