

18 May 2012

The Essential Services Commission
water@esc.vic.gov.au

Dear Sirs

RE: PRECEPT RATE INCREASES PATTERSON LAKES

I strongly object to the proposed price rises submitted to the Essential Services Commission by Melbourne Water on the basis of fairness, benefit, allocation and costs. My reasons are detailed below:

FAIRNESS

Melbourne water claims in its current proposal that *"Melbourne Water provides higher levels of drainage and waterway services to residents in Patterson Lakes "*. In its 2009 submission it only claimed that *"Melbourne Water provides higher levels of drainage services to Patterson Lakes"*. Since 2009 it has added Waterway services to its reasons for cost increases, yet has been managing the waterway since 1994.

The reality is that Melbourne Water has used the legislation of the Precept Rate to allocate whatever charges it seems to think it can charge to a selected group of residents whilst ignoring it's obligations under the Water ways and Drainage Charge.

Patterson Lakes is primarily a designated Waterway under the Water Act and therefore is the responsibility of Melbourne Water. The waterway provides a number of functions including in order of importance.

1. Property Protection
2. Flood Protection
3. Retarding Basin
4. Drainage Reserve
5. Local Council Drainage Discharge
6. Recreation for Residents
7. Recreation for the General Public

How is it fair, that it is allowed to charge for items 1- 5 and 7 to selected residents only.? What do I mean by selected Residents.?

Currently there are many beneficiaries as defined above and because of the existence of the Precept Rate and despite the definition of what the Precept rate should be used for in the original agreement,

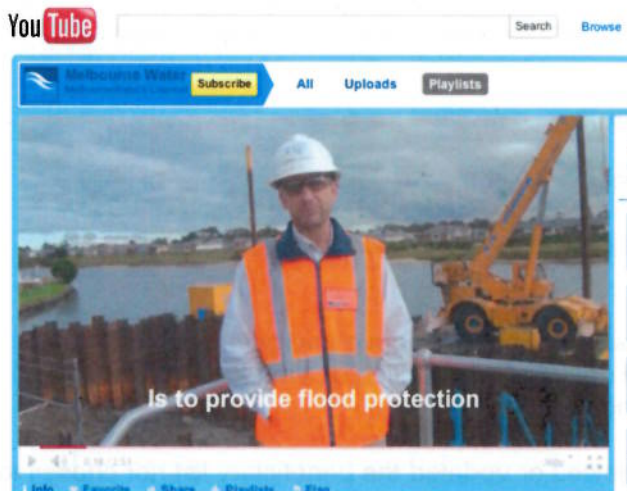
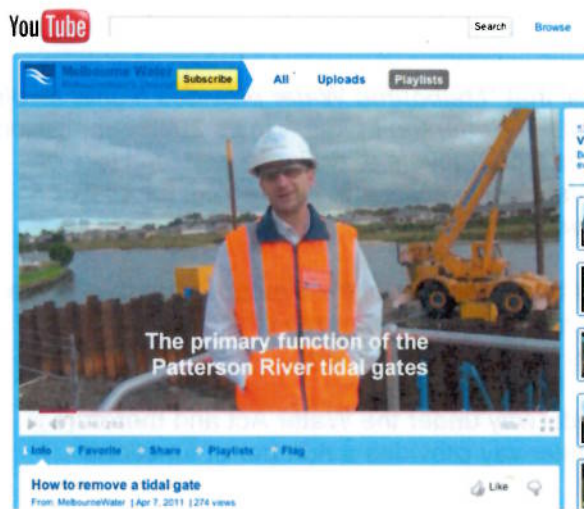
Melbourne Water has NEVER reviewed or updated the beneficiary list nor chosen to charge them. The only beneficiaries that are charged are the ORIGINAL precept rate payers, despite the existence of further stages of the Subdivision. A simple look at the final development plan against the Precept Rate identifies large areas of properties that are not charged. If MW choses not to charge these areas at the very least they should provide credits to the remaining residents for this lack of charging.

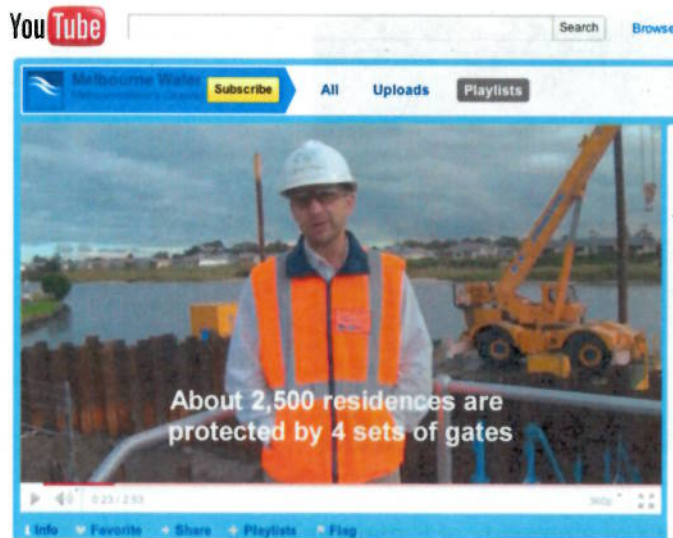
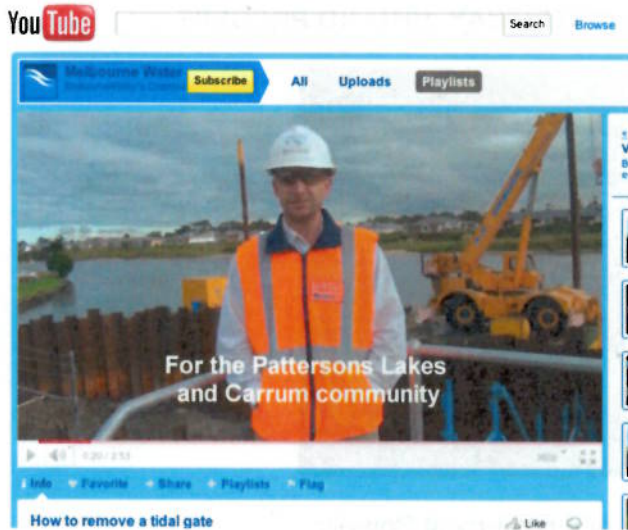
In addition Melbourne Water is on record (see below from a Melbourne Water YOUTUBE Video, now removed, when they realized the implications of their staements) that 2500 properties are protected by the flood gates yet only selected properties get charged for 42%* of its maintenance.

The Video States :

THE PRIMARY FUNCTION OF THE TIDAL GATES IS FOR FLOOD PROTECTION OF APPROXIMATELY 2500 RESIDENCIES OF PATTERSON LAKES AND CARRUM

[*NOTE: The calculation for the 42% is now incorrect and no justification or review of the 42% has been made , other than like the precept itself, the original and historical calculation is used.]





In addition, of course, we also have the general public who enjoy the benefit of the Waterway as a recreation reserve ,but don't get charged. The ESC should ask for example the Patterson Lakes Canoe Club if they use the Tidal Waterways as a public Reserve (which it is)

In the last price determination, by the Essential Services Commission , the ESC agreed that any non-exclusive services should be paid for by Melbourne Water, through the other charge that Precept Payers are charged, the Waterways and Drainage Charge. I now call on the Essential Services Commission under Section 8.1 of the Essential Services Act to ensure that these charges are appropriately charged.

Melbourne Water seems to want to justify the price rises, rather than review its methodology or past financial management by claiming that its paid for \$9M of works that were to be charged to residents. The removal of the \$9M correctly represents the function of the Waterways and Drainage Charge as seen by the YouTube video. Therefore it is also true that the maintenance of a public asset that provide primarily flood protection (its own words) that it should be paid for by the WDC.

EXAMPLE OF RECREATIONAL WATERWAY WITH NO PRECEPT



The above image shows the back of a property at Rowville.



The image below shows the back of a property at Patterson Lakes

Why does one pay a precept for Flood Protection works and the other doesn't?

CATCH UP CHARGING IS NOT EQUITABLE

Melbourne Water was "gifted" drainage and flood protection assets that it depreciated for its benefit and chose not to charge past residents. The walls are a good example of this. The cost to maintain these assets is now being sought from the current residents when provision should have been made over the last 25 years. The walls primary function is to protect property from flooding. All other flood protection walls throughout Melbourne are paid for by the WDC.

Whenever Melbourne water forgets to charge residents in Patterson Lakes it incorrectly passes on the financial costs to new rate payers. Why should a new resident pay for charges that were "missed" and should have been charged to previous residents who have enjoyed the benefit and have now left the area.

MW now also seek to charge CPI when it forgot to include it in last years submission. In letters to residents it has even mixed up the proposed increases between the Tidal and Quiet Lakes.

The *Water Industry Regulatory Order 1994* (WIRO) Clause 14 'Regulatory Principles' requires the Commission to apply four fundamental principles requiring prices to:

- Provide for a sustainable revenue stream which allows for a rate of return on investments to augment existing assets or construct new assets.
- Not reflect monopoly rents and or inefficient expenditure.
- Recover operational costs.
- Recover capital expenditure

MW has chosen not to do this for almost 20 years yet now seek to charge the current residents for charges it should have already been recovered!!

I accept that MW can make. The charges are pursuant to Part 13 Division 5 Section 259 of the *Water Act 1989*, which is administered by the Department of Sustainability and Environment (DSE), however the ESC cannot allow MW to make these charges when they are -:

- Not correctly allocated to all beneficiaries
- Include charges that should be paid for by the WDC
- Charges that should have been charged in the past.

Melbourne Waters only justification seems to be that there is legislation that allows them to charge the residents and elects to do so on a discriminatory basis. MW can also charge Council for the benefit it receives, but elects NOT to. It can also charge the other subdivision properties but elects NOT to. It could also charge for individual projects with clear beneficiaries but elects not to do so.

Under the rationale used by Melbourne Water why should the residents of Wheelers hill pay for the Frankston Drainage Improvement Project? Clearly identifiable beneficiaries , \$70M project. This is no different to the Drainage function of Patterson Lakes. Yet the principles of the WDC are applied. Equality for all is what I demand from the ESC and remove all costs associated with drainage and Flood Protection.

You would expect that any organization that was seeking to charge annual increases of 15%+ for ten years that there had been either very poor management or oversights. Why should current residents pay for these mistakes?

RECREATIONAL USE

I am happy to pay for the recreational benefit of the waterways and this includes

- Jetties
- Localized Dredging

Costs for this services should be similar to that charged by other statutory bodies like East Gippsland Shire Council for berths, which for a 10 Metre berth are currently \$1428 per annum.

See <http://www.slipbightmarina.com.au/slip-bight-marina-fees>.

It is my understanding that the Patterson Lakes Advisory Committee has recommended to Melbourne Water that a Mooring Lease fee be payable by Property Owners on a change of ownership of a once off fee of up to \$5000 . Melbourne Water has elected not to charge or

take up this option or make recommendations that it should be charged, which would have the effect of raising up to \$500K per annum and significantly reducing the annual charges on a full cost recovery basis.

MELBOURNE WATER SUBMISSION

Melbourne Water claims that Patterson Lakes Residents should pay otherwise It would otherwise result in a significant cross subsidy of Patterson Lakes by the general drainage rate base. Yet this is the principle of the Water Ways And Drainage Charge. This occurs generally throughout Melbourne Water and is indeed the reason for the existence of the WDC so that individual beneficiaries are cross subsidized, otherwise the individual costs would be too great to bear.(as is the case here) For example the Frankston Drainage Improvement Project at a cot over \$70M for an identifiable group of beneficiaries. Why don't they pay for these works and why should Patterson Lakes residents and Altona residents pay for these works.?

The Submission also claims that *the proposed long term sustainable price path balances affordability consideration against financial concerns from Melbourne Water's perspective. The proposed paths are a compromise that all parties can manage.* This is clearly untrue and many residents on fixed incomes will be FORCED to sell their properties as they will not be able to pay the proposed price path.

SUMMARY

In summary I call on the ESC to:

1. Reject the proposed price rise for retrospective CPI increases
2. Reject all costs associated with Drainage and Flood Protection at Patterson Lakes.
3. Reject all charges associated with "catch up" charging for assets that were gifted to Melbourne Water.
4. Adjust the charges to reflect other beneficiaries
5. Adjust the charges to reflect the lack of other charging to properties within the development.
6. Adjust the charges to reflect the incorrect use of 42% of the costs allocated to the precept.
7. Bring mooring fees in to line with other Statutory bodes. This could be done if Melbourne Water used the Water Act and charged Kingston Council all of the precept charges. Council could then make a range of more equitable charges to better reflect the use of the system

I further call on the ESC under Part 5 Section 40 of the Essential Service Act to conduct an open inquiry and report under Section 45 on matters relating to the inappropriate charging of only selected Residents the Precept Rate for flood and drainage works.

Yours faithfully

Andrew Meehan

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