

Dr John Hamill  
Chief Executive Officer  
Essential Services Commission  
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Dear Dr Hamill

### **Draft decision on Melbourne Water Price Review 2016**

The Environment Protection Authority Victoria (EPA) understands that Essential Services Commission (ESC) recently published a draft decision on the Melbourne Water Price Review 2016.

As you are aware, EPA provided Melbourne Water with a guidance letter and advice to support their pricing submission to the ESC and underpin their 2016 pricing determination. This letter provided guidance that specifically focused on environmental obligations under the *Environment Protection Act 1970* (EP Act) and associated instruments.

#### **Pollution Response**

In regards to the issues of pollution response, EPA provided the following guidance to Melbourne Water regarding their obligations EP Act as a 'protection agency'.

*Extract from EPA's guidance letter to ESC*

*'EPA's position is that Melbourne Water, pursuant to section 4 of the EP Act, is a 'protection agency' in respect of designated waterways and designated land in the Port Phillip and Westernport regions (see further the Water Act 1989). In accordance with section 66 of the EP Act, if any designated waterway or designated land in these regions is polluted or an environmental hazard occurs, Melbourne Water, as a protection agency, may, and if 'directed' by the EPA, must, conduct a clean up to protect public health and the environment. EPA may specify the method to be used in the clean up of pollution.'*

EPA acknowledges that the ESC accepts that Melbourne Water is a 'protection agency' in respect of designated waterways and designated land in the Port Phillip and Westernport regions.

This acknowledgment of Melbourne Water's obligations also recognises the critical role Melbourne Water plays in responding to pollution events and environmental hazards to protect public health and the environment.

Given this acknowledgement, EPA disagrees with the draft decision not to fund the pollution response service based on ESC's position that *'Melbourne Water has largely been undertaking the function in the past, and its pollution response costs have historically been included in the reported operating expenditure levels'*.



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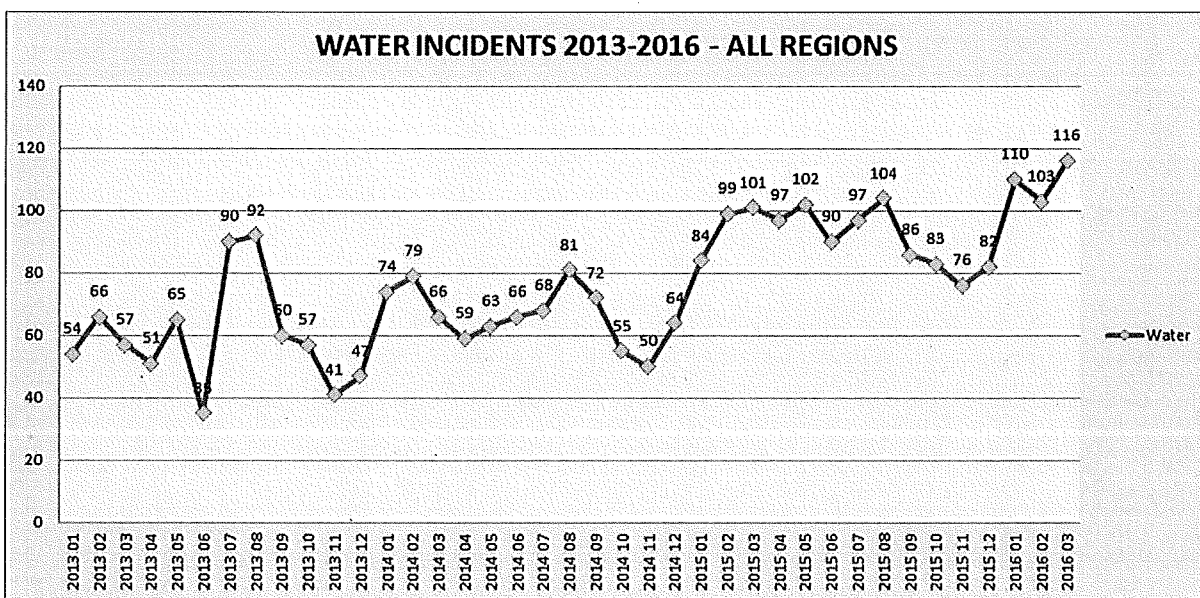
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EPA recognises the increasing community expectation of government's role in responding to emergency management, including pollution events. The greater emphasis on mitigating hazards and building community resilience by government and community working together more cooperatively to respond to emergencies, including pollution events and environmental hazards is supported by recent emergency management reform, including the 'all agencies, all hazards' approach to emergency management.

Victoria's current emergency management arrangements are set out in the *Emergency Management Act 2013*, supported by the *Emergency Management Manual Victoria (EMMV)*. The EMMV clearly articulates Melbourne Water's roles and responsibilities in relation to the prevention, mitigation, risk reduction and response to emergencies and pollution events including the pollution of waterways (see Attachment 1). As Victoria's environmental regulator, EPA expects that Melbourne Water will continue to work cooperatively with EPA and other response agencies in responding to pollution events and other emergencies that impact on waterways.

In addition to an increased community expectation in responding to pollution events, recent data from EPA demonstrates that there is an increasing trend in the rate that water pollution events are occurring, requiring response (see Figure 1). This trend is expected to continue due to increased urbanisation and expansion of industrial areas around waterways, leading to more frequent instances of pollution events.

**Figure 1: Number of water-related incidents logged by EPA Victoria 2013-2016**



Reference: EPA Victoria

Melbourne Water has acknowledged that it has delivered limited pollution response services within their current budget, at some expense to their existing services. However, EPA understands that the proposed pollution response service described in their 2016 Price Submission represents an increase in resourcing. This is consistent with Melbourne Water's better defined role as a response agency, customer, along with increased community expectations and an expected increase in pollution events.

EPA's position is that Melbourne Water needs to be adequately resourced to undertake its crucial pollution and emergency response functions to address and reduce risks the Victorian community and environment. Without adequate funding, EPA is concerned that Melbourne Water will need to direct funds from other areas of the business, which poses a risk to meeting other legislative obligations under the EP Act.

### **Rehabilitation of existing wetlands**

EPA provided the following guidance to Melbourne Water regarding their obligations under EP Act and the State Environment Protection Policy - Waters of Victoria (SEPP WoV) to maintain constructed sediment ponds and wetlands,

*Extract from EPA's guidance letter to ESC*

*'Melbourne Water has obligations under SEPP WoV to maintain and renew their constructed sediment ponds and wetlands (or replace or substitute with interventions that provide equivalent SEPP outcomes) as a critical water treatment asset to ensure they function for the purpose they were built. Constructed sediment ponds and wetlands play a similar role to wastewater treatment plants by removing pollutants from water to a standard set by the EPA that is acceptable for discharge into receiving waterways and bays.*

*Clause 46 of SEPP WoV, requires that 'artificial stormwater drains and artificial stormwater management wetlands are managed for the purpose for which they were constructed'. They need to be managed so that the impacts of flow, sediments, nutrients, toxicants litter and other pollutants on surface waters are minimised to support healthy waterways and bays. Additionally, maintaining functional constructed wetlands is needed for Melbourne Water to continue to meet nitrogen targets assigned to Melbourne Water in the Port Phillip Bay Environmental Management Plan.'*

After reviewing ESC's draft decision on the Melbourne Water Price Review 2016, EPA is concerned that a 20 per cent reduction in Melbourne Water's program of works for wetland management will put Melbourne Water at high risk of failing to meet their environmental obligations in meeting SEPP WoV objectives. This could result in potential pollution abatement or clean up costs.

Wetlands and sediment ponds play a critical role in preventing pollutants such as suspended solids, nitrogen and phosphorus, as well as toxicants, from entering waterways and the bays. If they are not appropriately managed and they fail to function as designed, there is a real risk to the environment from the impact of increased pollutant loads entering receiving waters. It is recognised that maintenance of wetlands includes 'resetting' them by removing sediment or reinstating vegetation so that they continue to function into the future, just as other built water infrastructure needs regular maintenance or replacement. Preventative measures via timely and appropriate maintenance will avoid potential clean up or remediation

costs. It is EPA's experience that the costs of clean up will exceed the costs of prevention.

EPA expects that the ESC will reconsider any proposed reductions in Melbourne Water's program of works for wetland management so that they continue to provide an acceptable level of protection of the environment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Wilkinson', written in a cursive style.

CATHY WILKINSON  
EXECUTIVE DIRECTOR, KNOWLEDGE, STANDARDS &  
ASSESSMENT  
ENVIRONMENT PROTECTION AUTHORITY VICTORIA

25 / 4 / 2016

## **ATTACHMENT 1 – Emergency Management Manual Victoria**

**Melbourne Water roles and responsibilities - Reference page 7-66 of the Emergency Management Manual Victoria**

### **Melbourne Water**

#### **Prevention / Mitigation / Risk Reduction Activities**

- Develop and implement plans and operational procedures for the continuity of Melbourne's water supply systems, dams, sewerage systems, waterways and drainage assets.
- Develop and implement plans for the protection of Melbourne Water's assets and systems, including Dam Safety, Water Quality, Catchment and Asset Security.
- Develop and undertake training and exercise activities to ensure that Melbourne Water's people, customers and partners are able to implement plans and procedures.
- Prepare sub catchment drainage strategies to support urban development.
- Establish agreements with land developers for the provision of drainage infrastructure.
- Regulate development in flood prone areas within our Waterway Management District as a referral authority under council planning schemes.
- Develop policies and procedures for the management of trade waste.
- Continue to develop the flood monitoring system for our Waterway Management District.

#### **Response Activities**

- Implement plans and procedures for the continuity of services in the event of a threat or impact to Melbourne Water's water supply systems, dams, sewerage systems, waterways and drainage assets.
- Implement plans for the protection of Melbourne Water's assets and systems from threats and impacts, including Dam Safety, Water Quality, Catchment and Asset Security.
- Provide flood predictions to the Bureau of Meteorology for Melbourne's water courses for which flood warning systems have been developed.
- Provide emergency works to alleviate flooding and clearance of waterways and drainage assets after flooding has occurred.
- Provide advice and support to the Environment Protection Authority and other response agencies regarding the impact of an incident or emergency (including pollution to waterways) within our Waterway Management District.
- Provide advice and support to the Department of Environment, Land, Water Planning (DELWP) for any Dam Safety event.

#### **Relief / Recovery Activities**

Melbourne Water leads delivery of the following relief and recovery activities:

- Support the recovery and rehabilitation of areas directly impacted by the failure of Melbourne Water's assets or systems.
- Restoration, clearing and rehabilitation of public buildings and assets managed within Melbourne Water Corporation's portfolio
- Recovery and rehabilitation of essential water supply for domestic use by leading the restoration of water supply when reticulated water supply is available (co-lead with DEWLP)

- Restoration of sewerage, sanitation systems and wastewater management by leading the restoration of sewerage /sanitation systems/wastewater systems for domestic use when reticulated water supply is available (co-lead with DELWP)
- Undertaking the assessment, restoration, clearing and rehabilitation of public buildings and assets (e.g. public amenities) where Melbourne Water is the manager of that building or asset.

Melbourne Water as a local water authority, supports DELWP in its role to coordinate the provision of drinking water to households, when within their Melbourne Water's remit.