

20th February 2014

Essential Services Commission
Level 37 / 2 Lonsdale Street
Melbourne Victoria 3000

Dear Commissioners,

Submission for Publication: Application - Melbourne Water's Special Drainage Areas Price Review 2014-16

We, the undersigned residents of Whalers Cove are jointly putting forward this submission to your pricing review for the moorings in Patterson Lakes. We are the joint lessees of a single concrete jetty complex consisting of 15 individual moorings located at the Northern end of Whalers Cove. We are of the view that the pricing proposal for the concrete moorings is not fit for purpose for the following reasons:

1. It is unfair and creates winners and losers

For all of its other faults, the precept rate did create a link between asset value and the contribution to costs. The pricing method proposed loses this important feature and therefore creates winners and losers.

2. It does not apply the recommendations of the Independent Review

The Independent Review recommended implementation of user pays for jetty services. The proposed pricing is based on uniform user pays which is quite different by definition.

3. It is fundamentally inequitable

The uniform pricing effectively adds value to properties that have larger and more extensive jetty assets compared with those that do not instead of retaining the relationship between asset cost and asset value.

4. The process of establishing the pricing proposal and consideration of alternatives has not been adequately transparent

Although Melbourne Water have been helpful with the information that was provided to allow us to make this submission, it is not clear to us whether there has been any real analysis and consideration of other pricing options that may be better suited to the situation.

5. The Residents Association of Patterson Lakes has actively opposed any debate or appraisal of alternatives to the pricing proposal as it presently stands

Neither verbal nor written submissions have gained any consideration from the Residents Association in spite of repeated attempts. The reasons for this are not understood as there is a simple alternative available.

6. It is inconsistent with the pricing methodology used for dredging which is based on user pays rather than uniform user pays after a conclusive vote on the issue

The vote taken of residents regarding dredging quite clearly rejected the option based on uniform user pays in favour of a more cost reflective user pays system. It is our view that a vote between these two pricing options would have the same result for the jetties.

There is a realistic and simple alternative pricing option that can address each of the points raised above. This option based on cost reflective pricing and supporting details and evidence for each of the points above are presented in the attached document.

The reason given for the rejection of the cost reflective pricing option by Melbourne Water is that it would add to administration costs. We believe that the principles of fairness, equity and transparency are much more important than a relatively insignificant cost for administration over the life of these assets.

For the avoidance of doubt we would like to state that we agree with the proposed pricing for dredging as this reflects the outcome of a vote and is applied on the basis of user pays rather than uniform user pays. We do not have a view on whether the timber jetty pricing proposal is fit for purpose.

We trust that the Essential Services Commission will evaluate this submission in the spirit in which it is intended – which is to implement a better and more equitable solution than that which is currently proposed.

Yours sincerely,

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John & Jennie Owens

Peter & Heather Whelan

John & Anne Donald

David Cox

Steve & Christine Haines

Terry & Pam Wilson

Alistair Lewis and Lin Ma

Robert and Christine Hough

Mitch Sartori & Courtney Ford

Anthony Fysh

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Analysis of proposed pricing and related issues and proposed alternative pricing

During the consultation process carried out by Melbourne Water in 2013, we as group of residents affected by the pricing methodology objected to the pricing methodology proposed and requested instead a more cost reflective pricing approach. Our proposed alternative approach was rejected on the grounds that it would add administrative costs.

We remain of the view that an addition to administrative costs is a small price to pay for a more equitable, fair and transparent pricing methodology that is also more reflective of the actual cost of the service provided. For this reason we have prepared this submission for consideration by the Essential Services Commission during the pricing review.

The pricing methodology proposed by Melbourne Water for the concrete jetties is based on a uniform user pays approach that effectively averages out the overall jetty costs to all users regardless of differences in cost and asset value. The following is our analysis of this methodology and also a proposal on a different user pays methodology that is based on cost reflective pricing.

1. The proposed pricing is unfair and creates winners and losers

At the time that most mooring lessees made their decisions about their replacement jetties the precept rate and peppercorn lease for moorings was the mechanism for payment. There was no clear concept at the time about what if anything would replace it. It is however clear that many mooring lessees would probably have chosen different options had the pricing method been known at the time.

For all of its other faults, the precept rate did create a link between asset value and the contribution to costs. The uniform user pays pricing method proposed loses this important feature and therefore creates winners and losers.

The winners are those with large, complex and expensive moorings. The losers are those with lesser properties and moorings. Worst affected are those who do not have waterfront property and have moorings that cost less because they are smaller.

Perversely, the lower uniform user pays annual charge being levied on higher value properties would actually lead to an increase in their asset value.

Although Melbourne Water insists that they have used common design standards to ensure that each jetty provides an equivalent service, any objective review of the actual as built jetties reveal vast differences in the size, function and utility of the various moorings in the system. This is an inevitable consequence of spatial constraints and is the key reason for the unfair outcome produced by a uniform user pays system.

The dominant portion of the cost to provide the jetties is the capital charges. While these are offset to some degree by the lessees up front capital contributions, the result is quite clearly unfair. Transparently applying cost reflective user pays pricing would remove all of these unfair outcomes.

2. The proposed pricing does not apply the recommendations of the Independent Review

The Independent Review recommended implementation of user pays for jetty services and dredging. In the case of dredging a poll taken of the mooring lessees rejected the option of uniform user pays in favour of a cost reflective user pays system.

Conclusion 2 of the independent Review states *“The Patterson Lakes Waterways have different characteristics and issues and generally applying a Precept Rate over them is no longer relevant and suitable. “* This conclusion recognises that there are a large range of variables in terms of costs and services provided that will inevitably lead to inequities between payments made and services received and therefore this method should effectively cease to avoid such inequities. Unfortunately the proposed methodology for the jetties do not dispense with this methodology at all and as a consequence the entrenched inequities inherent to the averaging of costs amongst all Patterson Lakes Waterways ratepayers remains intact.

Recommendation 19 of the Independent Review states *“That existing jetty and mooring leases are replaced with new leases entered into on a full cost recovery basis that includes jetty maintenance, replacement and dredging necessary for navigation and berthing, under the auspice of Parks Victoria (under delegation from Melbourne Water)”*

This recommendation and recommendation 14 introduce the concept of user pays as the method of cost recovery for the jetties and dredging. Wikipedia defines user pays as *“User pays, or beneficiary pays, is a pricing approach based on the idea that the most efficient allocation of resources occurs when consumers pay the full cost of the goods that they consume.”* This definition does not support what is being proposed as the methodology for the mooring lessees. Rather the methodology being used is to aggregate and then average total costs across the number of lessees. By definition this is not user pays. *“when consumers pay the full cost of the goods that they consume.”* Indeed the method being proposed operates more like a tax or Precept Rate which in our view are specifically excluded by conclusion 2 of the Independent Review.

The proposed pricing for the moorings is based on uniform user pays which is quite different by definition to user pays. We are of the view that if a properly thought through cost reflective user pays methodology were put to the mooring lessees, this would reflect the intent of the Independent Review and would be the preferred pricing method.

3. The proposed pricing is fundamentally inequitable

The table below was provided by Melbourne Water in response to our question to advise the highest/lowest total capital per mooring and the resident contribution. *This information is based on the pontoons built in the previous 14 months.*

<i>Jetty Type</i>	<i>Moorings</i>	<i>Resident Contribution/ Mooring</i>	<i>Total Capital/ Mooring</i>
<i>Pontoon</i>	<i>1</i>	<i>\$16,768</i>	<i>\$44,167</i>
<i>Pontoon</i>	<i>8</i>	<i>\$3,789.75</i>	<i>\$14,739.12</i>

**Please note the total costs above are design and construction costs and do not include planning permit costs, administration costs or JRP depot costs.*

Melbourne Water also advised that the direct capital contribution or upgrade contribution being paid directly to Melbourne Water before or at the time of construction ranges from:

- Lowest upgrade contribution on a per mooring basis so far has been \$1,776

- Highest upgrade contribution on a per mooring basis so far has been \$25,552

We note that the capital contribution charges range over more than 14:1 whereas the capital per mooring is about 3:1. Perhaps part of the explanation is that not all costs and overheads are included in the capital costs. In spite of this it is clear that if the capital contributions themselves are fair and equitable, they must be proportional to the costs. There are examples that we are aware of where the difference between actual capital cost and the aggregate of capital and annual service charges do not result in anything like the same cost contribution for every mooring owner.

We understand that the upfront capital charge is intended to even out the lessee contributions to ensure that there is equity in the provision of moorings. However, we are aware of at least one case where it is now quite clear that the upfront capital charge has not achieved equity in overall cost.

In one case that we know of, there are two identical moorings. One has two lessees and the other has one. The costs for these two cases are set out below:

Case	No. of lessees	Upfront Capital	Cost 25 yrs	Total cost
A	2	\$10,000	\$53,850	\$63,850
B	1	\$18,000	\$26,925	\$44,925

As the cost to provide the moorings for both cases is the same it is an inescapable conclusion that the lessees of case A are subsidising the case B lessee. In both Case A and case B there is a single landing and two piles to support the floating mooring.

The uniform users pay pricing effectively adds value to properties that have larger and more extensive jetty assets compared with those that do not instead of retaining the relationship between asset price and asset value that was a feature of the precept rate.

The way to correct this situation is to implement a cost reflective user pays annual charge.

4. The process of establishing the pricing proposal and consideration of alternatives has not been adequately transparent

Although Melbourne Water have been helpful with the information that was provided to allow us to make this submission, it is not clear to us whether there has been any real analysis and consideration of other pricing options that may be better suited to the situation. We also note that there are some worrying inconsistencies in the information that we have received from Melbourne Water.

For instance during the calculation and negotiation of mooring options for Whalers Cove we had a number of meetings where we were informed by Melbourne Water that the capital contribution was being calculated on a net present value basis taking into account the difference in the assets lifetimes. It is now very clear that this was not the case as the concrete pontoons have a lower annual cost than the timber jetties.

In addition, there is inconsistency in the capital contributions and range of actual capital costs presented under 3 above. These inconsistencies need to be dealt with so that there is confidence amongst the mooring lessees that they are paying a fair and equitable charge for the use of their assets. We do not achieve the required confidence when such inconsistencies are revealed and uniform user pays is applied by lumping all costs into a single pot.

5. The Residents Association of Patterson Lakes has actively opposed any debate or appraisal of alternatives to the pricing proposal as it presently stands

Neither verbal nor written submissions have gained any consideration from the Residents Association in spite of repeated attempts to engage on the issue.

We absolutely reject the case made at the PLRA meeting on Sunday 4th August 2013 that the jetty costs should be distributed in the same way as sewage connections. A sewage connection provides exactly the same service to each user and therefore has no influence whatsoever on the value of a property value. It is also effectively invisible.

Jetties on the other hand are highly visible and have a direct and significant influence on property value, particularly given that there were many variations for lessees to choose from. In Whalers Cove jetty lessees chose optional arrangements as offered and negotiated by Melbourne Water which cover the full range from a simple timber jetty all the way through to a double mooring for a single user. At no time during the negotiations with Melbourne Water was there any indication that the annual charges would be averaged across the system. This means that in many cases it is likely that a different configuration would have been chosen if this had been known.

6. It is inconsistent with the pricing methodology used for dredging which is based on user pays rather than uniform user pays after a conclusive vote on the issue

The vote taken of residents regarding dredging quite clearly rejected the option based on uniform user pays in favour of a more cost reflective user pays system. It is our view that a vote between these two pricing options would have the same result for the jetties.

7. Administration costs

We asked Melbourne Water to provide us with an estimate of the additional administrative costs that would be incurred to implement a cost reflective charging regime instead of the presently proposed averaged regime. Their response was:

“A cost regime that is reflective of the individual mooring cost would not be able to be completely administered by South East Water's usual billing system which is currently used by Melbourne Water to collect funding of this nature. There are no ongoing charges that are collected directly by Melbourne Water for us to effectively compare this proposal to. The proposal would require approximately 270 different jetty charge rates as each jetty would be on a slightly different rate some of which will have a 15 year loan period (Timber jetty) and some will have a 25 year loan period (Concrete pontoon), it is likely that this would require fairly intensive administration to set up and run. After a desk top study we estimate that it would require 2 full time people 1 month to implement and then 1 full time person 4 weeks each year to administer until the loans have been repaid. The cost of this is estimated at

\$20,000 to implement and \$10,000 per year which is \$260,000 over 25 years in additional administrative costs."

By our analysis of this response, if the Melbourne Water estimate is correct and the changed pricing methodology was applied to all of the jetties, it would result in an increase of just under 1.2% of the total costs to supply the jetty services for 25 years.

However, the Melbourne Water estimates are made based on several key assumptions which may or may not be experienced in our proposed methodology. These are:

- That the methodology would need to be applied to not only the floating concrete pontoons but also the timber jetties. We do not have a view on including the timber jetties as our concerns are restricted to the pontoons.
- That the cost to be charged is to be infinitely variable. i.e. that each and every individual mooring would potentially have a unique price. Our proposed solution does not make this assumption. We would be satisfied if the pricing were arranged in three or four tiers from highest to lowest supported by a transparent allocation of actual costs and capital contributions that allows users to determine that this equitable.

If it turns out that these two assumptions are not correct, the administration costs would undoubtedly decrease significantly. Furthermore, it is clear that Melbourne Water has already worked out the cost of the capital contribution on an individual mooring basis. Provided that this contribution actually reflects the variation in costs, it cannot be much work to lock in an annual charge based on this existing calculation. This is a very standard commercial process for all businesses to work out a price and invoice and collect it.

We remain of the view that the principles of equity, fairness and transparency are far more important than a small addition to administrative costs and the information provided by Melbourne Water does not change this view.