

National Water Reform Productivity Commission Draft Report September 2017

Further Comment – Alison Joseph

Melbourne Water's Ways – or how Victoria avoided price regulation and the Independent Regulator stood by and did nothing.

Introduction

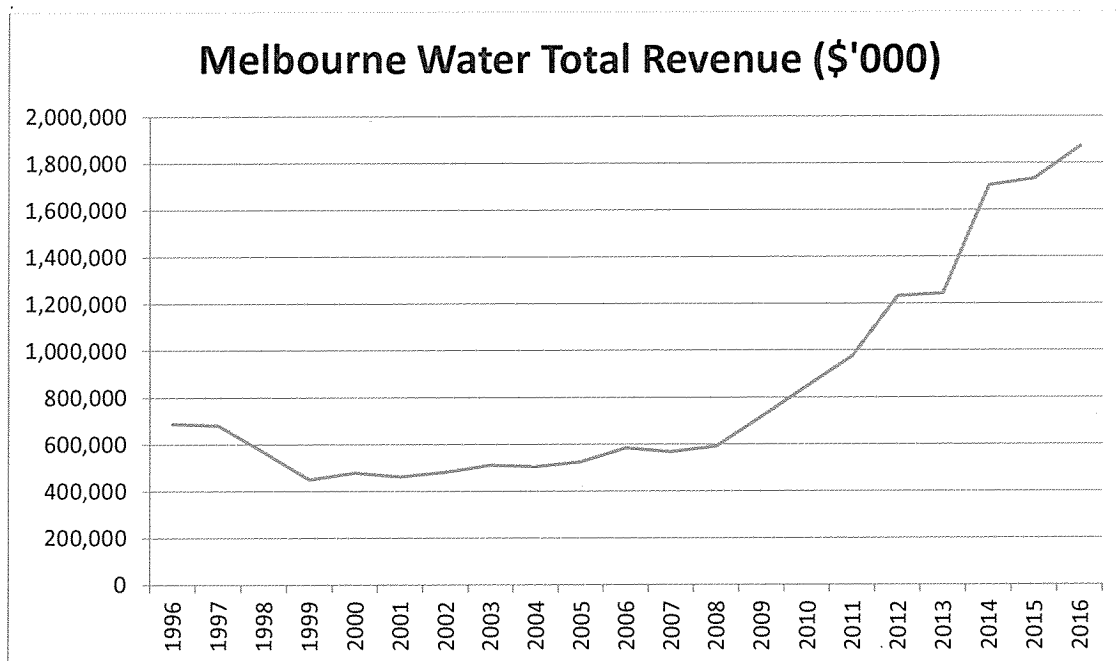
The September 2017 draft report on the National Water Reform, makes many claims as to the success of NWI water reform in Australia. However, it provides next to no evidence in support of these claims. This paper argues, using Victoria as an example, that water reform has not delivered price reductions for urban water customers, and has instead led to dramatic increases in water and water-related charges. Rather than restrict price growth, independent regulation has provided false legitimacy for price gouging, and has increased the barriers to effective customer dispute. The fact that the independent regulator in Victoria has agreed to the imposition of charges on households outside of Melbourne who receive no services and for which no services are planned, suggests that independent regulation has failed. The imposition of “non-service” charges, contrary to NWI principles, has boosted water authority income and negated any benefits that have arisen from better water pricing. It is argued that until such regulation can be fully de-coupled from State Governments and treasuries, that are the prime beneficiaries of excess charges, there seems little hope for consumers.

Failure of Regulation in Victoria

Victoria undertook effective water reform throughout the 1990's. During this period the major government water monopoly, Melbourne Water, lost its public good functions, including the management of parkland, waterways and catchments areas. These responsibilities reverted to the State. In the mid-1990's an environmental tax (the “Parks and Waterways” charge) was imposed across the Melbourne area to cover the costs of these responsibilities and the newly formed Parks Victoria (formed from the former Parks and Waterways division of Melbourne Water). Victoria is only one of a few States in which such a tax is imposed.

The Victorian Government in the closing decade of the 20th Century also instituted a price freeze, and reformed Melbourne Water's drainage responsibilities, with local Councils becoming responsible for the management of drainage. All waterways previously vested in Melbourne Water reverted to Crown ownership under s 175A of the Water Industry Act (1994).

After levelling off throughout the 1990's and early 2000's, Melbourne Water's income dramatically increased at the time of the Essential Service Commissioner's second decision in July 2008, demonstrating the deleterious effects of “regulation”.

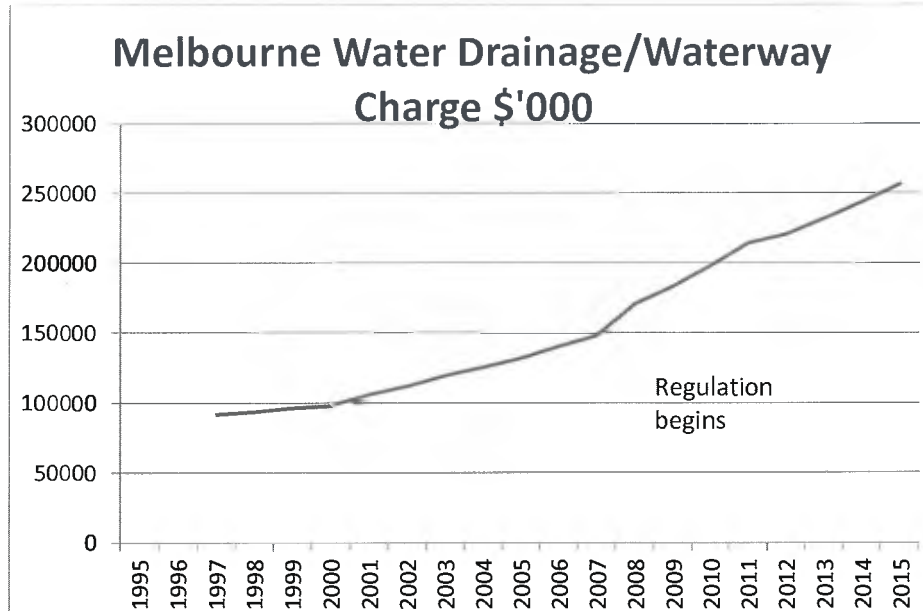


Not only were there dramatic increases in water charges associated with the new desalination plant, but a new “waterway and drainage” charge was also imposed by the ESC in 2008, seemingly without any corresponding legislation. This was imposed across Melbourne, in duplication of the “Parks and Waterways” tax, in addition to being imposed in a supposed “extended” area, which incorporated near-Melbourne rural areas outside of the Urban Growth Zone. This “extended” area included the Macedon Ranges Shire, a rural Shire north west of Melbourne, and imposed charges on property owners who were not connected to any services. Neither Melbourne Water, nor Western Water (the authority that invoices on Melbourne Water’s behalf) supplied any water or sewerage services to the properties invoiced¹. In Macedon Ranges the local Council is responsible for storm water drainage. In Melbourne, as made clear in the ESC’s Final 2005 decision, Melbourne Water’s only remaining drainage functions in 2005 were the maintenance of drains previously vested in it prior to 1994. Melbourne Water therefore appears to have no corresponding function to which the “waterway and drainage” charges relates.

Rather than being transparent, neither Melbourne Water, the Board of Western Water or the Essential Services Commission has been able to provide a cogent explanation for this charge or its legal basis. Across Melbourne, more than \$250 million in “waterway and drainage” charges are currently collected, with collection fees being paid to authorities such as Western Water. It

¹ Note the charges did not relate to irrigation, developer charges or any other service provided to the property. Melbourne Water has stated that benefits are derived by landowners generally “living and recreating” in an area, and that healthier waterways “benefit everyone”. This therefore is not a service charge and is imposed contrary to NWI principles and seemingly contrary to Victorian legislation.

represents a multi-billion-dollar windfall for Melbourne Water and for the State Government which receives substantial dividend payments from Melbourne Water:



Over the period of regulation, “drainage and waterway” charges imposed on households have more than doubled from \$119 million in 2003/4 to \$256 million in 2015/16, despite proportionally larger increases in direct costs on developers for drainage infrastructure. Melbourne Water’s total revenue has increased from approximately \$500 million in 2004/05 to \$1.871 billion in 2015/16. Total cash payments to the Victorian Government (dividends, taxes and other payments) over the same period increased from \$123.1 million to \$262.9 million. It appears that regulation of prices for Melbourne Water’s services has failed to bring about cost savings or any of the desired outcomes that regulation promised.

Given that in Victoria the Government imposes a “Parks and Waterway” tax for the management of metropolitan waterways, and also imposes levies on water authorities for the environmental cost of water, these “waterway and drainage” charges appear to have no justification whatsoever.

The majority of the “service” provided by Melbourne Water is the provision of grants for weed destruction on waterways. This involves the application of large quantities of herbicide (eg Grazon) on crown waterways and private land. Given the well-known deleterious effects of such herbicides on aquatic life, that overall organic matter is the best predictor of river health, and given that in many cases Melbourne Water’s funding of private land reclamation has increased stock numbers along rural waterways, it is far more likely that Melbourne Water’s activities on waterway are deleterious, rather than beneficial. There is therefore no benefit derived by anyone from these “services” (other than select private landowners who are being paid cash grants by Melbourne Water). It is also pertinent to note that over the period 2005-present in which Melbourne Water claims to have provided this service, it has been exceptionally poor at

following-up to ensure that monies gifted to private individuals for these “waterway” works, have actually been used for this purpose.

Despite these matters being repeatedly raised with the ESC, it has appeared content to rely upon Melbourne Water’s assurances as to the legitimacy of the charge. This has demonstrated that the “independent” regulator is anything but independent. Recently, the Victorian State Government has announced a review of the drainage responsibilities of Melbourne Water and local Councils, stating that there is a lack of clarity in their respective roles. If there is no “clarity” in drainage roles, one wonders on what basis the ESC has been setting prices for “waterway and drainage” services for the last 9 years!

Given the substantial income the Victorian State Government derives from Melbourne Water and the other water authorities, and the financial benefits delivered to Treasury it is little wonder that the matters outlined above have failed to be investigated in any meaningful way. Western Water also derives income from the imposition of this charge and has likewise shown an unwillingness to question the basis of the “waterway” charges it collects from its non-customers, contrary to its customer charter.

Whether or not the genesis for this charge lay with the former Bracks/Brumby Government, or was implement on the basis of advice of DSE, is yet to be known. However, it is time for these matters to be investigated, and I would urge the Productivity Commission to do so.