

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE  
NUMBER: 11364/18

Amended pursuant to the order of Justice Boddice on 16 December 2019

Shine Lawyers, 31 January 2020

First Plaintiff:            **JOHN MICHAEL KOZIK**  
  
   AND  
  
Second Plaintiff:        **SIMON JOHN AKERO**  
  
   AND  
  
Third Plaintiff:         **SARAH AKERO**  
  
   AND  
  
Fourth Plaintiff:       **NEIL ROBERT COLLIER**  
  
   AND  
  
Defendant:                **REDLAND CITY COUNCIL**

**FURTHER AMENDED CLAIM STARTING A REPRESENTATIVE  
PROCEEDING UNDER PART 13A OF THE CIVIL  
PROCEEDINGS ACT 2011**

**Representative proceeding**

The Plaintiff~~s~~ brings this claim as a representative ~~parties~~ party under Part 13A of the *Civil Proceedings Act 2011*.

1. The group members to whom this proceeding relates are all persons who:
  - (a) are or were the registered owners of land or a building unit in the Redland local government area who paid special charges, being special charges that were:

FURTHER AMENDED CLAIM (REPRESENTATIVE  
PROCEEDING)  
Filed on behalf of the Plaintiffs  
Form 2B, Version 1  
Uniform Civil Procedure Rules 1999  
Rule 77B

Shine Lawyers  
Level 13, 160 Ann Street  
Brisbane Qld 4000  
Phone No: 07 3006 6082  
Fax No: 07 3229 1999

(i) known as, as set out in the Resolutions (as that term is defined at subparagraph respectively (a)(ii) below):

- (1) 'Aquatic Paradise Marina Special Charge';
- (2) 'Raby Bay Marina Special Charge';
- (3) 'Raby Bay Tidal Works (Community Title Scheme) Special Charge';
- (4) 'Raby Bay Tidal Works (Non Community Title Scheme) Special Charge';
- (5) 'Sovereign Waters Lake Special Charge';
- (6) 'Aquatic Paradise Special Charge'

(individually and collectively, **Special Charges**);

(ii) levied on their land or building unit by the Defendant (**Council**) pursuant to a resolutions made by the Council on or about:

- [A] 28 June 2011 (**2011 Resolution**);
- [B] 12 July 2012 (**2012 Resolution**);
- [C] 27 June 2013 (**2013 Resolution**);
- [D] 26 June 2014 (**2014 Resolution**);
- [E] 25 June 2015 (**2015 Resolution**); or
- [F] 14 July 2016 (**2016 Resolution**)

(collectively, **Resolutions**) to fund capital and operational expenditure on services and facilities, as provided in the Council's meeting minutes recording the Resolutions (**Services**);

- (b) are the legal personal representatives of the estate of any person who was listed in (a) as at the start of this proceeding but has since died;
- (c) were not during any part of the period after paying any Special Charges, and are not as at the date of this Claim, any of the following:

- (i) a 'related body corporate' of the Council (as defined by s 50 of the *Corporations Act 2001* (Cth)) (**Corporations Act**);
- (ii) an 'associated entity' of the Council (as defined by s 50AAA of the *Corporations Act*);
- (iii) an 'officer' of the Council (as defined by s 9 of the *Corporations Act*);
- (iv) a judge or the Chief Justice of this Honourable Court; or
- (v) an officer or employee of, or other legal practitioner engaged by, Shine Lawyers in relation to this proceeding

**(Group Members).**

**Details of claim**

The Plaintiff's claims on their his own behalf and on behalf of other Group Members:

1. an order declaring that:
  - (a) in making the Resolutions, the Council failed omitted to comply with the requirements of regulation 28 of the *Local Government (Finance, Plans and Reporting) Regulation 2010 (2010 Regulation)*, in respect of the 2011 Resolution and the 2012 Resolution;
    - (i) ~~28 June 2011~~; and
    - (ii) ~~12 July 2012~~

and

regulation 94 of the *Local Government Regulation 2012 (2012 Regulation)*, in respect of the 2013 Resolution, the 2014 Resolution, the 2015 Resolution and the 2016 Resolution.
  - (iii) ~~27 June 2013~~;
  - (iv) ~~26 June 2014~~;
  - (v) ~~25 June 2015~~; and
  - (vi) ~~14 July 2016~~;

- (b) rates notices issued by the Council levying Special Charges pursuant to the Resolutions included special charges that were levied on land and building units to which the Special Charges did not apply:
  - (i) in respect of rates notices issued before 14 December 2012, within regulation 32(1) of the 2010 Regulation;
  - (ii) in respect of rates notices issued on or after 14 December 2012, within regulation 98(1) of the 2012 Regulation;
- (c) further or alternatively to paragraph 1(b), in respect of Special Charges included in rates notices issued by the Council after 5 December 2014, the Special Charges were special charges that should not have been levied, within regulation 98(1) of the 2012 Regulation;
- (d) the Council is obliged to return to Group Members all amounts paid by the Group Members for Special Charges, without any deduction on account of the expenditure of part of any fund to which the Council allocated the said charges in or about carrying out the Services (**Deductions**) or any allowance to the Council for amounts for compound interest that it paid on any part of the Special Charges that it returned to Group Members (**Interest Allowance**):
  - (i) in respect of Special Charges that were included in a rate notice that was issued before 14 December 2012, in accordance with regulation 32(2) of the 2010 Regulation;
  - (ii) in respect of Special Charges that were included in a rate notice that was issued on or after 14 December 2012, in accordance with regulation 98(2) of the 2012 Regulation;
- (e) in default of the Council returning amounts paid for Special Charges by Group Members 'as soon as practicable', the said amounts are recoverable by the Group Members in an action against the Council in debt (without any Deductions or any Interest Allowance);
- (f) further or alternatively to paragraph (e) above, the said amounts are recoverable by the Group Member in an action against the Council for money had and received to the use of the Group Member (without any Deductions or any Interest Allowance);

2. Such further or other relief as the Court sees fit.

The plaintiffs claims on ~~his~~ their own behalf:

1. The amount representing the difference between the amount actually paid by ~~him~~ them to the Council for Special Charges and the amount returned by the Council (excluding any Interest Allowance), in debt;
2. In the alternatively to paragraph 1, the amount representing the difference between the amount actually paid by them to the Council for Special Charges and the amount returned by the Council (excluding any Interest Allowance), for money had and received by the Council to the use of each plaintiff;
- ~~2.~~ 3. Interest thereon pursuant to s 58 of the *Civil Proceedings Act 2011 (Qld)* at such rate and for such period as the Court sees fit;
- ~~3.~~ 4. Such further or other relief as the Court sees fit;
4. 5. Costs.

The Plaintiffs make this claim in reliance on the facts alleged in the attached Statement of Claim.

#### **Questions common to claims of Group Members**

The questions of law or fact common to the claims of the Group Members are:

1. In making the Resolutions, did the Council fail ~~omit~~ to comply with the requirements of:
  - (a) regulation 28 of the 2010 Regulation, in respect of:
    - (1) the 2011 Resolution; and
    - (2) the 2012 Resolution; and
  - (b) regulation 94 of the 2012 Regulation, in respect of:
    - (3) the 2013 Resolution;
    - (4) the 2014 Resolution;
    - (5) the 2015 Resolution; and
    - (6) the 2016 Resolution.
2. If the answer to question 1 is 'yes':
  - (a) did rates notices issued by the Council levying Special Charges pursuant to the Resolutions include special charges that were levied on land and building units to which the Special Charges did not apply:

- (i) in respect of rates notices issued before 14 December 2012, within regulation 32(1) of the 2010 Regulation;
  - (ii) in respect of rates notices issued on or after 14 December 2012, within regulation 98(1) of the 2012 Regulation;
- (b) further or alternatively to paragraph 2(a), in respect of Special Charges included in rates notices issued by the Council after 5 December 2014, were the Special Charges special charges that should not have been levied, within regulation 98(1) of the 2012 Regulation;
3. if the answer to question 2(a)(i) and (ii) and (b) (or any of them) is 'yes':
- (aa) is the contention that the return to the Plaintiff, or any other of the Group Members, of part of the Special Charges would be unjustly to enrich the Plaintiff or Group Member respectively (unjust enrichment contention), available to the defendant by way of defence to, avoidance of, the claim;
- (a) is the Council, subject to any defence based upon the unjust enrichment contention that is found to be available to the defendant by way of defence to, or avoidance of, the plaintiff's claim or that which may be brought by any other Group Member, obliged to return to Group Members Special Charges paid by the Group Members in the amount actually paid by the Group Members (without any Deductions or any Interest Allowance):
- (i) in respect of Special Charges that were included in rates notices that were issued before 14 December 2012, in accordance with regulation 32(2) of the 2010 Regulation;
  - (ii) in respect of Special Charges that were included in rates notices that were issued on or after 14 December 2012, in accordance with regulation 98(2) of the 2012 Regulation;
  - (iii) further or alternatively to paragraphs 3(a)(i) and (ii) above, in respect of Special Charges included in rates notices issued by the Council after 5 December 2014, were the Special Charges special charges that should not have been levied, within regulation 98(1) of the 2012 Regulation;
- (b) in default of the Council returning amounts paid by a Group Member for Special Charges 'as soon as practicable', are the said amounts recoverable by the Group Member in an action against the Council in debt (without any Deductions or any Interest Allowance).
- (c) further or alternatively to paragraph (b) above, in default of the Council returning amounts paid by Group Members for Special Charges 'as soon

as practicable', are the said amounts recoverable by Group Members in an action against the Council for money had and received (without any Deductions or any Interest Allowance).

ISSUED WITH THE AUTHORITY OF THE SUPREME COURT OF QUEENSLAND

And filed in the Brisbane Registry on .

Registrar:

To the Defendant:

TAKE NOTICE that you are being sued by the plaintiff in the Court. The proceeding will be listed for an initial case conference at a date to be fixed by the judge to whom the proceeding is assigned: see, generally, Practice Direction 2 of 2017

“Representative Proceeding. If you intend –

- to dispute this claim or to raise any counterclaim against the plaintiff;
- to assert that this Court does not have jurisdiction in this matter or to assert any irregularity;
- to object that this proceeding has not been commenced in the correct district of the Court; or
- to raise any other issues concerning the adequacy of the claim,

you must attend the initial case conference so that directions may be made as to the manner by which (and the time frame within which) the relevant issue may be dealt with by the Court.

Address of Registry: 415 George Street, Brisbane, Qld

PARTICULARS OF THE PLAINTIFFS:

First plaintiff

Name: John Michael Kozik  
 Plaintiff's residential or business address: 4 Chart Street, Birkdale, Qld

Second plaintiff

Name: Simon John Akero  
 Plaintiff's residential or business address: 51 Allan Day Drive, Wellington Point, Qld

Third plaintiff

Name: Sarah Akero  
 Plaintiff's residential or business address: 51 Allan Day Drive, Wellington Point,

QldFourth plaintiff

Name:

Neil Robert Collier

Plaintiff's residential or business address:

c/- Level 13, 160 Ann Street, Brisbane  
Qld

Plaintiff's solicitors name:

Joshua Aylward

and firm name:

Shine Lawyers

Solicitor's business address:

Level 13, 160 Ann Street, Brisbane, Qld

Address for service:

Level 13, 160 Ann Street, Brisbane, Qld

Dx (if any):

Telephone:

(07) 3006 6082

Fax:

(07) 3229 1999

E-mail address:

jaylward@shine.com.au

Signed:



Description: Solicitor for the Plaintiff

Dated: 31 January 2020

This Claim is to be served on: Redland City Council (the Defendant) of corner Middle and Bloomfield Streets, Cleveland, Qld.



SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE  
NUMBER: 11364/18

Amended pursuant to the order of Justice Boddice on 16 December 2019

Shine Lawyers, 31 January 2020

First Plaintiff:                    **JOHN MICHAEL KOZIK**  
  
   AND  
  
Second Plaintiff:                **SIMON JOHN AKERO**  
  
   AND  
  
Third Plaintiff:                   **SARAH AKERO**  
  
   AND  
  
Fourth Plaintiff:                **NEIL ROBERT COLLIER**  
  
   AND  
  
Defendant:                         **REDLAND CITY COUNCIL**

**FURTHER AMENDED STATEMENT OF CLAIM**

This claim in this proceeding is made in reliance on the following facts:

**A. The Plaintiffs**

1. At all material times after 21 September 2004:
  - (a) the First Plaintiff (Mr Kozik) was the registered owner of all that land situated at 4 Chart Street, Birkdale, Qld (title reference 17396150) (**4 Chart Street**);
  - (b) the Second Plaintiff (Mr Akero) and Third Plaintiff (Mrs Akero) were the registered owners of all that land situated at 51 Allan Day Drive, Wellington Point, Queensland (title reference 50328382) (51 Allan Day Drive);
  - (c) the Fourth Plaintiff (Mr Collier) was the registered owner of a registered building unit situated at 18/12 Esperance Court, Cleveland, Queensland (title reference 50074943)] (18/12 Esperance Court).

FURTHER AMENDED STATEMENT OF CLAIM  
Filed on Behalf of the Plaintiffs  
Form 16 Rule 22; 146

Shine Lawyers  
Level 13, 160 Ann Street  
Brisbane QLD 4000  
Tel:(07) 3006 6082  
Fax:(07) 3229 1999  
Ref: 6163423

collectively, the Plaintiffs.

2. At all material times, 4 Chart Street, 51 Allan Day Drive and 18/12 Esperance Court was were:
- (a) land or a registered building unit within the Redland local government area;
  - (b) 'rateable land' within the meaning of section 93(2) of the *Local Government Act 2009 (Qld)* (**Local Government Act**).

**B. The Defendant**

3. The Defendant (**Council**) at all material times:
- (a) was (and is) a body corporate with perpetual succession;
  - (b) was capable of being sued in its own name;
  - (c) had power to levy special charges on rateable land within the Redland local government area under section 94(1)(b)(i) of the Local Government Act.
4. At all material times:
- (a) the Redland local government area included:
    - (i) waterways, canals and lakes;
    - (ii) canal and lakefront reserves comprising:
      - [A] Raby Bay Canal Reserve (**Raby Bay**);
      - [B] Aquatic Paradise Canal Reserve (**Aquatic Paradise**); and
      - [C] Sovereign Waters Lake Reserve (**Sovereign Waters**);
  - (b) 4 Chart Street was in Aquatic Paradise; ~~and~~
  - (c) 51 Allan Day Drive was in Sovereign Waters;
  - (d) 18/12 Esperance Court was in Raby Bay; and
  - (e)(e) other rateable land owned by Group Members (as defined in paragraph 6 (below)) (**Group Members' Other Land**) was in one of:
    - (i) Raby Bay;
    - (ii) Aquatic Paradise; or

(iii) Sovereign Waters.

**C. The Council passes a resolutions to levy special charges**

5. On or about 28 June 2011, the Council decided by resolution (**2011 Resolution**) to levy special charges (**2011 Special Charges**) upon:

- (a) ~~4 Chart Street~~ 18/12 Esperance Court; and
- (b) Group Members' Other Land

to fund capital and operational expenditure on services in the Redland local government area as identified in the Council's meeting minutes for the 2011 Resolution (**2011 Services**).

5A. On or about 12 July 2012, the Council decided by resolution (**2012 Resolution**) to levy special charges (**2012 Special Charges**) upon:

- (a) ~~4 Chart Street~~ 18/12 Esperance Court; and
- (b) Group Members' Other Land

to fund capital and operational expenditure on services as identified in the Council's meeting minutes for the 2012 Resolution (**2012 Services**).

5B. On or about 27 June 2013, the Council decided by resolution (**2013 Resolution**) to levy special charges (**2013 Special Charges**) upon:

- (a) 4 Chart Street; ~~and~~
- (b) 51 Allan Day Drive;
- (c) 18/12 Esperance Court; and

~~(b)~~ (d) Group Members' Other Land

to fund capital and operational expenditure on services as identified in the Council's meeting minutes for the 2013 Resolution (**2013 Services**).

5C. On or about 26 June 2014, the Council decided by resolution (**2014 Resolution**) to levy special charges (**2014 Special Charges**) upon:

- (a) 4 Chart Street; ~~and~~
- (b) 51 Allan Day Drive;
- (c) 18/12 Esperance Court; and

~~(b)~~(d) Group Members' Other Land

to fund capital and operational expenditure on services as identified in the Council's meeting minutes for the 2014 Resolution (**2014 Services**).

5D. On or about 25 June 2015, the Council decided by resolution (**2015 Resolution**) to levy special charges (**2015 Special Charges**) upon:

- (a) 4 Chart Street; ~~and~~
- (b) 51 Allan Day Drive;
- (c) 18/12 Esperance Court; and

~~(b)~~(d) Group Members' Other Land

to fund capital and operational expenditure on services as identified in the Council's meeting minutes for the 2015 Resolution (**2015 Services**).

5E. On or about 14 July 2016, the Council decided by resolution (**2016 Resolution**) to levy special charges (**2016 Special Charges**) upon:

- (a) 4 Chart Street; ~~and~~
- (b) 51 Allan Day Drive;
- (c) 18/12 Esperance Court; and

~~(b)~~ (d) Group Members' Other Land

to fund capital and operational expenditure on services as identified in the Council's meeting minutes for the 2016 Resolution (**2016 Services**).

5F. Each of:

- (a) the 2011 Resolution;
- (b) the 2012 Resolution;
- (c) the 2013 Resolution;
- (d) the 2014 Resolution;
- (e) the 2015 Resolution; and
- (f) the 2016 Resolution

are collectively the '**Resolutions**'.

5G. Particulars of:

- (a) the 2011 Special Charges;
- (b) the 2012 Special Charges;
- (c) the 2013 Special Charges;
- (d) the 2014 Special Charges;
- (e) the 2015 Special Charges; and
- (f) the 2016 Special Charges

are given in Annexure 'A' hereto.

5H. Each of:

- (a) the 2011 Services;
- (b) the 2012 Services;
- (c) the 2013 Services;
- (d) the 2014 Services;
- (e) the 2015 Services; and
- (f) the 2016 Services;

are individually and collectively the '**Services**', particulars of which are given in Annexure 'B' hereto.

#### **D. Group Members**

6. The Plaintiffs bring ~~Mr Kozić~~ brings this proceeding as a representative ~~parties~~ party under Part 13A of the *Civil Proceedings Act 2011 (Qld)* on their ~~his~~ own behalf and on behalf of all persons who:

- (a) are or were the registered owners of land or a building unit in the Redland local government area who paid Special Charges levied by the Council upon their land or building unit pursuant to the Resolutions;

- (b) are the legal personal representatives of the estate of any person who was listed in paragraph (a) as at the start of this proceeding but has since died;
- (c) were not during any part of the period after paying any Special Charges, and are not as at the date of this Claim, any of the following:
  - (i) a 'related body corporate' of the Council (as defined by s 50 of the *Corporations Act 2001 (Corporations Act)*);
  - (ii) an 'associated entity' of the Council (as defined by s 50AAA of the *Corporations Act*);
  - (iii) an 'officer' of the Council (as defined by s 9 of the *Corporations Act*);
  - (iv) a judge or the Chief Justice of this Honourable Court; or
  - (v) an officer or employee of, or other legal practitioner engaged by, Shine Lawyers in relation to this proceeding

**(Group Members).**

7. Immediately prior to the start of this proceeding, the Group Members comprised more than seven persons.

**E. The Council levies Special Charges pursuant to the July 2011 Resolutions**

8. On dates after July 2011, the Council issued rates notices levying Special Charges:
- (a) on 4 Chart Street (**4 Chart Street Rates Notices**), details of which rates notices are contained in annexure 'C' to this Statement of Claim; ~~and~~
  - (b) on 51 Allan Day Drive (51 Allan Day Drive Rates Notices), details of which rates notices are not known until after disclosure of documents;
  - (c) on 18/12 Esperance Court (18/12 Esperance Court Rates Notices), details of which rates notices are not known until after-disclosure of documents;
  - ~~(b)~~(d) on Group Members' Other Land (**Group Members' Other Rates Notices**), details of which rates notices are not known until after disclosure of documents.
9. The Council issued:
- (a) the 4 Chart Street Rates Notices; ~~and~~
  - (b) the 51 Allan Day Drive Rates Notices;
  - (c) the 18/12 Esperance Court Rates Notices; and

(d) the Group Members' Other Rates Notices

pursuant to the Resolutions (or one or more of them, further particulars of which Resolutions are not known until after disclosure of documents ~~discovery~~).

10. The Special Charges so levied:

(a) on 4 Chart Street totalled \$10,193.64, details of which are contained in annexure 'C' to this Statement of Claim; and

(b) on 51 Allan Day Drive totalled \$2,529.75;

(c) on 18/12 Esperance Court totalled \$6,297.92; and

~~(b)~~(d) on Group Members' Other Land totalled amounts details of which are not known until after disclosure of documents ~~discovery~~.

11. Mr Kozike paid the Special Charges levied on 4 Chart Street.

11A. Mr Kozik so paid in the mistaken belief that he was obliged to pay the same as being lawfully charged and demanded;

11B. Mr and Mrs Akero paid the Special Charges levied on 51 Allan Day Drive.

11C. Mr and Mrs Akero so paid in the mistaken belief that they were obliged to pay the same as being lawfully charged and demanded.

11D. Mr Collier paid the Special Charges levied on 18/12 Esperance Court.

11E. Mr Collier so paid in the mistaken belief that he was obliged to pay the same as being lawfully charged and demanded.

12. Group Members paid the Special Charges levied on Group Members' Other Land.

12A. The Group Members so paid in the mistaken belief that they were obliged to pay the same as being lawfully charged and demanded.

#### **F. The Resolutions were invalid**

13. The Resolutions were required to identify an overall plan for the Services to which the Special Charges applied (**Overall Plan**).

Regulation 28(3)(b) of the *Local Government (Finance, Plans and Reporting) Regulation 2010 (Qld) (2010 Regulation)*, in respect of:

- (i) the 2011 Resolution; and
- (ii) the 2012 Resolution; and

regulation 94(2)(b) of the *Local Government Regulation 2012 (Qld) (2012 Regulation)*, in respect of:

- (iii) the 2013 Resolution;
- (iv) the 2014 Resolution;
- (v) the 2015 Resolution; and
- (vi) the 2016 Resolution.

14. The Overall Plan was required to state:

- (a) the estimated cost of carrying out the Overall Plan;

#### PARTICULARS

Regulation 28(4)(c) of the 2010 Regulation, in respect of:

- (i) the 2011 Resolution; and
- (ii) the 2012 Resolution; and

regulation 94(3)(c) of the 2012 Regulation, in respect of:

- (iii) the 2013 Resolution;
- (iv) the 2014 Resolution;
- (v) the 2015 Resolution; and
- (vi) the 2016 Resolution;

- (b) the estimated time for carrying out the Overall Plan;

#### PARTICULARS

Regulation 28(4)(d) of the 2010 Regulation, in respect of:

- (i) the 2011 Resolution; and
- (ii) the 2012 Resolution; and

regulation 94(3)(d) of the 2012 Regulation, in respect of:

- (iii) the 2013 Resolution;
- (iv) the 2014 Resolution;
- (v) the 2015 Resolution; and
- (vi) the 2016 Resolution.



15. The Resolutions did not identify an Overall Plan that stated the matters pleaded in paragraphs 14(a) and (b) (above).

#### PARTICULARS

Redland City Canal and Lake Levies newsletter dated March 2017, page 1  
(‘Why we are reviewing how these funds are collected’)

16. Accordingly, the Resolutions did not identify an Overall Plan.
17. The omission in the Resolutions to identify an Overall Plan constituted a breach of:
- (a) regulation 28(3)(b) of the 2010 Regulation, in respect of:
    - (i) the 2011 Resolution; and
    - (ii) the 2012 Resolution; and
  - (b) regulation 94(2)(b) of the 2012 Regulation, in respect of:
    - (iii) the 2013 Resolution;
    - (iv) the 2014 Resolution;
    - (v) the 2015 Resolution; and
    - (vi) the 2016 Resolution.
18. Further:
- (a) the Council first resolved to levy the Special Charges by the Resolutions (and not by a prior resolution);
  - (b) accordingly, the Council was obliged to adopt an Overall Plan before, or at the same time as it made the Resolutions.

#### PARTICULARS

Regulation 28(5) of the 2010 Regulation, in respect of:

- (i) the 2011 Resolution; and
- (ii) the 2012 Resolution; and

regulation 94(4) of the 2012 Regulation in respect of:

- (iii) the 2013 Resolution;
- (iv) the 2014 Resolution;
- (v) the 2015 Resolution; and
- (vi) the 2016 Resolution).

19. By reason of the omission to state the matters pleaded in paragraphs 14(a) and (b) (above), the Council omitted to adopt an Overall Plan before, or at the same time as, the Council first resolved to levy the Special Charges.
20. The omission by the Council to adopt an Overall Plan before, or at the same time as, it first resolved to levy the Special Charges by making the Resolutions constituted a breach of:
- (a) regulation 28(5) of the 2010 Regulation, in respect of:
    - (i) the 2011 Resolution; and
    - (ii) the 2012 Resolution; and
  - (b) regulation 94(4) of the 2012 Regulation, in respect of:
    - (iii) the 2013 Resolution;
    - (iv) the 2014 Resolution;
    - (v) the 2015 Resolution; and
    - (vi) the 2016 Resolution.

**G. The Special Charges were incorrectly levied**

21. Accordingly:

- (a) the 4 Chart Street Rates Notices; and
- (b) the 51 Allan Day Drive Rates Notices;
- (c) the 18/12 Esperance Court Rates Notices; and
- ~~(b)~~ (d) the Group Members' Other Rates Notices

(collectively, **Rates Notices**) included special charges that were levied on land or building units to which the Special Charges did not apply:

- ~~(e)~~ (e) in respect of Special Charges included in Rates Notices issued before 14 December 2012, within regulation 28 of the 2010 Regulation;
  - ~~(d)~~ (f) in respect of Special Charges included in Rates Notices issued on or after 14 December 2012, within regulation 94 of the 2012 Regulation.
22. Further to the matters pleaded in paragraph 21 above, in respect of such of the Rates Notices as were issued by the Council on or after 5 December 2014, the Rates Notices included Special Charges that should not have been levied, within regulation 94 of the 2012 Regulation (as amended on that date).

23. Accordingly, the Council was obliged as soon as practicable:

- (a) to return to Mr Kozik the Special Charges levied on 4 Chart Street in the amounts actually paid by Mr Kozik; and
- (b) to return to Mr and Mrs Akero the Special Charges levied on 51 Allan Day Drive in the amounts actually paid by Mr and Mrs Akero;
- (c) to return to Mr Collier the Special Charges levied on 18/12 Esperance Court in the amounts actually paid by Mr Collier; and
- (b) (d) to return to other Group Members the Special Charges levied on Group Members' Other Land in the amounts actually paid by them

(without any deduction on account of the expenditure of any part of a fund to which the Council allocated the said charges in carrying out the Services (**Deductions**));

- (e) (e) in respect of Special Charges included in Rates Notices issued before 14 December 2012, in accordance with regulation 32 of the 2010 Regulation;
- (d) (f) in respect of Special Charges included in Rates Notices issued on or after 14 December 2012, in accordance with regulation 98 of the 2012 Regulation.

#### **H. The Council returned some of (but not all) the Special Charges**

- 24. On about 18 October 2017, the Council returned to Mr Kozik the amount of \$8,347.35 (including an amount for compound interest on the amount returned in a sum not known until after disclosure of documents ~~discovery~~ in this proceeding), being part of the Special Charges levied on 4 Chart Street that Mr Kozik had paid.
- 24A. On about November 2017, the Council returned to Mr and Mrs Akero the amount of \$89.95 (including an amount for compound interest on the amount returned in a sum not known until after disclosure of documents in this proceeding), being part of the Special Charges levied on 51 Allan Day Drive that Mr and Mrs Akero had paid.
- 24B. On about November 2017, the Council returned to Mr Collier the amount of \$2,784.39 (including an amount for compound interest on the amount returned in a sum not known until after disclosure of documents in this proceeding), being part of the Special Charges levied on 18/12 Esperance Court that Mr Collier had paid.
- 25. On various dates, the Council returned to other Group Members various amounts (including an amount for compound interest on the amounts returned), being part of the Special Charges levied on Group Members' Other Land that Group Members had paid, details of which are not known until after ~~discovery~~ disclosure of documents.

#### **I. The Council has failed to return the balance of the Special Charges**

26. Having regard to the Special Charges levied (as pleaded to in paragraph 8 above) and the partial repayments of the same (as pleaded to in paragraphs 24 to 25 above), and despite demand, the Council has failed or refused to return to:
- (a) Mr Kozik, the balance of the Special Charges levied on 4 Chart Street (**4 Chart Street Balance Special Charges**); or
  - (b) Mr and Mrs Akero, the balance of the Special Charges levied on 51 Allan Day Drive (**51 Allan Day Drive Balance Special Charges**); or
  - (c) Mr Collier, the balance of the Special Charges levied on 18/12 Esperance Court (**18/12 Esperance Court Balance Special Charges**); or
  - (b) (d) other Group Members, the balance of the Special Charges levied on Group Members' Other Land (**Group Members' Other Land Balance Special Charges**).

(Collectively, "the balance of the Special Charges")

**J. The balance of the Special Charges is recoverable in debt**

27. None of the Local Government Act, the 2010 Regulation, or the 2012 Regulation:
- (a) gives a method for enforcing the obligation of the Council pleaded in paragraph 23 to return as soon as practicable:
    - (i) the 4 Chart Street Balance Special Charges to Mr Kozik; or
    - (ii) the 51 Allan Day Drive Balance Special Charges to Mr and Mrs Akero; or
    - (iii) the 18/12 Esperance Court Balance Special Charges to 18/12 Esperance Court; or
    - (ii) (iv) the Group Members' Other Land Balance Special Charges to other Group Members; or
  - (b) contains a provision that is contrary to the matters pleaded in paragraph 28 below.
28. Accordingly:
- (a) the 4 Chart Street Balance Special Charges are recoverable by Mr Kozik in an action against the Council in debt; and
  - (b) the 51 Allan Day Drive Balance Special Charges are recoverable by Mr and Mrs Akero in an action against the Council in debt;

- (c) the 18/12 Esperance Court Balance Special Charges are recoverable by Mr Collier in an action against the Council in debt;
- (b)(d) the Group Members' Other Land Balance Special Charges are recoverable by Group Members in an action against the Council in debt.

#### PARTICULARS

*Mallinson v Scottish Australian Investment Co Ltd* (1920) 28 CLR 66, 70.

#### **K. Alternatively, the balance of the Special Charges is recoverable as money had and received**

28A. The payments referred to in paragraphs 9 to 12 above were made under a mistake, namely that the Plaintiffs and Group Members mistakenly believed that the Council was entitled to levy the Special Charges when, in fact, the Council was not so entitled to levy the Special Charges whatsoever.

28B. But for the mistake of fact referred to in paragraph 28A above, the Plaintiffs and Group Members would not have made the payments referred to in paragraphs 9 to 12 above.

#### **F. L. Remedy**

29. WHEREFOR ~~Mr Kozik~~ the Plaintiffs on his their own behalf and on behalf of other Group Members claims:

(a) an order declaring that:

(i) in making the Resolutions, the Council failed ~~omitted~~ to comply with the requirements of:

[A] regulation 28 of the 2010 Regulation, in respect of:

- (1) the 2011 Resolution; and
- (2) the 2012 Resolution; and

[B] regulation 94 of the 2012 Regulation, in respect of:

- (3) the 2013 Resolution;
- (4) the 2014 Resolution;
- (5) the 2015 Resolution; and
- (6) the 2016 Resolution;

(ii) the Rates Notices issued by the Council levying Special Charges pursuant to the Resolutions included special charges that were levied on land to which the Special Charges did not apply:

[A] in respect of Rates Notices issued before 14 December 2012, within regulation 32(1) of the 2010 Regulation;

[B] in respect of Rates Notices issued on or after 14 December 2012, within regulation 98(1) of the 2012 Regulation;

(iii) further or alternatively to paragraph (a)(ii) in respect of Special Charges included in Rates Notices issued by the Council after 5 December 2014, the Special Charges were special charges that should not have been levied, within regulation 98(1) of the 2012 Regulation;

(iv) the Council is obliged to return to Group Members all amounts paid for Special Charges by Group Members, without any Deductions or any allowance to the Council for amounts for compound interest that the Council may have paid on a part of the Special Charges that it has returned to Group Members (**Interest Allowance**):

[A] in respect of Special Charges that were included in Rates Notices issued before 14 December 2012, in accordance with regulation 32(2) of the 2010 Regulation;

[B] in respect of Special Charges that were included in Rates Notices issued on or after 14 December 2012, in accordance with regulation 98(2) of the 2012 Regulation

and in either case as soon as practicable;

(v) in default of the Council returning amounts paid by Group Members for Special Charges 'as soon as practicable', the said amounts are recoverable by Group Members in an action against the Council in debt (without any Deductions or any Interest Allowance);

(vi) further or alternatively to paragraph (a)(v) above, the said amounts are recoverable by Group Members in an action against the Council for money had and received (without any Deductions or any Interest Allowance).

~~(7)~~(b) such further or other relief as the Court sees fit; and

(c) interest thereon pursuant to s 58 of the *Civil Proceedings Act 2011* at such rate and for such period as the Court sees fit;

(d) costs.

30. AND WHEREFOR Mr Kozik on his own behalf claims:

(a) a sum equivalent to the 4 Chart Street Balance Special Charges in debt (without any Deductions or any Interest Allowance);

- (b) further or alternatively to paragraph (a), a sum equivalent to the 4 Chart Street Balance Special Charges for money had and received by the Council to the use of Mr Kozik (without any Deductions or any Interest Allowance);
- (b) (c) interest thereon pursuant to s 58 of the *Civil Proceedings Act* 2011 at such rate and for such period as the Court sees fit;
- (e) (d) such further or other relief as the Court sees fit;
- (d) (e) costs.

31. AND WHEREFOR Mr and Mrs Akero on their own behalf claims:

- (a) a sum equivalent to the 51 Allan Day Drive Balance Special Charges in debt (without any Deductions or any Interest Allowance);
- (b) further or alternatively to paragraph (a), a sum equivalent to the 51 Allan Day Drive Balance Special Charges for money had and received by the Council to the use of Mr and Mrs Akero (without any Deductions or any Interest Allowance);
- (c) interest thereon pursuant to s 58 of the *Civil Proceedings Act* 2011 at such rate and for such period as the Court sees fit;
- (d) such further or other relief as the Court sees fit;
- (e) costs.

32. AND WHEREFOR Mr Collier on his own behalf claims:

- (a) a sum equivalent to the 18/12 Esperance Court Balance Special Charges in debt (without any Deductions or any Interest Allowance);
- (b) further or alternatively to paragraph (a), a sum equivalent to 18/12 Esperance Court Balance Special Charges for money had and received by the Council to the use of Mr Collier (without any Deductions or any Interest Allowance);
- (c) interest thereon pursuant to s 58 of the *Civil Proceedings Act* 2011 at such rate and for such period as the Court sees fit;
- (d) such further or other relief as the Court sees fit;
- (e) costs.

Signed:

A handwritten signature in black ink, consisting of a vertical stroke followed by a horizontal stroke that curves to the right.

Description: Solicitor for the Plaintiff

This further amended statement of claim was settled by ~~Charles Wilson~~ Richard Douglas of Queen's Counsel and John Meredith of Counsel.

**NOTICE AS TO DEFENCE**

Your defence must be attached to your notice of intention to defend.



## **Annexure 'A'**

### **1. Particulars of the 2011 Special Charges [para 5]**

The 2011 Special Charges are the special charges known as, and as set out at the places indicated in the 2011 Resolution as follows:

- (a) Aquatic Paradise Marina Special Charge [at para 6.6, at pp 20 to 23];
- (b) Raby Bay Marina Special Charge [at para 6.7, at pp 24 to 27];
- (c) Raby Bay Tidal Works (Community Title Scheme) Special Charge [at para 6.8, pp 28 to 31]; and
- (d) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge [at para 6.9, pp 32 to 35].

### **2. Particulars of the 2012 Special Charges [para 5A]**

The 2012 Special Charges are the special charges known as, and as set out at the places indicated in the 2012 Resolution as follows:

- (a) Aquatic Paradise Marina Special Charge [at para 5.2.6, pp 27 to 29];
- (b) Raby Bay Marina Special Charge [at para 5.2.7, pp 30 to 32];
- (c) Raby Bay Tidal Works (Community Title Scheme) Special Charge [at para 5.2.8, pp 33 to 35]; and
- (d) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge [at para 5.2.9, pp 36 to 39].

### **3. Particulars of the 2013 Special Charges [para 5B]**

The 2013 Special Charges are the special charges known as, and as set out at the places indicated in the 2013 Resolution as follows:

- (a) Sovereign Waters Lake Special Charge [at para 5.3.5, pp 32 to 35];
- (b) Aquatic Paradise Marina Special Charge [at para 5.3.6, pp 36 to 39];
- (c) Aquatic Paradise Special Charge [at para 5.3.7, pp 40 to 43];
- (d) Raby Bay Marina Special Charge [at para 5.3.8, pp 44 to 47];
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge [at para 5.3.9, pp 48 to 51]; and
- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge [at para 5.3.10, pp 52 to 55].

#### **4. Particulars of the 2014 Special Charges [para 5C]**

The 2014 Special Charges are the special charges known as, and as set out at the places indicated in the 2014 Resolution as follows:

- (a) Sovereign Waters Lake Special Charge [at para 5.7.7, pp 52 to 55];
- (b) Aquatic Paradise Marina Special Charge [at para 5.7.8, pp 56 to 59];
- (c) Aquatic Paradise Special Charge [at para 5.7.9, pp 60 to 63];
- (d) Raby Bay Marina Special Charge [at para 5.7.10, pp 64 to 67];
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge [at para 5.7.11, pp 68 to 71]; and
- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge [at para 5.7.12, pp 72 to 75].

#### **5. Particulars of the 2015 Special Charges [para 5D]**

The 2015 Special Charges are the special charges known as, and as set out at the places indicated in the 2015 Resolution as follows:

- (a) Sovereign Waters Lake Special Charge [at para 5.6.4, pp 38 to 41];
- (b) Aquatic Paradise Marina Special Charge [at para 5.6.5, pp 42 to 44];
- (c) Aquatic Paradise Special Charge [at para 5.6.6, pp 45 to 48];
- (d) Raby Bay Marina Special Charge [at para 5.6.7, pp 49 to 52];
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge [at para 5.6.8, pp 53 to 56]; and
- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge [at para 5.6.9, pp 57 to 60].

#### **6. Particulars of the 2016 Special Charges [para 5E]**

The 2016 Special Charges are the special charges known as, and as set out at the places indicated in the 2016 Resolution as follows:

- (a) Sovereign Waters Lake Special Charge [at para 6.6.7, pp 45 to 48];
- (b) Aquatic Paradise Marina Special Charge [at para 6.6.8, pp 49 to 52];
- (c) Aquatic Paradise Special Charge [at para 6.6.9, pp 53 to 56];
- (d) Raby Bay Marina Special Charge [at para 6.6.10, pp 57 to 60];

- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge [at para 6.6.11, pp 61 to 64]; and
- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge [at para 6.6.12, pp 65 to 68.

## Annexure 'B'

### 1. Particulars of the 2011 Services [para 5]

The 2011 Services are the services, facilities and activities as set out in the Council's meeting minutes for the 2011 Resolution under:

- (a) Aquatic Paradise Marina Special Charge as follows
  - (i) dredging;
  - (ii) dredging planning;
  - (iii) silt bag trial;
  - (iv) canal maintenance;
  - (v) navigational beacon pile maintenance;
  
- (b) Raby Bay Marina Special Charge as follows:
  - (i) dredging;
  - (ii) monitoring and maintenance;
  - (iii) revetment wall (Seahaven Crt);
  - (iv) revetment wall (Raby Bay Blvd);
  - (v) revetment wall (Seacrest Crt);
  
- (c) Raby Bay Tidal Works (Community Title Scheme) Special Charge as follows:
  - (i) revetment wall (Seahaven Crt);
  - (ii) revetment wall (Raby Bay Blvd);
  - (iii) revetment walls (Seacrest Crt);
  
- (d) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge as follows:
  - (i) revetment wall (Seahaven Crt);
  - (ii) revetment wall (Raby Bay Blvd);
  - (iii) revetment walls (Seacrest Crt);

### 2. Particulars of the 2012 Services [para 5A]

The 2012 Services are the services, facilities and activities as set out in the Council's meeting minutes for the 2012 Resolution under:

- (a) Aquatic Paradise Marina Special Charge as follows:
  - (i) dredging;
  - (ii) dredging planning;
  - (iii) canal maintenance;
  - (iv) navigational beacon pile maintenance;
  - (v) Environmentally Relevant Activities report;
  
- (b) Raby Bay Marina Special Charge as follows:
  - (i) dredging;
  - (ii) monitoring and maintenance;
  - (iii) geotechnical studies;
  - (iv) rock armour replacement;
  - (v) revetment wall (Seahaven Crt);
  - (vi) revetment wall (Piermont Pl);
  - (vii) revetment wall (Seacrest Crt);
  - (viii) Raby Bay lay down area;
  - (ix) revetment wall (Mainroyal Crt);
  - (x) revetment wall (Masthead Dr);
  - (xi) revetment wall (Seacrest Crt);
  
- (c) Raby Bay Tidal Works (Community Title Scheme) Special Charge as follows:
  - (i) geotechnical works;
  - (ii) rock armour replacement;
  - (iii) revetment wall (Seahaven Crt);
  - (iv) revetment wall (Piermont Pl);
  - (v) revetment wall (Voyagers Crt);

- (vi) revetment wall (Seacrest Crt);
  - (vii) Raby Bay lay down area;
  - (viii) revetment wall (Mainroyal Crt);
  - (ix) revetment wall (Masthead Dr);
  - (x) revetment wall (Seacrest Crt);
- (d) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge as follows:
- (i) geotechnical works;
  - (ii) rock armour replacement;
  - (iii) revetment wall (Seahaven Crt);
  - (iv) revetment wall (Piermont Pl);
  - (v) revetment wall (Voyagers Crt);
  - (vi) revetment wall (Seacrest Crt);
  - (vii) Raby Bay lay down area;
  - (viii) revetment wall (Mainroyal Crt);
  - (ix) revetment wall (Masthead Dr);
  - (x) revetment wall (Seacrest Crt);

### **3. Particulars of the 2013 Services [para 5B]**

The 2013 Services are the services, facilities and activities as set out in the Council's meeting minutes for the 2013 Resolution under:

- (a) Sovereign Waters Lake Special Charge as follows:
  - (i) dredging;
  - (ii) water quality monitoring;
  - (iii) maintenance;
  - (iv) cleaning works;
- (b) Aquatic Paradise Marina Special Charge as follows:

- (i) dredging;
  - (ii) dredging planning;
  - (iii) silt bag trial;
  - (iv) canal maintenance;
  - (v) navigational beacon pile maintenance;
  
- (c) Aquatic Paradise Special Charge as follows:
  - (i) dredging;
  - (ii) dredging planning;
  - (iii) canal maintenance;
  - (iv) navigational beacon pile maintenance;
  
- (d) Raby Bay Marina Special Charge as follows:
  - (i) dredging;
  - (ii) dredging planning;
  - (iii) canal maintenance;
  - (iv) navigational beacon pile maintenance;
  - (v) monitoring revetment walls;
  - (vi) canal planning;
  - (vii) rock armour replacement;
  
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge as follows:
  - (i) dredging;
  - (ii) dredging planning;
  - (iii) canal maintenance;
  - (iv) navigational beacon pile maintenance;
  - (v) revetment walls;

- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge as follows:
- (i) dredging;
  - (ii) dredging planning;
  - (iii) canal maintenance;
  - (iv) navigational beacon pile maintenance;
  - (v) revetment walls;

#### **4. Particulars of the 2014 Services [para 5C]**

The 2014 Services are the services, facilities and activities as set out in the Council's meeting minutes for the 2014 Resolution as follows under:

- (a) Sovereign Waters Lake Special Charge as follows:
- (i) dredge and disposal planning as required;
  - (ii) monitoring, cleaning and maintenance as required;
- (b) Aquatic Paradise Marina Special Charge as follows:
- (i) dredging, maintenance and cleaning of the canal and revetment walls, improvements and navigational aids, as required;
  - (ii) dredging;
  - (iii) dredge planning;
  - (iv) canal maintenance;
  - (v) navigational beacon pile maintenance;
- (c) Aquatic Paradise Special Charge as follows:
- (i) dredging;
  - (ii) dredge planning;
  - (iii) canal maintenance;
  - (iv) navigational beacon pile maintenance;
- (d) Raby Bay Marina Special Charge as follows:



- (i) revetment wall upgrade (Beaufort Crt);
  - (ii) Raby Bay canal maintenance;
  - (iii) monitoring revetment walls;
  - (iv) Raby Bay canal planning;
  - (v) rock armour replacement;
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge as follows:
- (i) revetment wall upgrade (Beaufort Crt);
  - (ii) Raby Bay canal maintenance;
  - (iii) monitoring revetment walls;
  - (iv) Raby Bay canal planning;
  - (v) rock armour replacement;
- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge as follows:
- (i) revetment wall upgrade (Beaufort Crt);
  - (ii) Raby Bay canal maintenance;
  - (iii) monitoring revetment walls;
  - (iv) Raby Bay canal planning;
  - (v) rock armour replacement;

## **5. Particulars of the 2015 Services [para 5D]**

The 2015 Services are the services, facilities and activities as set out in the Council's meeting minutes for the 2015 Resolution as follows under:

- (a) Sovereign Waters Lake Special Charge as follows:
  - (i) maintenance;
  - (ii) environmental monitoring;
- (b) Aquatic Paradise Marina Special Charge as follows:
  - (i) dredge planning;

- (ii) dredging; and
  - (iii) canal maintenance;
- (c) Aquatic Paradise Special Charge as follows:
- (i) dredge planning;
  - (ii) dredging; and
  - (iii) canal maintenance;
- (d) Raby Bay Marina Special Charge as follows:
- (i) revetment wall upgrade (Beaufort Crt);
  - (ii) revetment wall upgrade (Masthead Dr);
  - (iii) revetment wall (Carling Crt);
  - (iv) Raby Bay canal maintenance;
  - (v) Raby Bay monitoring revetment walls;
  - (vi) rock armour replacement;
  - (vii) Raby Bay canal bed levelling;
  - (viii) Raby Bay canal planning;
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge as follows:
- (i) revetment wall upgrade (Beaufort Crt);
  - (ii) revetment wall upgrade (Masthead Dr);
  - (i) revetment wall (Carling Crt);
  - (ii) Raby Bay canal maintenance;
  - (iii) Raby Bay monitoring revetment walls;
  - (iv) rock armour replacement;
  - (v) Raby Bay canal bed levelling;
  - (vi) Raby Bay canal planning;

- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge as follows:
- (i) revetment wall upgrade (Beaufort Crt);
  - (ii) revetment wall upgrade (Masthead Dr);
  - (i) revetment wall (Carling Crt);
  - (ii) Raby Bay canal maintenance;
  - (iii) Raby Bay monitoring revetment walls;
  - (iv) rock armour replacement;
  - (v) Raby Bay canal bed levelling;
  - (vi) Raby Bay canal planning;

**6. Particulars of the 2016 Services [para 5E]**

The 2016 Services are the services, facilities and activities as set out in the Council's meeting minutes for the 2016 Resolution as follows under:

- (a) Sovereign Waters Lake Special Charge as follows:
- (i) maintenance;
  - (ii) environmental monitoring;
- (b) Aquatic Paradise Marina Special Charge as follows:
- (i) dredge planning;
  - (ii) dredging; and
  - (iii) canal maintenance;
- (c) Aquatic Paradise Special Charge as follows:
- (i) dredge planning;
  - (ii) dredging; and
  - (iii) canal maintenance;
- (d) Raby Bay Marina Special Charge as follows:
- (i) Raby Bay canal maintenance;

- (ii) monitoring revetment walls;
  - (iii) Raby Bay canal planning;
  - (iv) rock armour replacement;
  - (v) revetment wall stabilisation (Seacrest Crt);
  - (vi) revetment wall stabilisation (Marram Crt);
  - (vii) revetment wall stabilisation (5 Binacle to 24 Anchorage Dr);
  - (viii) Raby Bay new repair trial;
- (e) Raby Bay Tidal Works (Community Title Scheme) Special Charge as follows:
- (i) Raby Bay canal maintenance;
  - (ii) monitoring revetment walls;
  - (iii) Raby Bay canal planning;
  - (iv) rock armour replacement;
  - (v) revetment wall stabilisation (Seacrest Crt);
  - (vi) revetment wall stabilisation (Marram Crt);
  - (vii) revetment wall stabilisation (5 Binacle to 24 Anchorage Dr);
  - (viii) Raby Bay new repair trial;
- (f) Raby Bay Tidal Works (Non Community Title Scheme) Special Charge as follows:
- (i) Raby Bay canal maintenance;
  - (ii) monitoring revetment walls;
  - (iii) Raby Bay canal planning;
  - (iv) rock armour replacement;
  - (v) revetment wall stabilisation (Seacrest Crt);
  - (vi) revetment wall stabilisation (Marram Crt);
  - (vii) revetment wall stabilisation (5 Binacle to 24 Anchorage Dr);
  - (viii) Raby Bay new repair trial.

**Annexure 'C'**Paragraph 8(a)

Rates Notice Issue Date	Canal Charge Levied
8/04/2013	\$1.00
12/07/2013	\$512.02
4/10/2013	\$512.02
10/01/2014	\$512.02
4/04/2014	\$512.02
11/07/2014	\$665.62
10/10/2014	\$665.62
9/01/2015	\$665.62
10/04/2015	\$665.62
10/07/2015	\$682.93
9/10/2015	\$682.93
11/01/2016	\$682.93
8/04/2016	\$682.93
22/07/2016	\$682.93
10/10/2016	\$682.93
11/01/2017	\$682.93
7/07/2017	\$701.57