

AMENDED SUBMISSION FOR ESC - MELBOURNE WATER PRICE REVIEW

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

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To Whom it May Concern,

RE: Melbourne Water's – 2016 Water Price Review

I request the opportunity to make a submission regarding Melbourne Water's 2016 Water Price Review and express my concerns at Melbourne Water's response to the Essential Service Commission's Draft Decision.

The imposition of a special Precept Rate for the maintenance of the Quiet Lakes and the Tidal Waterways originated in the 1973 Agreement, which was found to be redundant by this Independent Review.

Melbourne Water submitted to the IR that the precept rate is needed to meet the costs of what Melbourne Water describes as the "special, unique and private service" the Patterson Lakes residents receive for their waterside properties.

This argument was rejected by the Independent Review for the following reasons.

*as "waterways" under the Water Act, and additionally being part of the **regional** drainage network and **flood plain**. The IR concluded the Quiet Lakes and all the Tidal Waterways being holistically and equally regarded **management** jurisdictional responsibility of Melbourne Water. (PLIR page 93).*

The Quiet Lakes and Waterways are reserved for drainage and recreational functions and any intention in the 1973 Agreement to designate the lakes and waterways as a private reservation was displaced by their consequent reservation in the subdivision plans and their design and construction as public drains. (PLIR page 61)

This conclusion was reinforced with the admission by Melbourne Water that it is exempt from paying rates and land tax with respect to the Patterson Lakes Waterways. (PLIR page 59).

This is in addition to Melbourne Water using its power to vest the reserves to itself. The IR was of the view that such a power could only exist with respect to land that was reserved for public purposes. (PLIR page 49).

It should also be noted that were Melbourne Water to continue to subscribe to the notion the Quiet Lakes are not exclusively used for public purpose, then in accordance with Section 80 of the Land Tax Act 2005 and The Local Government Act 1989 Melbourne Water could be liable for rates and taxes. (PLIR page 59).

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Melbourne Metropolitan Waterways and Drainage Charge Funds should then be applied to these assets in the same manner as for Melbourne Water's entire broader catchment jurisdiction, and be treated as public assets. (PLIR page 93)

Melbourne Water should respond to the Essential Services Commission that the costs for operations, maintenance and future capital works to deliver these functions to be included within its total 2013 Water Plan Budget under the Melbourne Metropolitan Waterways and Drainage Charge. (PLIR page 94)

The current precept charge would cease. (PLIR page 101).

Therefore, in accordance with the findings of the PLIR, the precept rate was actually removed because it was concluded by the Review that the combined elements of status, use, function and now **water quality and quantity issues** means that the application of a **funding source based on a special precept rate is not relevant or suitable.**(PLIR page 74).

Historically, the permit provided for the first stage of the overall Patterson Lakes development contained five conditions.

a., b..., c..., d..., and

e. evidence shall be submitted to the satisfaction of the Responsible Authority to demonstrate that permanent arrangements have been made for the maintenance of the quantity and quality of waterways created on the land and for the control of any activities upon such waterways (PLIR page 23)

In reference to Condition 'e', the groundwater bore was **installed by the Developer**. The bore licence was granted in 1976 and was for **730 ML per annum, at 2ML per day X 365 days per year.** (See Groundwater Licence No 3704).

The Lakes had **already been filled when opened by Premier Rupert Hamer on the 20/12/1974** prior to handing over to the DVA in 1977. (PLIR pages 62 & 63).

The original Developer, 15 years prior to the incorporation of MW, confirmed the bore was installed for **water renewal** to assist with **water quality management**.

The bore therefore provided the crucial back-up inflows to Lake Legana (the highest level of the 3 lakes) and ensured water would overflow to Lake Illawong and then in to Lake Carramar. (PLIR page 63)

BACKGROUND

The Quiet Lakes were designed such that stormwater would primarily fill each lake and that a system of interconnecting pipelines and outflows would balance the water levels in each lake. This would ensure that inter-flows of water were sufficient to maintain appropriate retention times in each water body. (PLIR page 62)

This is fundamentally dependent upon the system operating as it was originally engineered. It appears from site inspections undertaken by the Review,..... Stormwater appears insufficient in volume to support the required flushing effect of reducing water residency times. (PLIR page 71)

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The issue of water quality and water residency in particular within the Quiet Lakes was highlighted by the Chief Engineer-Manager of the Dandenong Valley Authority in correspondence to the Australian Conservation Foundation.

*A second advantage of the design system lies in the drainage system
a complete water changeover in the vicinity of every two months would , in the light of other conditions, ensure satisfactory water quality.* (Appendix 13 to Melbourne Water's response to Questions on Notice. (PLIR page 63)

The environmental factors responsible for stimulating algal growth within the lake system are poorly understood but likely to include:

- Low inflow volumes and excessive lake residence times (Design Flow page 7)

Analysis of lake residence times based upon total volume of Quiet Lakes was undertaken. The analysis indicated that the minimum lake residence time during the ten year period for the analysis (1980 -1990) is more than 800 days.

**** Note.** The analysis assumes that incoming water exits the waterbody when the sum of proceeding inflow equals the lake volume. Simply, this is assuming that outflows will always be made up of the water that has been in the lakes the longest time. Considering the uneven flow paths in the Quiet Lakes, this is unlikely to be the case, and so residence times determined represent an average for all the particles of water in the lakes at a given time. (Design Flow pages 21 and 22).

This water residency is 14 times more than the original engineering designs had envisaged as being necessary to ensure good water quality. It also coincides with the beginning of the appearance of algae.

Melbourne Water also has failed or refuses to acknowledge another critical factor that has changed from the original engineering design is the amount of water pumped through the system on a daily basis.

The IR did recommend, **stipulate and require MW to create flow through the Quiet Lakes** to achieve Secondary contact water quality as a minimum standard.

The Review did determine the goal should be to maintain water quality to secondary contact standard as a minimum to comply with Secondary Contact criteria as defined under the ANZECC Guidelines and SEPP - Waters of Victoria as amended from time to time. (PLIR Recommendation 2 page 75)

That Melbourne Water review the current bore trial, and by the end of 2013 ascertain the long-term quantity and quality of the groundwater required, then consult with Southern Rural Water and Kingston Council regarding the on-going sustainability of ground water extraction for the Quiet Lakes. (PLIR Recommendation 5 page 75)

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As demonstrated by several of the paragraphs and recommendations to which I referred, if the Quiet Lakes bore, was operated as originally designed, flushing would occur as a natural consequence. Furthermore, funding to achieve the correct minimum water quality of secondary contact has already been addressed by the PLIR.

6. *That the system of the interconnecting water flows between the three Quiet Lakes be managed, funded, and operated by Melbourne Water to deliver the outcomes recommended in this Review. These are to be funded from the Melbourne Metropolitan Waterways and Drainage Charge.* (PLIR page 76).

Melbourne Water has an obligation to achieve secondary contact criteria as a minimum standard.

Excerpts from Melbourne Water Submission

Quiet Lakes

In its 2016 Price Submission, (Page 80) Melbourne Water indicated that consultations were ongoing with Patterson Lakes Quiet Lakes residents on the option of providing water quality services on a fee for service basis. Following a bore water flushing trial and pricing consultation with all residents, a Water Quality Tariff of \$156 per resident per annum is proposed to apply from the commencement of the 2016 regulatory period.

Background

The Quiet Lakes are a series of three small lakes, located within Patterson Lakes. Quiet Lakes residents have generally wanted water in the lakes to be maintained to a primary contact standard. A user pays principle for higher levels of water quality service was a key recommendation of the Patterson Lakes independent review undertaken in 2013 at the request of the then Minister for Water.

Melbourne Water has misinformed the Water Minister of their obligations and the findings of the Independent Panel. The Water Minister ordered a ballot be conducted.

The premise of the ballot was flawed because it was predicated on misrepresentations by Melbourne Water to the Water Minister.

The residents were given the choice of:

1. the three lakes continuing to stagnate and the accompanying risk to residents and wildlife evidenced by the death of birds and fish due to the toxic Blue Green algae.

Appendix A. (Lake Illawong June 2015 Dead parrot, dead Duck.)

or,

2. vote to have the bore turned on.

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The residents, via our representative organisation PLQLOR , have only sought to have Melbourne Water fulfil its obligations to provide water to a Secondary contact standard.

Melbourne Water did not inform the residents that Primary contact standard water is not a viable scenario as stated in the following recommendations in the Independent Review.

5.5 Conclusions and Recommendations

The Review concludes that secondary contact is reasonable and a practical standard at this advanced stage of the Patterson Lakes evolution.

Permanently achieving primary contact standard in the Quiet Lakes is not a viable scenario, WITH OR WITHOUT any additional special charge or tariff. (Page 74)

In consideration of the recommendation by the Independent Review in the previous paragraph, I request the Essential Services Commission reject the application by Melbourne Water for a Water Quality Tariff of \$156 and that Melbourne Water continue to fund the running of the bore to meet its obligations to achieve Secondary Contact standard from the MMWDC as recommended.

Kind regards,

Alison Yates

