

MELBOURNE WATER-QUIET LAKES BORE FLUSHING TARIFF PROPOSAL DRAFT DECISION RESPONSE

Alison Yates

Essential Services Commission
Bore Flushing Tariff Proposal

13 April 2017

Dear Commissioners,

RE: Melbourne Water- Quiet Lakes Bore Flushing Tariff –Draft Decision

Dated 10 March 2017

I am writing in response to the Draft Decision which I believe contains a number of factual inaccuracies.

The ESC Draft Decision has referred to the extensive consultation and information provided to residents prior to the ballot. However, the Bulletin is not informative as to the basis of why Quiet Lakes residents expressed interest in re-establishing the bore.

The ballot to which the Commission refers was coercive. The information provided in the Community Bulletin offered residents a choice between Melbourne Water proposing to turn off the bore permanently which meant the lakes would continue to be infested with Blue-Green Algae, which had occurred over the winter months of 2015 in Lake Illawong. Alternately, the residents could vote to turn the bore on in an attempt to get bore flushing and clean, safe water. Residents have lasting memories of the appearance and smell of poor quality water when the bore did not run for many years. This edict was not consultative.

Much of the information provided in the Bulletin (See Community Bulletin Nov. 2015) was factually incorrect or inaccurate. Melbourne Water refer to the bore for the purpose of “*topping up*” when the IR clearly stated that originally “*the bore provided the crucial back-up inflows to Lake Legana.....and ensured water would flow over to Lake Illawong and then into Lake Carramar.*”

For your information I have attached a copy of the Community Bulletin for November 2015. Inexplicably this can no longer be located on Melbourne Water’s Bulletins page.

Another glaring example is the link made between improving water quality in the long term using the bore, the Waterways and Drainage Charge and the annual precept rate previously paid by Quiet Lakes Residents.

Melbourne Water charged the precept rate for many years when they did not run the bore following the reduction from 720ML to 20ML per annum. There was insufficient water to run the bore until 2012.

The precept rate ceased because The Review concluded that, in effect, the Quiet Lakes residents were paying the Melbourne Metropolitan Waterways and Drainage Charge **and** a Precept charge for the single service which was delivered as part of Melbourne Water’s jurisdictional responsibility for

MELBOURNE WATER-QUIET LAKES BORE FLUSHING TARIFF PROPOSAL DRAFT DECISION RESPONSE

regional drainage network and floodplain management. I.e. Melbourne Water charged residents twice. (PLIR p101)

Melbourne Water had a unique consultation process. They held meetings on an individual basis except for the retirement village. Discussions undertaken were expressed in terms of operating the bore to improve water quality describing the water as “swimmable” water.

Most residents from the retirement village are unaware of the findings of the Independent Review and are still of the belief that Lakes Legana and Illawong are private lakes rather than being a MW asset with a public drainage function. It is this false premise that influences many residents when they make their decisions.

This is demonstrated in the MW Submission: (p7)

- *The beneficiaries of the bore flushing are residents of Lake Legana and Lake Illawong because:*

*“the Quiet Lakes **are private assets**.....*

The Independent Review determined that whilst a system of private lakes may have been the original intention in 1973, the registering on titles as a drainage reserve debunked that idea. Despite this, some Melbourne Water employees still regard the Quiet Lakes as private lakes and are resentful of providing any service since the removal of the precept charge.

When I tried to alert the Health Department in 2015 about the issues of the BGA in Lake Illawong I was told that they had no interest in any issues as Melbourne Water had advised them the Quiet Lakes are private ornamental lakes. I was further advised the Water Minister had issued instructions to the department not to respond to Quiet Lakes' issues.

A letter dated 4/09/2013 from Pradeepa Adihetty (Manager Emergency and Risk Management) Department of Environment and Primary Industries, to Mr Gavin O’Neil (MW) advised that as the local water manager for the Quiet Lakes, **Melbourne Water needs to manage any blue-green algae events** as outlined in the Blue-Green Algae Circular.

The most recent DELWP Blue-Green Algae Circular 2016-17 stated:

*Some species of BGA can produce chemical compounds **More significantly, some species produce toxins that have serious health implications for humans, animals, birds and livestock if they are consumed, inhaled or come into contact with the skin.***

*As environmental conditions become favourable.....algae numbers can start to increase rapidly resulting in BGA bloom, **often making recreational water possibly unsafe for activities such as swimming, boating and fishing. They can occur all year round and without warning.***

This framework applies to **all water bodies accessible to public or waterways that discharge into publically accessible water bodies** such as rivers, streams, wetlands, lakes, estuaries, inlets, water supply storages, irrigation channels and drains.....ornamental lakes, marinas, stormwater and recycled storages and treatment wetlands.

Note that the guidelines refer to recreational water and do not distinguish between primary and secondary contact.

MELBOURNE WATER-QUIET LAKES BORE FLUSHING TARIFF PROPOSAL DRAFT DECISION RESPONSE

The Quiet Lakes development in 1973 was designed with houses situated in close proximity to the water. The presence of BGA in the Quiet Lakes makes the potential for harmful effects a high risk factor and Melbourne Water is misleading the Commission when comparing them to other urban lakes.

Melbourne Water repeatedly states they are meeting the requirements of the Independent Review to maintain water to a secondary contact and the NHMRC guidelines. This assertion is false.

The following quotation in Melbourne Water's submission and accepted as correct by the ESC actually refers to the WHO Level 1 category.

“consider that the risks posed by secondary contact recreation are so low as to not warrant the development of a specific guideline for blue-green algae”. . (NHMRC Guidelines for Managing Risks in Recreational Water p102)

The difference between the two-level guideline and the three levels suggested by WHO is that the lowest level recommended by WHO (of 20 000 cyanobacterial cells/ml) for protection from health outcome due to irritative or allergenic effects' is here (Australia) not considered sufficiently significant to warrant a specific warning. This decision was based on the study by Pilotto *et al* (2004)

The guideline recommendation Melbourne Water should be referring is Stewart *et al* (2006) (NHMRC p 105)

Level 1 of the Australian guideline is therefore based on risk of exposure to microcystis toxins via ingestion. This is similar in principle to WHO Level 2 guideline. (NHMRC P103)

Another ill-informed or intentionally misleading statement by Melbourne Water in their Bore Flushing Tariff Proposal 2016 (p3) claimed that:

- *“No specific guidelines exist for managing Blue-Green Algae for secondary contact recreational activities.*

The ESC has accepted this statement as being correct but the Guidelines for Managing Risks in Recreational Water (NHMRC) Hazards and measures for reducing risks in whole-body (primary) contact Table 1.2 and (secondary) contact Table 1.3 for Cyanobacterial, marine algal toxicoses are **identical**. (P20, 21)

In the ESC Draft decision Item 1.3 is incorrect when it states the impact of the bore trial was unclear. Melbourne Water acknowledged that the bore flushing trial had a positive impact on controlling blue-green algae and was cost-effective.

The ESC has also erred when it states Melbourne Water is working above its secondary contact standard obligations.

The BGA Circular advises Management Framework stated objectives to effectively manage BGA blooms through:

- *Minimising the impact of BGA blooms on waterways, public health and safety and local amenity*
- *Investigating the likely cause of the bloom and identifying what actions to take to minimise future occurrences*

MELBOURNE WATER-QUIET LAKES BORE FLUSHING TARIFF PROPOSAL DRAFT DECISION RESPONSE

I believe the ESC has erred when it has determined the primary beneficiaries of the bore service are those properties adjacent to Lakes Legana and Illawong.

Melbourne Water consistently displays an ignorance of the Independent Review and is incorrect when it states the following:

- *.....the Review considers that the recreational and amenity features of the Quiet Lakes area private benefit that is exclusive to the dwellings that adjoin those lakes.*

This statement cannot be construed as being relevant to the provision of safe and healthy water.

Melbourne Water has also argued that:

- *“Water leaving the Quiet Lakes is pumped to a local drainage pipeline which **ultimately** drains to Kananook Creek. The bore water flushing flow proposed would make up less than 1% of the flow of Kananook Creek.....have no measurable impact on the waterway.”(MW P7)*

The water that leaves Lake Illawong drains into the Wadsley Drain and flows through to Eel Race Drain and the Kananook Creek and out into Port Phillip Bay. The Seaford Wetlands adjacent to Eel Race drain and the Kananook Creek are an internationally recognised Ramsar site.

Therefore, this statement by Melbourne Water attempts to disguise the impact and irresponsibly ignores the distance between the water’s egress from Lake Illawong until it reaches Kananook Creek and the detrimental environmental effects of the water contaminated by BGA flowing from the Quiet Lakes. Nor does it meet SEPP guidelines.

The Independent Review concluded:

- ***Melbourne Water is responsible for the overarching water quality within the River, the Quiet Lakes and Tidal Waterways, and the Kananook Creek discharges in to the Bay. The Kananook Creek requires these flows for environmental health.***

The most recent DELWP Blue-Green Algae Circular 2016-17 stated:

- *Significant levels of BGA in water bodies can affect the natural ecosystem and potentially impact on human health.*

Since the severe outbreak of BGA in Lake Illawong in June 2015 where a duck, many fish and a parrot died, bird life on Lake Illawong has diminished considerably. This may also be because of the short distance between Lake Illawong and Lake Carramar, which does not receive the bore flushing and is again currently subjected to the hazards of BGA.

The Review considers that Melbourne Water’s expectation for full cost recovery no longer has a credible basis, having regard to the Review’s conclusions.

- *the Quiet Lakes and Tidal Waterways does contribute towards a system of regional flood protection and drainage management that has an important relationship with the Patterson River, Kananook Creek and the wider Patterson Lakes and Carrum district.*

MELBOURNE WATER-QUIET LAKES BORE FLUSHING TARIFF PROPOSAL DRAFT DECISION RESPONSE

- *These waterways and lakes do form part of not just the local drainage network but the wider drainage and flood protection function for the broader area. As such, there is an important relationship with the purpose of the Melbourne Metropolitan Waterways and Drainage Charge. (PLIR p 92)*

In terms of funding source allocations to the Tidal Waterways and Quiet Lakes, the Review considers The primary source of on-going funding is considered to be either:

- *Associated with the Melbourne Metropolitan Waterways and Drainage Charge for those services considered to have a regional and community benefit*
- *User pays fundinglinked to private recreational benefit. (PLIR P92)*

As water manager for the Quiet Lakes, Melbourne Water has an obligation to comply with the NHMRC Guidelines, SEPP and the DEWLP Blue-Green Algae Circular.

Running the bore to control blue-green algae is not of a higher service for the residents of Lakes Legana and Illawong but a fundamental responsibility of Melbourne Water to minimise the impact of BGA blooms on waterways, public health and safety and to meet the stated objectives of the Management Framework to effectively manage BGA blooms.

The Commission acknowledges Melbourne Water carry out pumping in various areas of its waterway management district to maintain environmental standards but apparently think the residents of the Quiet Lakes should pay a tariff for the same level of service.

Achieving secondary contact standard in all the Patterson Lakes Waterways is a reasonable and practical aspiration, and the residents and the general public should depend upon a "duty of care" being exercised by all the relevant Authorities. (PLIR p75)

The Review made the following conclusion....to maintain water quality to secondary contact standard as a minimum and warnings posted when quality falls below this standard or when algal blooms are a health hazard. (PLIR p75)

The Independent Review stated storm water inputs appear insufficient in volume to support the required flushing effect of reducing water residency times. (PLIR p71)

The 2012 application from Melbourne Water to Southern Rural Water sought an increase in an existing ground water licence from 20 mega litres to 400 ML and if approved this water would be used for "**water renewal and treatment for water quality issues in Patterson Lakes** (also known as the Quiet Lakes). The Developer originally installed the bore for the purpose of water renewal.

Unless Melbourne Water runs the bore how would they meet the requirements of the Independent Review and comply with the DEWLP BGA Circular to:

- *"minimise the impact of BGA blooms on waterways, public health and safety and local amenity"*
- *.....what actions to take to minimise future occurrences*

MELBOURNE WATER-QUIET LAKES BORE FLUSHING TARIFF PROPOSAL DRAFT DECISION RESPONSE

How does the requirement of 254 mega litres of bore water flushing to mitigate and minimise future occurrences of BGA constitute a higher service that meets the criteria for User- pays?

The proposed Weekly blue-green algae monitoring (visual Inspection) do not meet the recommended actions for surveillance mode (green level). This is not an either or situation.

The recommended actions include:

- weekly sampling and cell counts at representative locations in the water body where known toxigenic species are present

And

- fortnightly for other types including regular visual inspections.(NHMRC p 112 Table 6.6)

The consideration by the ESC that this cost should be part of the Bore Tariff is incorrect. The regular monitoring of water does not meet the user–pays criteria as being an extra service.

I contend that Melbourne Water have not met the WIRO conditions outlined in 2.1 in the ESC Draft. Use of the bore to control BGA is part of the responsibilities of Melbourne Water as the water manager for Patterson Lakes.

The bore tariff is not being imposed on residents for the purpose of the promotion of efficient use of prescribed services by customers. Nor is a tariff for use of the bore water being charged to promote incentives to pursue efficiency improvements.

The suggestion that Melbourne Water would apply to conduct a Review into the benefit of bore flushing in controlling blue-green algae is to deny the obvious and ignore the previous findings.

Lake Carramar does not receive benefit from the bore flushing and one only needs to examine the deplorable state of this lake which is so contaminated with toxic BGA that several birds and fish have died in this period of Easter 2017. It is also self-evident from the historical BGA charts and Melbourne Water’s own data that bore flushing has greatly improved the water quality.

It is an indictment on the Water Minister, DEWLP and the Health Department that residents’ concerns have been dismissed at every stage in favour of erroneous proclamations by Melbourne Water.

The Water Minister has refused to meet with the Committee representing the residents and a letter from me and hand-delivered to the Minister was forwarded straight back to Melbourne Water. Approaches to the local state member Sonia Kilkenny are also summarily dismissed.

In conclusion, I am very disheartened that Melbourne Water, with responsibility for water management of Patterson Lakes, are unquestioningly accepted as being a trustworthy and reliable Authority on the issues of water quality in the Quiet Lakes and are presumed to be knowledgeable with regard to the findings of the Independent Review and implementation of the NHMRC and SEPP Guidelines.

Thank you for your consideration of my submission.

Alison Yates

Community Bulletin

Latest news for Quiet Lakes residents, Nov 2015

Your opportunity to vote on bore flushing is coming

In recent weeks many Quiet Lakes residents have expressed interest in re-establishing the use of the bore to improve water quality, with many indicating a personal willingness to contribute to the cost of this service.

On the basis of this feedback, Melbourne Water will run an independent ballot to gauge the level of willingness to pay for the increased operation of the bore. Residents whose dwellings are adjacent to Lake Illawong and Lake Legana will be eligible to participate in the ballot.

The cost to residents of operating the bore will be \$39 per quarter.

This ballot will take place over the coming weeks, and at this stage is expected to close on 19 December 2015. Further information about the ballot will be circulated shortly.

As a sign of goodwill, Melbourne Water will run the bore and fund its operation until the close of the ballot on 19 December.

If the ballot is successful and residents vote in favour of paying to operate the bore, the bore will continue to run at 1.5 million litres per day until 31 March each year. If the ballot is unsuccessful and residents do not vote in favour, the bore will not operate after the ballot, other than for topping up the Lakes.

Background

The bore at Quiet Lakes was initially established to maintain lake levels via 'topping up' the Lakes when levels drop below a certain stipulated level. This level is monitored weekly and the bore turned on to maintain this level.

SEE BORE LICENSE

Irrespective of the outcome of the ballot, Melbourne Water through the Waterways and Drainage Charge will continue to fund topping up the Lakes.

However if residents wish to use the bore as a long term method to assist in improving water quality, this will need be funded by Quiet Lakes residents.

In addition to the standard Waterways and Drainage Charge, Quiet Lakes Resident's previously paid an annual Precept Rate charge of approximately \$600. The Precept Rate ceased on 1 July 2013.

Water Quality and additional bore pumping for flushing

Here are some other facts relating to water quality and operating the bore:

- Melbourne Water is committed to implementing the recommendations of the Independent Review on Management of Quiet Lakes.
- The review concluded that maintaining water quality for primary contact purposes (including suitable for swimming) in waterways and lakes in urban areas cannot be guaranteed, and that the **goal** should be to maintain water quality to secondary contact standard (suitable for paddling, boating and fishing) as a minimum and warning signs posted when quality falls below this standard or when algal blooms are a health hazard.
- * • The lakes are not closed if warnings are posted. Boating, fishing and other activities that do not involve direct water contact can still be enjoyed, although care needs to be taken.
- The Independent Review found that the recreational feature and amenity of the Quiet Lakes are a private benefit that is exclusive to the dwellings that adjoin those lakes. Therefore, should the residents request this additional service it is appropriate that it will be delivered on a 'user pays' basis.

Summary of our responsibilities in Quiet Lakes

Melbourne Water funded services include:

- Topping up the Quiet Lakes to maintain water levels
- Undertaking weekly monitoring of water levels to ensure they are within tolerance. Over 5 million litres has been pumped into the lakes during October to maintain the level.
- * • Carp removal to improve water quality
- Increased maintenance of the interconnecting pipe system. We have undertaken a number of activities recently including desilting the pipeline connecting Lake Legana and Lake Illawong. We have also carried out CCTV condition inspection of the pipeline and will continue to maintain these assets
- 16 week monitoring (Blue green algae) and testing (E.coli) over summer period (commencing in December)
- Aquatic planting to filter and improve water quality
- Maintaining access gates and fencing
- Signage relevant to the above assets/activities

For more information please call Melbourne Water on 131 722. Or, visit www.melbournewater.com.au for other information and projects that enhance life and liveability.