

8 February 2017

The Essential Services Commission
Via Email: water@esc.vic.gov.au

Dear Sirs

RE: DRAFT WATER PLAN DECISION AS IT RELATES TO PATTERSON LAKES

I refer to Melbourne Water's response to the ESC's 2016 Water Plan draft decision as it relates to the running of the bore at the Quiet Lakes for the benefit of the wider community, whereas Melbourne Water is claiming that maintaining secondary contact water quality including management of safe levels of Blue Green Algae provides benefit only to the residents of the Quiet Lakes.

It seems incomprehensible to me that a water authority whose responsibility includes public health would knowingly allow a publicly owned water body to become toxic when its own reports, recommends the running of the bore. In the event that someone died as a result of Blue Green Algae, I am sure that the Coroner would hold MW accountable when it has the means, and a report that recommends the running of the bore and a system designed for the bore to run by the responsible authority.

BACKGROUND

The Water Act 1989 (Vic) provides the legal framework for managing Victoria's water resources . By-law No. 2: Waterways, Land and Works Protection and Management includes the objective preventing or minimising pollution of our waterways.

Melbourne Water's Operating Charter includes the statement :To ensure waterways are managed to ensure sufficient environmental flows to support river health and protect beneficial uses.

Melbourne Water's Statement of Obligations states that in relation to Waterways: the protection, restoration and care of the physical and environmental health of creeks, rivers and wetlands .

In a submission by Melbourne water to the "inquiry into Sustainable development, Melbourne Water states:

Melbourne Water undertakes programs to improve and protect the health of rivers and creeks (which includes improving the water quality of waterways) and enhance the environmental, economic and social values.

Yarra Valley Water states in explaining the waterways and drainage charge that this charge is collected from property owners every quarter on behalf of Melbourne Water. These charges are used by Melbourne Water; as the caretaker of river health, to manage rivers and creeks, the floodplains surrounding rivers and creeks and the regional drainage system.

Clearly Melbourne Water has an obligation to protect the health of waterways utilizing the monies it collects from the Waterways and Drainage Charge and to set budgets to meet these obligations.

So bad was Melbourne Water at managing its assets at Patterson Lakes, an independent review was put in place and published its findings, which Melbourne Water agreed at the outset, that it would be bound by the recommendations.

The Independent Review states on pages viii; 83 and 102 that “the primary source of funding is considered to be either associated with the MMWDC for those services considered to have a regional and community benefit or the application of user pays funding alternatives for those services and assets that are linked to private recreational benefit.”

The Independent Review’s recommendation for Melbourne Water to maintain secondary contact water quality (IR Recommendation 2) and manage safe levels of Blue Green Algae (IR Recommendation 3) to be achieved by the operation and management of the flow through system funded by the MMWDC (IR Recommendation 6) is for achieving safe water for the benefit of the broader community. These recommendations do not relate to providing a private recreational benefit but simply toward making Patterson Lakes and surrounding area a safe place to live for the benefit of everyone.

It is documented by The Department of Environment Water Land and Planning (DEWLP) and the World Health Organisation (WHO) that a neglected waterway left to be freely contaminated by Hazardous Blue Green Algae that outflows into other publically accessible waterways presents a severe health hazard to the broader community and wildlife. Please be aware that the Quiet Lakes waterway discharges freely into the publically accessible Eel Race Creek, RAMSAR Registered Seaford Wetlands, Kananook Creek, Patterson River and Port Phillip bay in its role as an integral part of the local and regional drainage system (IR 4.4 page 51; 5.2 page 63 & 5.5 page 74) Its therefore irresponsible and inconsistent with the Independent Review for Melbourne Water to refuse to manage one of their interconnected regional waterways at the risk of intentionally exposing downstream residents, flora and fauna to unmanaged, unsafe levels of Blue Green Algae.

- The Independent Review is very clear on its view that the drainage function of the Quiet Lakes and the associated requirement to maintain ‘Secondary Contact Water Quality as the minimum standard (IR Recommendation 2 page ix & 75; 4.4 page 51; 5.2 page 63 & 5.5 page 74), which includes the management of Blue Green Algae (IR Recommendation 3 page ix & 5.4 page 71)’.
- The Independent Review is very clear on acknowledging the benefit of secondary contact water quality including the management of Blue Green Algae to the broader community and wildlife beyond the Quiet Lakes (IR 5.3 page 64 & 5.5 page 74).
- The Independent Review is very clear that achieving secondary contact water quality including the management of Blue Green Algae is a reasonable and practical aspiration and that residents and the general public should rely on a duty-of-care being exercised by Melbourne Water (IR 5.5 page 74).
- The Independent Review is very clear that achieving the outcomes of the review in maintaining secondary contact water quality including the management of Blue Green Algae is to be funded from the MMWDC (IR Recommendation 6 page x; 5.5 page 74 & 6.1 page 101).

As a member of the Independent Review Steering Committee I am familiar with the issues and the contents of the Independent Review itself. Given the precedence set by the ESC's decision in recognising broader community benefit of the Tidal Gates, it is my view that Melbourne Water's claim that maintaining secondary contact water quality including the management of Blue Green Algae provides benefit only to the residents of the Quiet Lakes is also inconsistent with the findings of the Independent Review. Melbourne Water is proposing to charge the Quiet Lakes residents twice for providing a healthy regional waterway, which is already a service function funded by the MMWDC.

Melbourne Water's proposal is clearly inconsistent with the findings of the Independent Review. As a Patterson Lakes resident, a downstream user of the interconnected waterways of the Quiet Lakes and in my capacity as President of the Residents Association of Patterson Lakes (RAPL) representing the broader community I request:

1. that Melbourne Water's proposal to charge the Quiet Lakes residents with a special fee to operate the bore at 1.5ML/day to maintain secondary contact water quality including safe levels of Blue Green Algae for the health and safety benefit of the broader community be rejected by the ESC.
2. that the management of secondary contact water quality including the management of safe levels of Blue Green Algae according to the action plan detailed in Design Flow Report i.e. carp removal, continuing to run the bore at 1.5ML/Day, aquatic planting and desilting to be funded from the MMWDC.
3. that weekly testing of Blue Green Algae in the Quiet Lakes be reinstated consistent with Melbourne Water's 2014 Price Submission and approved in the ESC's Decision for the previously acknowledged regional and community benefit of this activity in a waterway that is highly prone to unsafe levels of Blue Green Algae.

What should not be lost in this consideration are the following very simple facts:

1. The bore, the Water Licence and the pumps are Melbourne Water Assets
2. The Waterways consisting of the Quiet Lakes are Melbourne Water Assets.
3. The Bore was originally put in place to maintain water quality by the approving water authority.
4. Maintaining water quality in the Quiet Lakes benefits, Quiet Lakes Residents, Melbourne Water, downstream residents, environmentally significant wetlands and the wider Patterson Lakes community and is a primary Melbourne water function.

I would be pleased to be offered the opportunity to meet with the ESC to discuss this situation in greater detail.

Yours faithfully



Andrew Meehan

President
Residents Association of Patterson Lakes Inc