

PATTERSON LAKES (QUIET LAKES) OWNERS AND RESIDENTS ASSOCIATION
SUBMISSION TO ESSENTIAL SERVICES COMMISSION IN RESPONSE TO MELBOURNE
WATER BORE TARIFF PROPOSAL PS26.

9 December 2025

My name is Alison Yates. I reside at [REDACTED] 3197.

I am the President of the Patterson Lakes (Quiet Lakes) Owners and Residents Association and I make this submission on behalf of its members.

The Bore Tariff PS26 proposal by Melbourne Water must be rejected for several reasons.

Melbourne Water have proposed to charge the residents of Lake Legana and Lake Illawong a tariff under S259 of the Water Act 1989 for Melbourne Water to operate the bore.

I have included reference to Lake Carramar in this submission because Melbourne Water have advised it intends to also impose a bore tariff on the residents of Lake Carramar at a later date, and the reasons given in this submission apply equally to Lake Carramar.

S 259 of the Water Act 1989 permits Melbourne Water to apply for a tariff on serviced properties within its district.

One of the subparagraphs of *S 259 of the Water Act 1989* refers to how the use or development of the property is controlled under a planning scheme.

For the Patterson Lakes Quiet Lakes and Waterways this subparagraph is critical to the submission PS26 by Melbourne Water for a Bore Tariff.

Patterson Lakes is located 22.6 miles from the Melbourne GPO and when the Planning permit T.P.68610 was granted Patterson Lakes was not included as part of the Melbourne Metropolitan area. This did not occur until 1991.

To ensure that the development was managed as envisaged and future maintenance standards were adhered to, an agreement (The 1973 Agreement) was signed between Gladesville Nominees Pty Ltd, the Mayor and Citizens of the City of Springvale and the Dandenong Valley Authority on the 10th of July 1973. Schedule 1 of this agreement outlined the type and standard of maintenance which was to be undertaken by the responsible Authority.

The Common Seal of each of these signatories was affixed.

The *Planning and Environment Act 1987 - Sect 174* states the conditions that are binding on Melbourne Water for areas covered under T.P.68610.

The Planning Permit TP68610 for the Patterson Lakes waterways and lakes has not been amended.

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Town and Country Planning Act 1961 Sect.33 outlines the force and effects of the planning scheme including invalidating anything contrary in and by-law, rule or regulation, permit, or condition, contrary to the direction of the Governor-in- Council and to the extent of any inconsistency.

Since Melbourne Water became the Authority responsible for the Quiet Lakes it has contravened several sections of the legislation governing the land referred to in Planning Permit T.P. 68610 as follows:

- (a) The groundwater licence was incorrectly amended and the volume of water reduced which rendered the intention of a complete renewal of the water over a three-month period futile.
- (b) Interfering with the volume of water increased the hydraulic residency and retention times which severely polluted the water.
- (c) Alterations were made to Lake Carramar which closed off the outlet into the Tidal Waterways. This change to the design interfered with the gravity-feed water system and prevented it from working because gravity requires an outlet for water to flow from the elevated source to the destination. Blockages prevent this movement, building up pressure within the pipes but stopping all flow past the obstruction. The health and wellbeing of residents adjacent to Lake Carramar have been compromised because the water has been in a perpetual state of blue-green algae blooms for much of the past thirty years.
- (d) Water is not maintained to Recreational quality.(Primary Contact)
- (e) Melbourne Water have not ensured long-term water security for 730 ml of groundwater per annum.
- (f) Lake Legana, Lake Illawong, and Lake Carramar are on Melbourne Water title as a Drainage Reserve.
- (g) Kingston City Council have been responsible for beach maintenance. This is despite the 1973 Agreement condition for "future operation and maintenance works associated with the proposed waterways are affected by an agreement with a properly constituted and permanent Authority. *(A municipal council is not a permanent authority under the Act.)*
- (h) *The Water Act 1989* and the *Local Government Act 1989* Sect 198(2) do not permit a municipal council to be involved in another Authorities drains.
- (i) The standard of maintenance undertaken has not been in keeping with the overall amenity prescribed in Schedule 1 of the 1973 Agreement. The monthly frequency that existed from 1973 until 2015 has been reduced to bi-monthly by Kingston City Council. This bi-monthly maintenance is a false economy. The area is surrounded by large gum trees which continuously shed bark, leaves

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and branches on to the beaches and into the drains. The result is a lot of debris on the beaches and humus entering the water adding to the nutrients that cause blue-green algae.

- (j) The sand is also detrimentally affected by the reduced cleaning schedule. The beaches are not attractively maintained. Weeds develop more readily and spread quickly. Often the weed and grass are so extensive the beaches are capable of being mown which does not make the area attractive.
- (k) Originally when the lakes were developed and water was supplied by the bore for recreational activities, the lakes contained fish and turtles. This was an additional part of the amenity. As a result of years of low water quality and lengthy hydraulic residency the lakes are infested with carp which degrade the water quality.

When a planning scheme has been approved by the Governor in Council, *the Town and Country Planning Act 1961 s 35* specifies the duty of the responsibility authority to conform to the planning scheme and enforce observance of the requirements of the scheme and shall be **binding on every public authority**.

No tariff should be imposed on any residents of Lake Legana, Lake Illawong or Lake Carramar until Melbourne Water comply with Permit TP68610 detailed in Plan B1003.

Melbourne Water seeks to impose a bore tariff on the residents of Lake Legana and Lake Illawong, but it has breached the *Town and Country Planning Act 1961 sect 35* by not complying with the conditions attached to the Planning Permit issued under the *Town and Country Planning Act 1961*, and the *1973 Agreement*. It is the maintenance conditions approved in *Schedule 1 of the 1973 Agreement* under which the Special Precept Charge was to be applied by the Dandenong Valley Authority.

The Essential Services Commission has a responsibility to ensure Melbourne Water observe the Planning Permit and comply with the *Town and Country Planning Act 1961* Sect 35 (and any superseding legislation) before imposing a Tariff on the basis of a special benefit.

The Environment Act 1970 was repealed and replaced by the Environment Protection Act 2017. The new Act was to reform the legislative framework to focus on risk-based pollution prevention, waste management, and improved human health/environmental protection.

Melbourne Water **MUST** operate the bore as a preventative measure to protect the minimum standard for the environment and human health under the reforms which include the GED under the Environment Protection Act 2017.

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BACKGROUND

Lake Legana, Lake Illawong, and Lake Carramar are three land-locked lakes receiving storm water from the surrounding region. They also have a history for being a known site for toxic blue-green algae. The residents abutting the Quiet Lakes, especially Lake Carramar, have suffered for over thirty years with toxic water containing cyanobacteria which is harmful to humans, wildlife, and fauna.

When the bore does not operate there is no water movement and the lakes revert to a stagnant and toxic body of water. Melbourne Water are required to comply with the standard of performance expected under certain new duties introduced by the 2017 Act, specifically the general environmental duty or GED

The Special Precept was for maintenance of the lakes as prescribed in Schedule 1 of the 1973 Agreement, which stated "water quality to a standard compatible with the use of same as envisaged in the Agreement." And shown on Plan B10003

The groundwater licence was for recreational water under the original groundwater licence number 3704 for Bore 1015/66. Bore 1015/66 was not formerly decommissioned.

The historical use of the water was for swimming. In modern terms this is Primary Contact.

The original planning permit was also to comply with the *Environment Protection Act 1970*.

The Town and Country Planning Act 1961 was replaced on February 16, 1988, by the Planning and Environment Act, 1987.

p. 2123; Pts 3, 4, 5 on 2.2.81: Government Gazette

30.1.81 p. 311

Current State: All of Act in operation

Planning and Environment Act 1987

16 *Application of planning scheme*

A planning scheme is binding on every Minister, government department, public authority, and municipal council except to the extent that the Governor in Council, on the recommendation of the Minister, directs by Order published in the Government Gazette.

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The Patterson Lakes waterways and lakes were developed under a planning scheme arising from an application by Gladesville Management Services to subdivide land between Wells Road and Mc Leod Road in the municipal districts of the City of Chelsea and the City of Springvale. The area to be developed was **not** within the metropolis of Melbourne.

The application was based on plans to form a residential community adjacent to artificial lakes and waterways with lifestyle amenities including water of a recreational standard which was suitable for swimming as submitted in Plan B1003. (The Project)

The Town and Country Planning Board under the *Town and Country Planning Act 1961* Sect 34 issued the Melbourne Metropolitan Interim Development Order which **revoked** the area previously reserved for Public Drainage and Recreation referred to in Application T.P. 68610.

The titles to the land were to be transferred to the developer in accordance with the 1973 Agreement.

The planning permit TP68610 was for artificial lakes and waterways.

The Melbourne Water PS26 proposal for a Bore Tariff refers to the waterways in its district under Part 10 Division 2 of the Water Act 1989.

The Quiet Lakes are on Melbourne Water title as a Drainage and Recreation Reserve. This is contrary to the reservation for Public Drainage and Recreation being revoked in the MMBW Interim Order. Therefore, Lake Legana, Lake Illawong and Lake Carramar are under the *Water Act 1989 Part X Division 3 Regional Drainage*.

WATER ACT 1989 - SECT 199(1A) specifies Melbourne Water's functions and responsibilities with regard to maintaining drainage systems and managing storm water. *greater Melbourne*.

Melbourne Water is compelled to comply with the *WATER ACT 1989* Sect 199(1A). The residents of Lake Legana, Lake Illawong and Lake Carramar already pay the Melbourne Metropolitan Waterways and Drainage Charge. The residents are not receiving a Special Benefit.

The following is an excerpt from the Melbourne Water website.

The Melbourne Metropolitan Waterways and Drainage Charge

The Melbourne Metropolitan Waterways and Drainage Charge, authorized under [Part 13, Section 259 of the Water Act 1989](#), is managed and levied by [Melbourne Water](#) as the designated waterway manager for the region, with

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*the funds collected by your local water corporation on their behalf to manage
major drainage systems and waterways in their district.*

The plan for the lakes depended on the construction of a bore to pump groundwater into three land-locked lakes starting with Lake Legana which is higher than the other two lakes. The Special Benefit related to the recreational quality of the water and the amenity of the area through prescribed maintenance.

The design of the lakes allowed water to be gravity-fed from Lake Legana into Lake Illawong. Water from Lake Illawong would then flow through to Lake Carramar before exiting from the end of Lake Carramar into the Tidal Waterways.

The three artificial lakes were developed in stages and designed to function as a whole when completed. Water renewal was essential to the design and depended on the bore and pumps being operated as designed. The groundwater licence of 730 ml per annum would allow for a complete change of water over a three-month period and maintain water quality to recreational standard.

In March 1974 Gladesville Management Services Pty. Ltd. applied to the Mines Department of Victoria to develop a new bore. The Bore Construction Permit was # C/5065. The application was consistent with the designs submitted to Melbourne Metropolitan Board of Works.

On the 24th of February 1976, the State Rivers and Water Supply Commission pursuant to the Groundwater Act 1969 issued a groundwater licence # 3704 to Gladesville Management Services Pty. Ltd to extract groundwater from the bore 1015/66. The use of water on the groundwater licence was also specified and confirmed in the First Schedule of the 1973 Agreement. The licence was for 15 years commencing on 1st September 1975.

The maximum groundwater to be extracted was 730 ML per annum with a maximum rate of 2.0 ML per day.

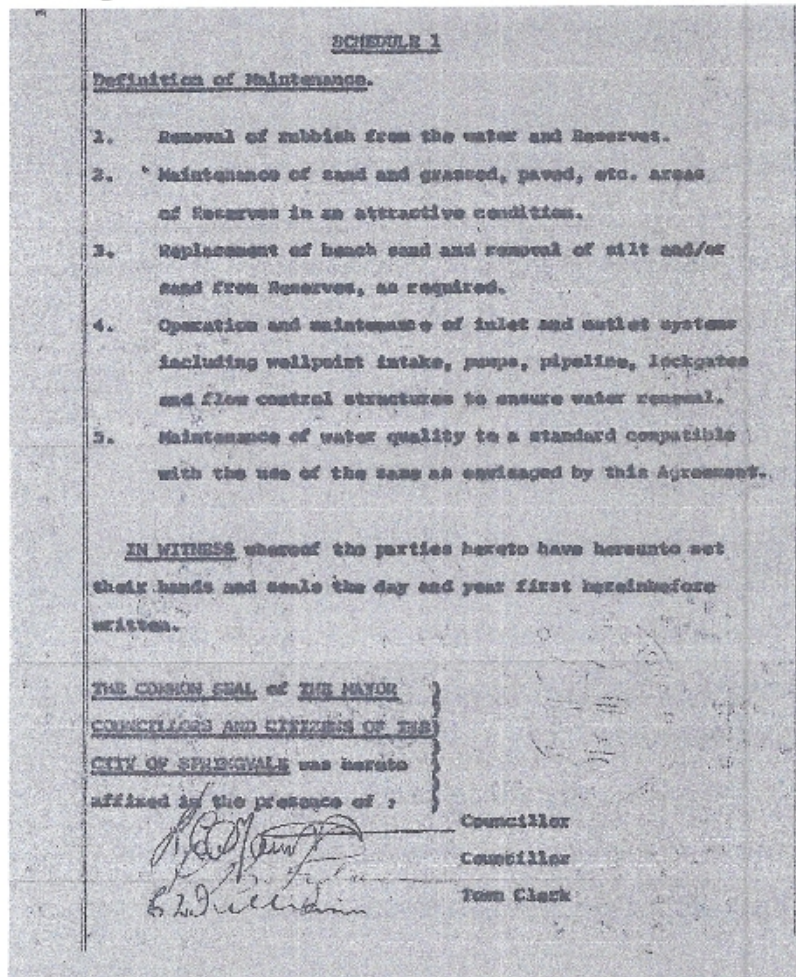
The purpose of the water was Recreational.

Condition 3 of the Permit required adequate arrangements be made to ensure that future operation and maintenance works associated with the proposed waterways are affected by an agreement with a properly constituted and permanent Authority.

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1973 Agreement Schedule 1.



In accordance with the condition of the Permit and the 1973 Agreement Gladesville Management Services Pty. Ltd. handed over the titles to the lakes and waterways on the 8th of May 1980. Gladesville Management Services Pty Ltd assigned the groundwater licence #3704 for bore 1015/66 to the Dandenong Valley Authority.

The owner of a ground water licence was required to apply for its renewal of the licence three months prior to the expiration of the groundwater licence.

Neither Melbourne Water nor the Dandenong Valley and Westernport Authority applied to renew the ground water licence and it expired on 1st September 1990.

Gladesville Management Services Pty. Ltd. owned two other bores. These two bores were located nearby. They had been drilled before Gladesville Management Services

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made a new groundwater licence application which became Bore number 1015/66 related to the Groundwater Licence 3704 for 730 Megalitres attached to the Project.

One of Gladesville Management Services Pty. Ltd earlier bore sites had an annual volume of 20 megalitres. The purpose of the water was "Miscellaneous". The Site Name was 3025/10043.

Bore Number:	3025/10043 (76334)
Type of Use:	Miscellaneous
4.	Land on which water is to be used Plan of subdivision 99475 part of allotment parish of Lyndhurst100 and 104
5.	Quantities to be extracted: Maximum volume to be extracted per day 2.0 megalitres/day Maximum rate of extraction 2.0 megalitres/day Maximum amount to be extracted per annum 20 megalitres The groundwater licence was numbered 7003704.

Seventeen months after the ground water licence had expired Dandenong Valley and Westernport Authority of Victoria lodged a Groundwater Licence Proposal for an Amendment to Groundwater Licence 7003704. This new groundwater licence was issued on the 19/11/1991.

The person that had made the application applied the volumes related to bore 3025/10043 and Mr K [REDACTED] advised in a letter the bore was only used during the summer months to top up an ornamental lake , due to evaporation and seepage loss.

A letter written by the Rural Water Commission of Victoria questioned why Dandenong Valley Authority held an annual licence of 730 ML but only had an annual usage of 9 ML.

This question from the did not arouse sufficient interest within the Dandenong Valley and Westernport Authority to investigate the accuracy of the information provided to the Rural Water Commission of Victoria. The Rural Water Commission of Victoria wrote to Melbourne Water on the 14th of November 1991 enclosing their proof of authority to extract water for *Miscellaneous* purposes and reduced the volume of water for the groundwater licence to 20 ml per annum.

This reduction to the groundwater licence of 730 ML of water was the commencement of more than thirty years of mismanagement.

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From 1991 a land-locked body of water that was depending on a flow of 730 megalitres per annum for water renewal was reduced to 20 megalitres per annum.

On the 3rd of June 2010 a Program Leader for maintenance at South East Water applied to Southern Rural Water to increase the volume of the groundwater licence from 20 ml per annum to 730 ml per annum.

Southern Rural Water Ground Water and Rivers received an application from Melbourne Water dated 2 March 2012 to reduce the existing groundwater licence from 730 ml. per annum to 400 ml per annum. The Type of use was "other".

The application was advertised and corrected to "the proposed use on the application was water renewal and treatment for water quality issues in Patterson Lakes "Quiet Lakes".

Southern Rural Water (SRW) advised in a letter dated 26 June 2010 that determining the application would require SRW to refer the matter to the Department of Sustainability and Environment, the Local Catchment Management Authority, the Local Shire Council, Local Water and Local Indigenous Groups. No response was received from any of the recipients of the advice from SRW.

On the 12th of April 2012 S [REDACTED] (Melbourne Water) replied to a letter received from Southern Rural Water Ground Water and Rivers dated the 8th of March 2012.

In reference to Environmental flow implementation S [REDACTED] advised that the increased volume of water would help to manage the water levels in the lake by supplementing ground water.

This explanation is not consistent with the Planning permit TP68610. Or the 2010 application. She further stated the site where the groundwater will be discharged has medium Groundwater dependent Ecosystem.

On the 24th of April 2012, the Case Manager managing the application commented that the groundwater in this area is of minimum beneficial use and there was a lack of public concern. This assessment is incorrect. Concern was raised by the former President of the PLQLORA after the application was advertised. Corrections were made and SRW were forced to re-advertise with a correction to the use of the water as being for renewal and water quality issues in the Quiet Lakes.

Item 5 in Schedule 1 of the 1973 Agreement required maintenance of water quality was to be to a standard compatible with that was envisaged in plans B10003.

Lake Legana, Lake Illawong, and Lake Carramar had been designed and engineered to have a complete renewal of water every three months.

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A stipulation of the approval for T.P.68618 was that no alterations were to be made to the planning permit issued to Gladesville Management Services for the Quiet Lakes groundwater licence volume of 730 ML for bore 1015/66.

Under the management of Melbourne Water, the Quiet Lakes were transformed from a residential community enjoying a lifestyle built around lakes in which they were safe to live beside and in which they could swim, into a seething mass of blue-green algae which included several toxic varieties.

The P26 Submission by Melbourne Water has referred to the 2016 Decision by the Essential Services Commission to approve the bore Tariff and which was upheld by the **Victorian Civil and Administrative Tribunal (VCAT)**.

Whilst the bore tariff might have been approved, the Melbourne Water proposal for a Bore Tariff succeeded in 2017 because the appellants' case had relied entirely on the Conclusions and Recommendations of the Independent Review.

The Victorian Civil and Administrative Tribunal determined the Independent Review was merely an "Opinion" and rejected the appellant's case.

The Governing Legislation for the planning scheme for the Patterson Lakes waterways and lakes is the Planning and Environment Act and the Environment Protection Act.

The Conditions of the planning permit TP68610 have not been amended or repealed and it is an offense under the Planning and Environment Act 1987 Sect 174 if the Essential Service Commission and Melbourne Water do not comply with the Planning Permit T.P. 68610. Furthermore, subsequent changes not compatible with the Planning permit are invalid.

Yours sincerely,



10/12/2025

Alison Yates
President

Patterson Lakes (Quiet Lakes) Owners and Residents Inc.