

EPA INQUIRY 2015 SUBMISSION

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29 October 2015

To the Ministerial Advisory Committee,

Reference: EPA INQUIRY 2015.

Thank you for this opportunity to make a submission to the EPA Inquiry.

My submission is based on my experiences with the EPA regarding Melbourne Water. It has been one of absolute frustration without any successful outcome.

I would like to refer to your Terms of Reference regarding the expectations of the community as an environmental regulator and their appropriate role in relation to public health issues, the prevention and management of site contamination and water quality in waterways.

I believe the EPA should be a stand-alone Authority with the legal weight to enforce the laws when they are breached.

Officers from the EPA need to have the legal authority to order another Government Authority to take the necessary action to rectify the breach immediately and prosecute the breaches.

Currently the Water Minister is also the Environment Minister and this presents a conflict in management of the Portfolios.

It has been difficult to ensure an adequate response in a reasonable timeframe when a Government body breaches the Environmental laws as has been the case with Melbourne Water.

Melbourne Water has adopted a position in response to an Independent Review which is contrary to the findings of the Independent Review and the obligations and responsibilities of Melbourne Water which has caused significant deterioration in the water quality.

Melbourne Water has been advising the Water Minister in a disingenuous manner that has led to a serious health risk for residents abutting the Patterson Lakes Quiet Lakes, Kananook Creek and the Seaford Wetlands which are a Ramsar site.

What are the penalties for an Authority or its employees who deliberately misrepresent the findings of an Independent Review to pursue their private ideology?

Are there any legal ramifications to act as a disincentive for an employee to not continue with, or alternately, permit a course of action to be taken, knowing that the consequences of that action, or their failure to act, will have detrimental environmental and health outcomes?

The Public should be able to have confidence in the integrity of the actions and information disseminated by an organisation such as Melbourne Water.

These are some of the decisions made by Melbourne Water and their subsequent consequences.

- a. Melbourne Water has ceased flushing out the Quiet Lakes and will not commence using any bore water until the summer months.

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b. Melbourne Water has decided to change their water quality monitoring from a weekly regime to one whereby Melbourne Water will only monitor from December to March.

This had led to the three lakes stagnating, extended hydraulic residency culminating in a serious outbreak of toxic blue green algae. Dead birds and fish are being retrieved from the three lakes on a daily basis. Mosquito's larvae are also present.

Consequently, though it is known that the blue green algae in the lakes are toxic, no signs will be erected and the health of humans, pets and wildlife are at serious risk.

After contacting the EPA Emergency Department I was advised that if the dead fish and birds had died by oil or similar man-made action they could act but because blue –green algae is a natural substance they could not act. Apparently the origins of the environmental hazard are the deciding factor rather than the death of wild life and the high degree of risk to the community, including domestic animals.

The reasoning is astonishing!

This is another example of the ridiculous restrictions and interpretations that are more focused on procedure than preventing the environmental degradation that is actually occurring. This approach is not rational.

On a cost analysis basis, if it is all down to money, rectification would be more expensive than prevention.

Melbourne Water has repeatedly misinformed the Water Minister and our local State Representative that these are private lakes and seems intent on allowing the lakes system to degrade in order to force the residents to pay to run the bore.

PLIR 6.10 Conclusions and Recommendations (Page 101)

*The Review concludes that the Quiet Lakes and all the Tidal Waterways are holistically and equally regarded as “waterways” under the Water Act, and additionally are part of the **regional drainage network and floodplain management** jurisdictional responsibility of Melbourne Water*

*The 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.*

Since Melbourne Water stopped pumping the water, the high tide line has receded 2.0 metres and the water is diminishing daily. The swamp gums around the north side of the lake are dying. This appears to be due to their root system no longer accessing the lake water.

The reed and water vegetation in the lake is dying because it is no longer covered by water and is exposed to the sun and other detrimental factors. This destruction of fish habitat is another consequence of an organisation disregarding its environmental responsibilities in pursuit of their own agenda.

Weed control has also been non-existent.

PLIR Recommendation 4 also states:

*Adequate flow throughs in Lake Carramar are to be **guaranteed** by Melbourne Water.*

The Independent Review recommended:

“That **minimum** water quality standards in the Quiet Lakes and Tidal Waterways is maintained to comply with secondary contact criteria as defined under the ANZECC Guidelines and SEPP Waters of Victoria as amended from time to time,”

██████████ from Melbourne Water has received letters from the Health Department and ██████████ from EPA advising of the need to maintain water quality.

The September 2015 Community Bulletin states:

“Our approach to blue-green algae is consistent across all lakes and waterways that we manage.”

Page 52. PLIR also refers to Melbourne Water’s responsibility to meet the relevant Environment Protection Authority, SEPP, and Australia and New Zealand Environment Conservation Council (ANZECC) water quality standards within the waterways and the outflows in to drains discharging into Kananook Creek and then in to Port Phillip Bay, in terms of pollution capture and diversion, primary anaerobic treatment and hydraulic retention. (NHMRC Guidelines are now the criteria)

NHMRC Guidelines are for Recreational Water, which is defined as primary, secondary and non-contact. Blue green Algae is not included as part of the definition for secondary and non-contact water. The difference in Secondary and Primary water is the measurement of E.coli present in the water.

The area of Patterson Lakes lies between the Edithvale and Seaford wetlands which are a designated Ramsar wetland. As a major part of the regional drainage system and flood management, the water from the lakes flows out to Port Phillip via the Wadersly Road Drain in to Eel Race Drain and Kananook Creek. These water ways abut the Seaford Wetlands.

Melbourne Water hired consultants Kellogg Brown & Root Pty Ltd to prepare a Management Plan, which was titled the EDITHVALE-SEAFORD RAMSAR SITE dated 18 February 2009.

Section 3 Policy Framework states:

3.1 STRATEGIES

As the designated caretakers of river health within the Port Phillip and Westernport Catchment Management Authority region, Melbourne Water has a number of obligations for management of rivers, streams and flood plains within this area. The mechanisms by which these obligations are implemented include a number of local and regional strategies, many of which are of particular relevance to the management of the Edithvale-Seaford Ramsar site.

Similarly, a number of Melbourne Water’s internal policies are of relevance to the management of this Ramsar site. These include the following:

- Environment Policy
- Public Health
- Risk Management
- Community/Environment/Public
- Biodiversity Strategy
- Weed Action Policy

In addition, both the Edithvale Wetlands and Seaford Swamp are subject to an Environmental Significance Overlay (ESO and ESO1, RESPECTIVELY) AND a Land Subject to inundation Overlay (LSIO)

PART III: POLICY AREA AND SEGMENTS

8. Policy area

The policy area is represented in Figure 1 and includes all Victorian surface waters and the catchments that supply them.

While the Policy's beneficial uses and environmental quality objectives apply to surface waters, the provisions of the attainment program apply to both surface waters and their catchments, and to activities undertaken within them that may impact on surface waters.

Unless otherwise stated in a State environment protection policy, the provisions of this Policy must be observed throughout the policy area.

The inadequacies of Victoria's EPA in holding Melbourne Water to account has made it necessary to lodge a complaint with the Federal Environmental Department seeking their intervention to protect the Ramsar site and avoid the likelihood of incalculable damage.

Does the EPA have a holistic approach to applying the legislation or is it a disjointed and piecemeal application within the Department?

Why is it necessary to seek Federal intervention because the Victorian EPA will not act?

Melbourne Water has engaged in a deliberate manner to publish misinformation in the September 2015 Community Bulletin.

The MW Community Bulletin then stated:

"This position is supported by the findings of the Patterson Lakes Independent Review and does not include bore flushing to maintain water quality to a primary contact standard or to manage algae blooms. Any future use of the bore will need to be funded by Quiet Lakes residents. Should the majority of the residents (at least 75%) agree to pay for this service, Melbourne Water would run the bore flushing over summer and contribute 20 million litres of bore water per year."

The inference that if the residents are prepared to fund future bore flushing they will attain primary water for swimming is another misrepresentation.

There are many more examples of this deliberate avoidance of their responsibilities.

What are the penalties for an Authority or its employees to deliberately mismanage a public asset and cause an environmental disaster which is a cost in both "waterways" and public health as well as threatening to pets and wild life?

The disregard of its duty to the community by Melbourne Water to manage their obligations and prevent environmental damage appears rampant throughout Melbourne Water Management.

Though Melbourne Water is subject to several jurisdictions, the only Government Department that exercises its powers of deterring irresponsible conduct and actually prosecuting the offender appears to be the Work Cover Act.

I have searched the history of prosecutions and note the only time Melbourne Water has been prosecuted was for loss of life under the Work Cover Act at a Sewerage Treatment Plant.

Do the laws exist to enable successful prosecution, or is it overlooked because the offender is another Government Department with a different name but answerable to the same boss?

Yours sincerely,

Alison Yates