

From: Concerned Waterways Alliance

Sent: Wednesday, December 21, 2022 11:39:58 AM

To: Marcus Crudden (ESC)

Subject: Additional information requested from Waterways Alliance meeting 13.12.22

Hi Marcus,

Thanks for your time meeting with us on the 13 December, I personally learnt a lot and look forward to honing my contribution to the ESC and pricing submissions so it is both more effective and more useful. I think the whole group has a better appreciation of the work the ESC does.

I am attaching the additional information your requested from Helen and Tracey's groups. Helen has provided a report and a further attachment of photos.

If you need any further information please let me know.

I look forward to the draft decisions and in the mean time do have a great season of celebration. I hope you do get a break away.

cheers, Andrew

Attachment One

20 December 2022

Marcus Crudden
Executive Director, Price Monitoring and Regulation
Essential Services Commission



Dear Marcus,

1. Friends of Latrobe Water (FLoW) is a not-for-profit incorporated association who engage in a series of activities in Australia for protection or conservation of, or research into, the environment. Consistently with its purpose, FLoW takes every opportunity to inform, educate and support Latrobe Valley and broader Gippsland community to take action to:
 - a. ensure legacy contamination from the coal industry and other heavy industry are remediated; and
 - b. facilitate a positive post-mining legacy in the Latrobe Valley, and for Victoria more broadly, to contribute to the future social and economic prosperity of the region in a manner that safeguards and protects the surrounding environment and the health of the community.
2. As part of its work, FLoW regularly contributes to discussion with regulators and responsible agencies concerning causes of poor water quality and inadequacy of relevant regulatory frameworks to protect waterway health.
3. FLoW are clients of Environment Justice Australia with the objects or purposes of FLoW, as an example:
 - to protect and advocate for the Latrobe Valley's water sources and connected waterways, including utilising the legal system to facilitate that protection.

I provide comment from experience with FLoW inquiring of DELWP, Ministers, industry and statutory authorities on sections of their respective Acts using waterways to offload pollutant discharges with impunity. This is facilitated by an ad hoc and fragmented system of management of our waterways, lack of compliance and enforcement by regulators and the apparent ease at which statutory obligations can be avoided due to an increasing number of grey areas leading to poor environmental health outcomes.

What the community are told

Pricing submissions by water corporations generally strive for outcomes:

- provide for efficiency,
- reliable services,
- be environmentally responsible
- plan for the future of increasing population growth in a changing climate.

How can water corporations be affordable and fair with the same business-as-usual model when they are currently not environmentally responsible yet, on paper, say they are?

How can water corporations plan for the future with 'fair and equitable' water pricing if these promises are the basis of their current business strategies?

How have water corporations been able to say they are accountable to the environment when their current compliance is based on outdated acts, standards, regulations?

Who is holding water corporations to account from financial audits through to water testing?

Inappropriate use of recycled wastewater

The Victorian Government, agencies and water corporations already reformed the technical information and guidelines for water recycling last year (EPA Publication 1910 & 1911) applying a risk-based approach to assessing risks & management plans for recycled water use which did not include updating health-based guidelines.

These reforms are aligned with outdated acts which are devoid of critical updated toxicity and health information related to emerging contaminants. The application of the precautionary principle appears to be non-existent.

Page 41 of the *Draft Greater Melbourne Urban Water & System Strategy: Water for Life* noted the following key impacts of population on the sewerage system which is a common theme with all water corporations.

- **Environmental discharge limits...***our current approach to managing environmental limits is likely to be unsustainable.*
- **Ageing infrastructure...***reaching the end of their expected design life.*
- **Emerging contaminants...***There are many emerging contaminants that are either appearing in our sewage for the first time, or that we are now realising have negative impacts on our environment and public health... Some of these are removed at some or all of our treatment plants, but some are not.*

Page 126 of the same Draft also noted the following which is not sustainable:

Avoiding upgrades in sewerage and sewage treatment systems: By using recycled water and its solid by-products locally, we can often avoid costly upgrades to sewerage infrastructure which would be required to manage higher volumes of sewage while limiting the impacts of releases to our environment.

Water corporations *state of knowledge* have them aware of the pollution, some toxic, that is contaminating influent impacting the solid and liquid effluent that is legally discharged to the environment via 'beneficial use' schemes with irrigation of food crops and runoffs into waterways.

Responsible authorities and water corporations are well aware of PFAS complications as they contributed to the feedback for the 2019 draft PFAS National Environmental Management Plan [NEMP] Version 2.0. ¹

The current treatments for wastewater plants to remove emerging contaminants are cost prohibitive and why the water corporations have called out for help from the Federal Government

¹ <https://www.dcceew.gov.au/sites/default/files/documents/pfas-nemp2-submissions.pdf>

in the NEPM draft to either remove chemicals of concern from the point source, stronger enforcement or assist with funding. This also relates to stormwater discharges from industrial site. Harvesting of stormwater for reuse will also capture industrial chemicals.

Unfortunately, nothing was done meaning Victorian EPA, Governments and agencies are dangerously negligent with PFAS management as Australia.

Currently, wastewater recycling is being dispersed throughout our communities unchecked. Additionally, discharges of recycled wastewater are often occurring upstream of drinking water take-offs. Yet, water corporations now have a greater dependence on reuse of sewerage providing biosolids and recycled water for consumptive use without ensuring appropriate treatment that removes emerging contaminants resulting in greater environmental and social impacts, not less.

- Not removing emerging contaminants of PFAS, nano particles, micro plastics, pesticides and pharmaceuticals, to name a few, in the treatment process will only add to the ongoing degradation in waterway health and unintended land pollution creating potential legal and economic implications.
- Lack of public disclosures that toxic contaminants could be in the recycled water and biosolids while ongoing use/application could lead to increased concentrations resulting in bioaccumulation with greater toxic impacts could potentially lead water corporations vulnerable to potential class actions.

East Gippsland has experienced extreme rainfall events leading to a significant volume of sewage overflow both treated and untreated to be discharged by East Gippsland Water (EGW) with exemptions from the EPA, being the relevant technical regulator.

In the absence of transparency and accountability for degrading environmental values:

- what is the potential solution?
- how will it be funded?
- which regulator is overseeing EGW to resolve the problem?

For Gippsland, the waterways are the receivers of industry pollutant discharges and treated sewage from the many treatment plants enabled by EPA discharge licences and exemptions. Protecting the environment is all but tokenistic and the environment and public health is the trade-off.

The following news snips come from an article in the Bairnsdale Advertiser 7 SEPTEMBER 2022

The on-site storage for recycled water has reached capacity following significant rainfall across the East Gippsland region over the past 18 months and EGW says “a controlled release is critical to prevent an uncontrolled overflow to the surrounding community”.

EGW’s executive manager of service delivery, Neville Pearce, said: “We have exhausted all alternatives to avoid this action”.

A treatment plant’s EPA licence allows it to discharge treated water into nearby waterways, “provided it meets a specified water quality standard”.

The spokesperson said “when discharging water that does not meet the licensed quality, the plant operator may need to put up warning signs along waterways for the safety of the community”.

“Plant operators can apply to EPA for approval to make emergency discharges, and EPA advises no swimming in those areas for 48 hours, or until the local water corporation says it’s safe,” the environment watchdog said.

EPA investigates emergency and unintended discharges, and where investigations show they involve licence breaches, may apply sanctions such as fines or require the plant operator to take actions to prevent similar discharges in future.

What should be the priorities?

There is an expectation that all water corporations reassess their priorities to:

- accommodate population growth/development with subsequent increase in waste,
- ongoing industry/agricultural discharges into waterways; and
- better prepare for extreme weather events with climate change.

These all have significant cost burdens to fund and modernise infrastructure improvements to improve water quality but is not reflected in price submissions.

More importantly, the objective to protect public and environmental health appears to not be the priority from our experience. It is with concern that public servants are saying they cannot do anything using groups like FLoW and others to use ‘our voices’.

We ask why our relevant department/agency workers feel insecure in their positions to not be able communicate their concerns at a senior level as ALL public servants are accountable to the parliament – the people, for the greater good. Political influences/pressures are not the environments best friend however outgoing Vic EPA CEO, Dr Cathy Wilkinson, did provide an excellent overview submission in 2020 to *Productivity Commission review of the National Water Reform 2020* on the current state of treating wastewater and what needs to occur to protect the environment.²

Are price submissions accurately reflecting key concerns and transparent accounting?

It appears water corporation strategies have no legislative or statutory weight behind them to assist and/or compel the water corporations to protect inflows into its storages, protect stream ecology, reduce water harvesting and diversions from rivers/waterways or a plan to address emerging contaminants entering catchments by requiring more appropriate treatment processes. How is that providing *equitable access for future generations*?

Additionally, who bears the responsibility of major infrastructure costs.

² https://www.pc.gov.au/data/assets/pdf_file/0007/257434/sub107-water-reform-2020.pdf

Should water corporations bear the whole cost or should it be shared between multiple stakeholders including state and federal governments? It is false economics that input credits from consumptive use is what funds large-scale investments.

Regulatory 'loopholes'

We question how the Department of Health:

- can be a modern regulator with outdated drinking water guidelines which allow water corporations to be compliant with toxicity levels of some chemicals in water higher than international standards

We question how the EPA:

- reduce or prevent PFAS entering the environment when government messaging is one of disinformation and undermining exposures and potential health impacts.
- accurately determine water quality when monitoring is not fit for purpose.

EPA's annual Report Card³ summarises the water quality in Port Phillip Bay, Western Port and the Gippsland Lakes and their catchments. Not all data is obtained by the regulator but supplied by water corporations as well.

Water quality index scores (WQI) are calculated and assessed against Victorian environmental quality objectives for relevant indicators in the Environment Reference Standard (2021). How can water corporations continue with current pricing structure and address poor water quality.

Table 1: Water quality index (WQI) scoring categories for Report Card.

| Water quality index score | Rating | Description |
|---------------------------|-----------|--|
| 8–10 | Very Good | High quality waterbodies generally not impacted by pollution |
| 6–8 | Good | Meets Victorian water quality objectives |
| 4–6 | Fair | Some evidence of stress |
| 2–4 | Poor | Under considerable stress |
| 0–2 | Very Poor | Under severe stress |

³ <https://www.epa.vic.gov.au/-/media/epa/files/publications/2037---report-card-2020-21.pdf?la=en&hash=8F84A5A90089ECB93FD1DE028D3257F3>

Whilst this scorecard looks damning, it is potentially a lot worse as monitoring data for water quality and flows are not fit for purpose.

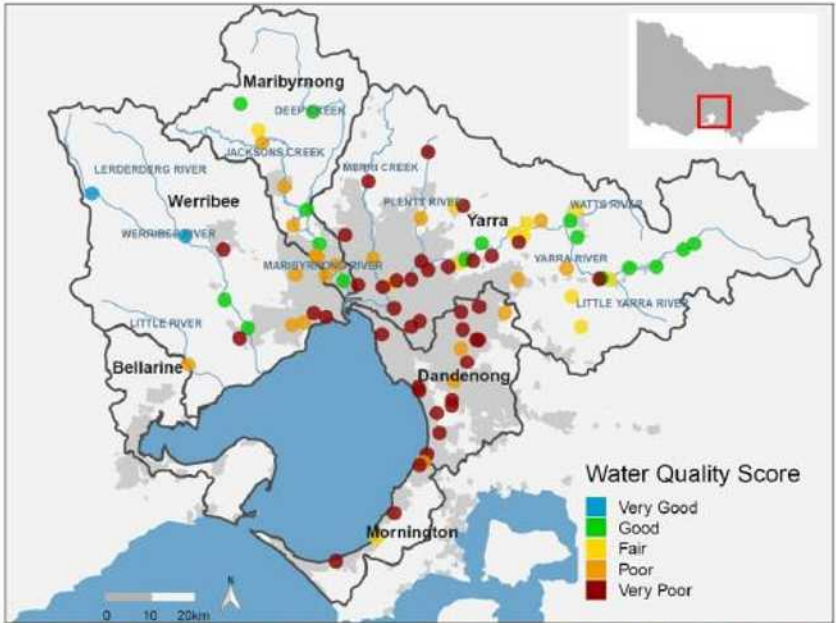


Figure 3: WQI scores of Melbourne Water's monitoring sites in the Port Phillip catchments. Colour indicates WQI score for each site in 2020–21. Grey shading indicates urban areas of greater Melbourne and Geelong.

On the flip side, Gippsland's water quality is looking pretty good. These high-level assessments allow the perception that industry and water corporations are being environmentally responsible!!!

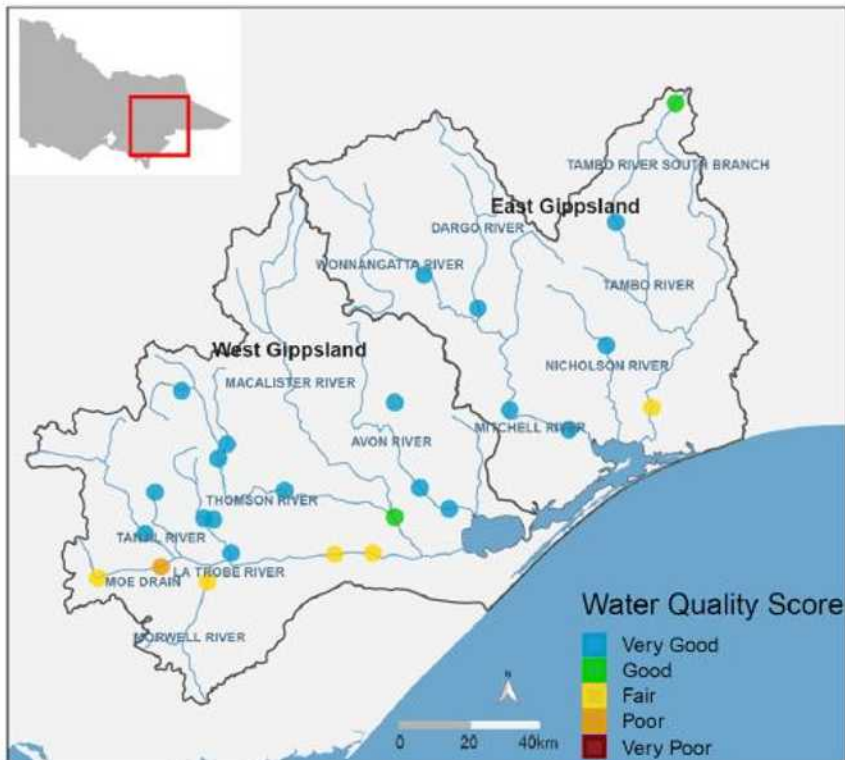


Figure 14: WQI scores of DELWP's monitoring sites in the Gippsland Lakes catchment.

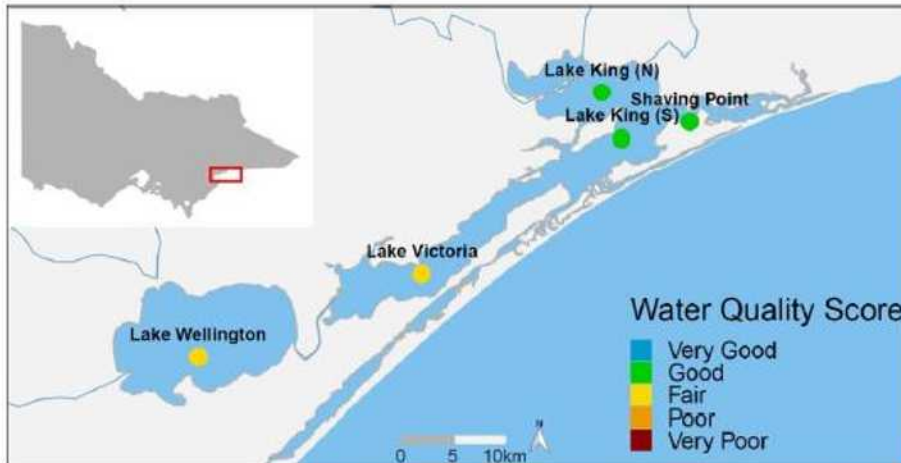


Figure 17: WQI scores of EPA monitoring sites in the Gippsland Lakes.

How could the ESC, as potential policy influencers, advocate for the environment?

Recommendations

- Polluter pays ensuring industry is more accountable for discharges with pollutant loading which should then provide more resources for infrastructure modernisation.
- Promote and work for decreases in environmental impacts to the natural or built environment from human activity at the point source (discharges, emissions, wastes, spills).
- Update Acts, statutory guidelines/obligations/protocols with a focus on enforcement to incentivise compliance and positive environmental stewardship.
- Create opportunities to nationalise regulatory standards (current federal focus reform to establish a federal environmental protection agency (EPA) imposing legally binding standards across all environmental decisions.)
- Prioritise infrastructure costs that promote human and environmental health related to updated worldwide scientific and health advice, not Australia's current advisory information.
- Advocate Australia ratifying listed persistent organic pollutants (POPs) on the Stockholm Convention to remove chemicals of concern from point source.

We look forward to your consideration of issues raised.

Kind regards

Tracey Anton
Secretary
Friends of Latrobe Water



Marcus Crudden

Essential Service Commission

As requested, further information regarding ongoing failures of enforcement in the Macedon sub catchment of the Maribyrnong catchment.

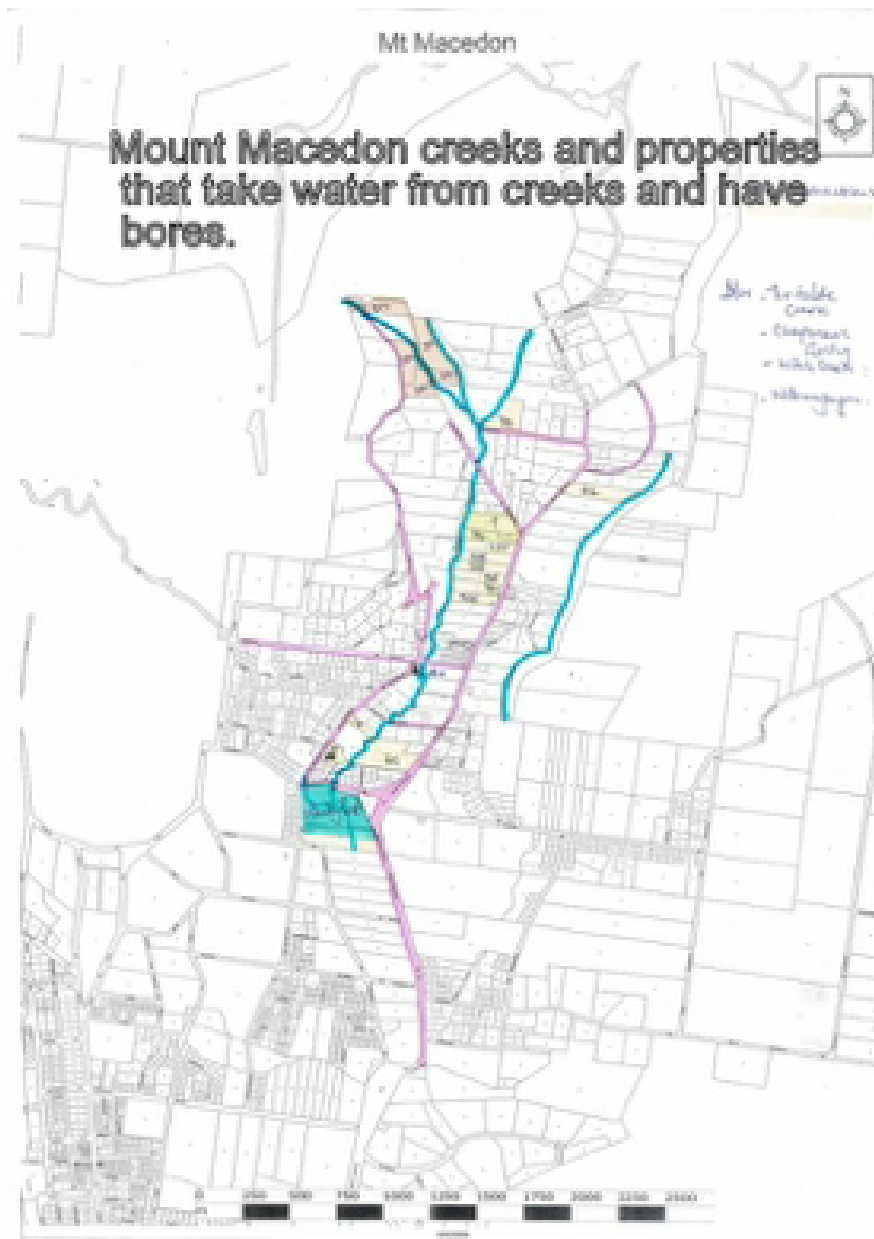
20 December 2022

SRW's policies espouse principles of sustainability, equity and care for the environment and an understanding that water is a finite resource. Unfortunately, their current management practices do not reflect these principles and do not meet community expectations.

The Maribyrnong basin is characterised by low flows due to its low rainfall. It is among the driest catchments in Victoria, and likely to dry further due to climate change. As a result, it is a groundwater dependent system, reliant on groundwater throughout the whole year to sustain its river flows. Yet regulations to take surface water and extract groundwater are identical to regulations for wetter catchments to the east.

Water theft and excessive extraction in a catchment transitioning to semi arid system heighten the risk of species extinction and cease to flow events. In droughts groundwater is critical to maintaining refuge pools. SRW's focus on supply for irrigators and potable water supplies in our drying Maribyrnong catchment shows poor risk assessment by management and either indifference to or ignorance of the true impact of climate change on our groundwater dependent system. All water theft and over extraction imperils the flows of our creeks and rivers and thus threatens the survival of both common and threatened species. Decades of work by dedicated Landcare, residents and Friends of groups is jeopardised by this poor management.

On Mt Macedon illegal weirs and take are unaddressed. For example, In an area of 200 square meters above [REDACTED], a few properties have multiple bores.



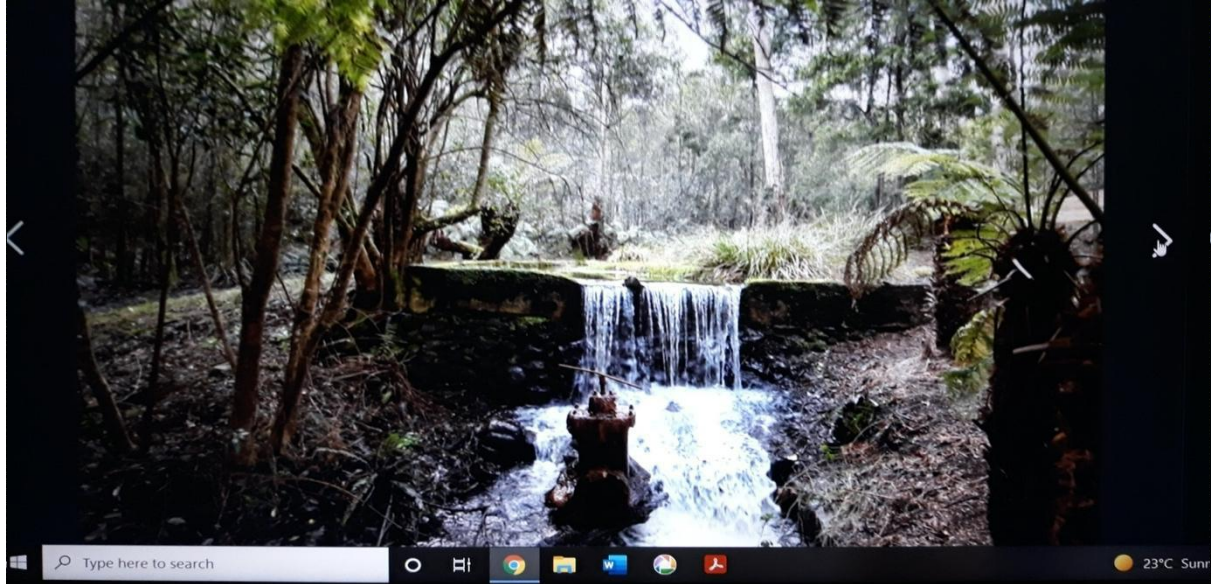
in addition to holding licences to extract passing flows from the Turitable Creek, Witch Creek and Chapman's Gully Creek. Although residents regularly report cease to flow events and extraction during No Take times, SRW has failed to take adequate enforcement action A local platypus population and a revegetation project in Stanley Park have been lost as a result.

The photo below clearly shows adjacent properties with yellowing lawns are abiding by summer water restrictions. The property in the centre has green lawns at the height of

summer. Regular use of satellite imagery can help monitor compliance. It's disappointing that SRW has lacked the initiative to apply available technology.

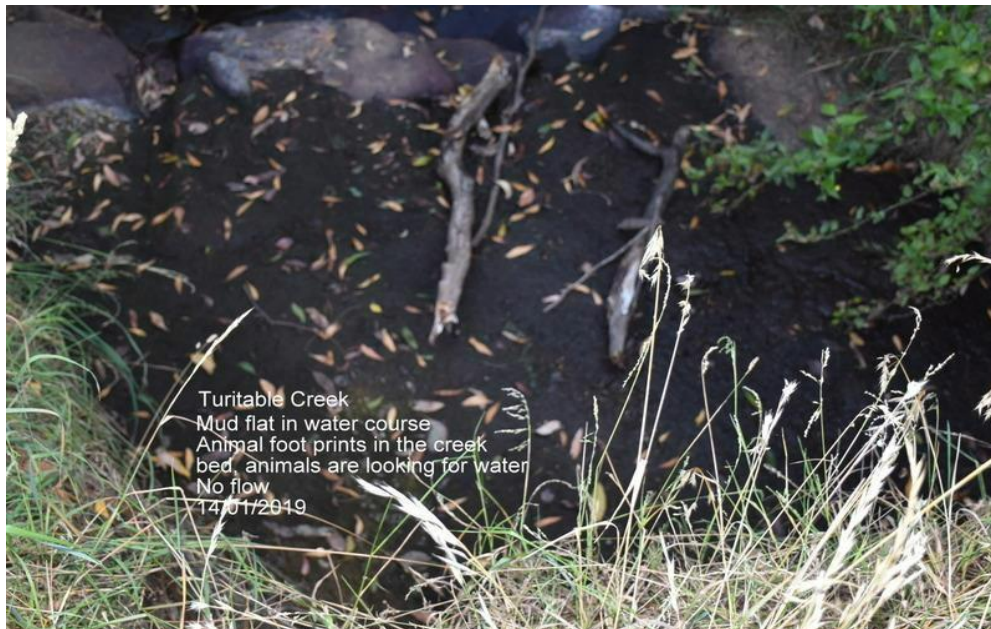


At the [REDACTED], a property that has potable water supply also accesses the passing flows by installing a weir IN [REDACTED] creek to enable easier extraction of water. When the pipe silted up they simply flushed the silt back on the surrounding ferns in the creek and destroyed the riparian vegetation.



Last year we requested an urgent meeting with SRW on these matters. We made an effort to highlight the good work of an officer who had insisted on the removal of an illegal pump. However, when officers go to sites where there has been considerable effort to hide illegal connections, some officers do not exert their authority to undertake investigation to find it. When entering properties, they need to have two officers and that can take time to arrange. **We believe expenditure to establish a local office is warranted to assist with community education, enforcement and monitoring.**

SRW's failure to be an effective enforcement agency has long term consequences. Local wildlife birds, wallabies and wombats rely on the creek.



Mountain streams from forested areas supply very high quality water to establish the food web in a living waterway.

Deep Creek is largely ephemeral. In the millennium drought Melbourne Water sustained the critical refuge pools with potable water in order to preserve the Yarra Pygmy perch and platypus populations. We are very concerned that SRW has no management plan for protecting the groundwater, yet unmetered bores and unmetered take abounds in the Deep Creek catchment

Swampy wetlands in the upper reaches near Lancefield are a rare geomorphic feature and also provide habitat to the threatened Yarra pygmy perch.

pg123 Melbourne Water River Health Strategy Maribyrnong

Finally, SRW have not adequately monitored the growth of small dams in our drying catchment. Inspired by the work of the People for a living Moorabool, our groups are currently undertaking a survey of small dams in our catchment. So far, we have identified 90 dams that may need registering. If citizen scientist groups can do such a survey why hasn't SRW? Are they that underfunded or have they just failed to consider the issue?

We wish to work with SRW, we have ever present eyes on the ground that can assist them.

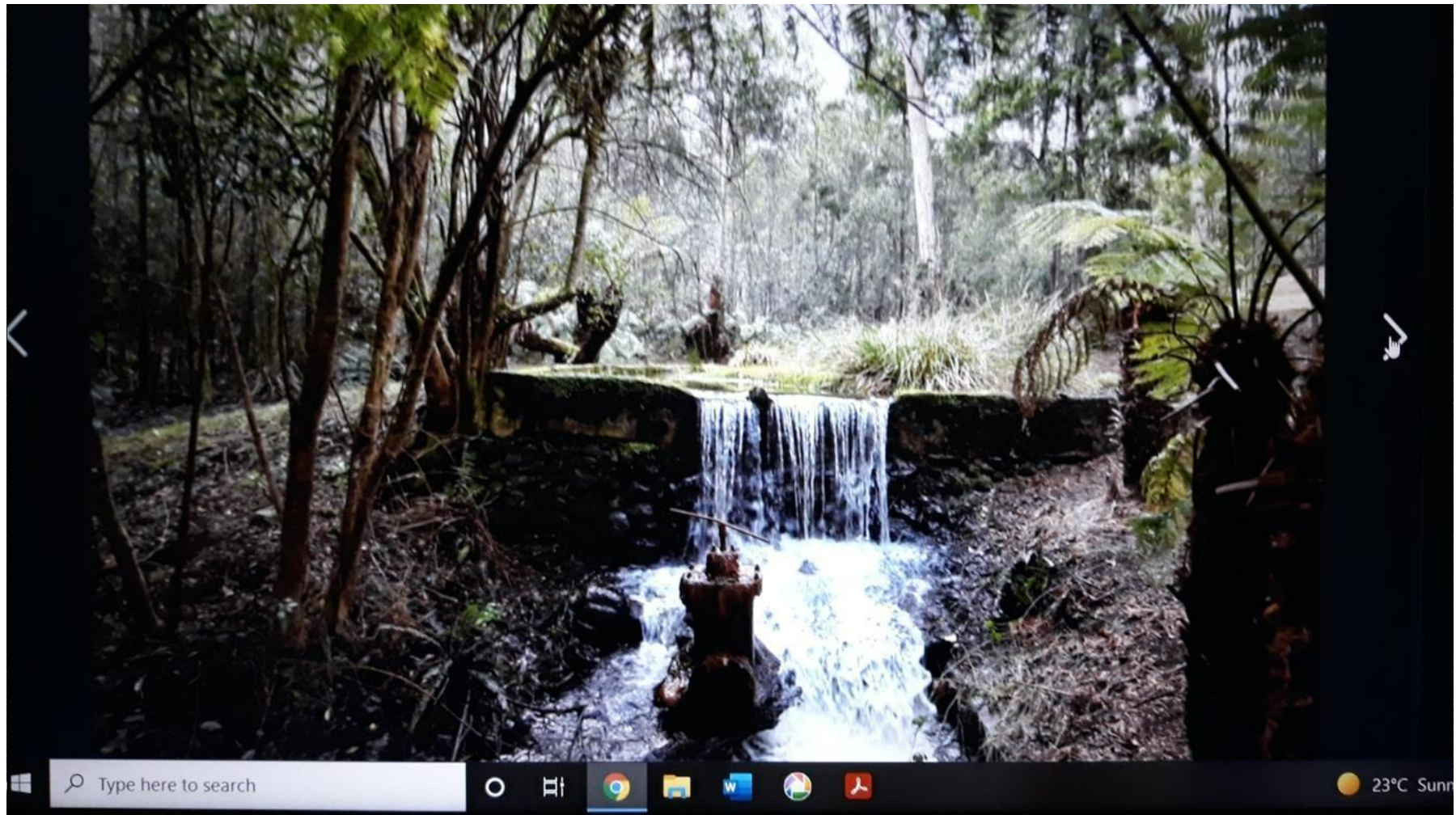
A balance must to be found so that our creeks and rivers continue to function, not only for their intrinsic value, but also for the benefit the communities who enjoy contact with nature

and passive recreation. If covid taught us anything it was that contact with nature has a public health benefit. Surface water and groundwater is a diminishing resource and it demands much better stewardship than is currently on offer; and that will be more expensive than current operations. Creeks are not customers but they are protected by legislation.

Helen van den Berg
Friends of Steele Creek
<https://www.facebook.com/FriendsOfSteeleCreekInc>
PH: [REDACTED]

Attachment Three

ATTACHMENT 19/12/2022 WEIRS IN MT MACEDON STREAMS





Mountain galaxias are protected by the EPBC Ct





Turitable Creek
Small pools of water, but
no flow
14/01/2019





Water from Witch Creek
flowing under Alton Road
into the [REDACTED] pipeline
22/10/2017



A new pipe from across the road directing water into a new pond
22/10/2017



