



LAWYERS  
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Tuesday, 22 May 2018

Environment Protection Authority  
GPO Box 4395  
MELBOURNE VIC 3000

**BY EMAIL:** [contact@epa.vic.gov.au](mailto:contact@epa.vic.gov.au)

Dear Sir/Madam,

**Ansevata Nominees Pty Ltd v South Gippsland Shire Council – Walkerville Retarding Basin**

We act on behalf of the Ansevata Nominees Pty Ltd. Our client owns farmland at Walkerville. Some years ago the South Gippsland Shire Council acquired 2.7 ha of our client's land to construct a dam to receive storm water and treated septic tank effluent from the area known as Promontory Views Estate at Walkerville. At the same time as acquiring the land the Shire entered into an agreement with our client that our client may, free of charge, take water from the dam in such quantities and at such times as it required for irrigation purposes and watering of stock. The Shire also agreed that the water would be suitable for irrigation and watering of stock.

For some time our client has been concerned about the quality of the water in the dam and the Shire's testing regime. As a result our client recently engaged Dr Bennetts of PJ Ramsay & Associates to examine available data as to the water quality.

We enclose a copy of the reports by Dr Darren Bennetts dated 1 May 2018 and 21 May 2018 together with enclosures. Dr Bennetts is an Environmental Auditor under the Victorian Environment Protection Act 1970.

Dr Bennetts concluded that he is unable to be confident that the water in the dam is suitable for the intended uses of irrigation and livestock watering. Dr Bennetts also concluded that for the purposes of the Environment Protection Act, the water in the dam is polluted.

Dr Bennetts stated his opinion as follows:

*Dam water quality in Victoria is regulated by both the Water Act 1989 and the Environment Protection Act 1970. These require that the uses of the water that it is intended to be used should not be compromised. In accordance with both the Water Act 1989 and the Environment Protection Act 1970, the water is considered to be polluted. Specifically, under the Water Act 1989, the water is considered to be potentially harmful to the health, welfare or safety of human beings and animals.*

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*Similarly, under the Environment Protection Act 1970, the water quality has been changed such that it is reasonably expected to make those waters potentially harmful to the health, welfare, safety or property of human beings and animals.*

We are instructed to request that the EPA take action to ensure that Council remediates the pollution, does not continue to discharge polluted water into the dam and that it takes all necessary steps to ensure that the storm water and septic effluent from the Promontory Views Estate at Walkerville is not polluting the dam and the environment.

We are also instructed to mention to you that in the in the past Council has used this polluted water for road making purposes and that, in addition, the CFA has a water tank near the dam and may be accessing the polluted water and using it unaware that it is polluted.

Should you have any further queries please do not hesitate to contact our Rob McGirr on 9612 7209.

Kind Regards,

**WISEWOULD MAHONY**

Partner: Rob McGirr

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