



To Minister Carl Sculley
Waterways Authority
PO Box R228
Royal Exchange
Sydney
1223

Subject: Misleading, biased and deceptive conduct by your department.

Until today's events, we had been loathe to do anything that might escalate the potential conflicts between your department and those of us with concerns for social equity and the environment. We were considering approaching officers of your department to discuss these issues. However, we do not want to be responsible for the death of a child, and this is the context within which this letter is located.

Today a child was hit and seriously injured by a PWC at Bonnie Vale, in precisely an area that we have previously told your department requires a protective regime to be in place. The child was hit notwithstanding an attempt by a concerned parent of another child trying to contact your department to get someone to remove a group of PWC users who were terrorising the children in Simpsons Bay. Their attempt to contact the relevant officer found him at a motor vehicle race meet in Queensland (remarkable irony given the noise complaints we have frequently lodged which have been consistently ignored by your department). The offensive and dangerous conduct continued, and users of the foreshore who asked for the PWC users to move away from the children were met with confrontation. Eventually the inevitable happened. Given that we have specifically warned of this hazard, we trust that your department will accept full responsibility for the injury caused.

We have had enough! We have tried to call on good faith and common sense, but we have been fobbed off and ignored. We will not wait until a death before we get action to protect the children and the rights of those who seek only to swim and enjoy the waterway.

We are writing to you in the first instance to seek your response to the matters we raise. We intend to take the matter to the Independent Commission Against Corruption if we do not get a clear resolution of the issues we raise as a matter of urgency.

The Port Hacking Protection Society has previously raised concerns about the management of water craft on Port Hacking, and about the response by Waterways Authority to complaints made to Waterways. On a number of occasions we have passed on complaints by our members that they have been unable to report and get action on their complaints, particularly noise and nuisance complaints about high powered vessels. We have publicly reported these concerns. We have been formally advised by Waterways that all complaints are recorded and responded to, and have reported this (and the contact details we have been provided) in a newspaper circulating throughout the Hacking catchment.

We are angry and concerned to find that this not the case, and we have been lied to, spied upon and treated as second class citizens by your department. Assuming that you have been taking decisions on the basis of data provided by your staff, you too have been seriously misled about the nature and extent of the problems within the Hacking estuary.

To us, the facts as we understand them point to corruption in the form dealt with by the ICAC - that is, a pronounced bias which interferes with the proper administration of legal duties, deception of the community and the Minister, and fraudulent statements about matters relevant to the conduct of the responsibilities under the law.

On the basis of the documents supplied to us from your department, this is the only conclusion that we are able to arrive at. If there is an alternative conclusion from the facts described below, we would appreciate your advice as to what that interpretation is.

We would appreciate your advice as to the action you propose, in relation to the matters we are raising.

- a. Would you please advise the results of your internal investigation of this set of instances.
- b. Would you please advise what it is intended to do about the substantive problem of the failure of Waterways to deal with the issues of high powered small vessels interfering with the safety and quiet enjoyment of users of the Hacking Estuary.

The background

Early in 1997 you indicated your intention to create limited protected areas, within which high speed jetcraft would be restricted. At a meeting of the combined Port Hacking Planning and Advisory Committee and the Hacking River Catchment Management Committee (May 27, 1997) the proposed areas were disclosed. Our President, Paul Martin raised the concern that the limited area did not protect the swimmers and others in Simpsons Bay, nor at Cabbage Tree Point, both areas where we were aware of previous reported incidents of danger to other users from PWCs. In response to questions about

how the limited areas were specified, we were told that they were specified on the basis of the complaints records. We were surprised, as the pattern of complaints of which we were aware would not align with the areas indicated for protection. A fax was sent at around 6am the following day to your Boating Officer at Miranda, raising these concerns. A further facsimile was sent a few days later when there was no response.

The wording of both these facsimiles clearly reflect the information provided to the meeting, that the complaints records were being used to design the limited protection areas. The wording from the first of these facsimiles is attached to illustrate this point.

Subsequently we requested from your office a copy of the analysis on which this set of proposals were based. This was not forthcoming, and we decided to seek the information under the Freedom of Information legislation (11th August). Our aim was to verify the pattern of complaints, so as to be better able to argue for a more suitable protective zoning.

The wording of that request mirrors that which we sent to your office.

We have been advised that a summary analysis has been conducted by the Miranda office of the Department of these complaints and incidents, for the purpose of determining areas where improved controls are required. We also request a copy of this analysis and any documented conclusions or advice arising from this analysis.

The reason for our request is to verify the reliability of the complaints recording system, as complaints records are the ostensible basis on which proposals for protection are being based.

As we have been advised that this information has already been collated and analysed for the purpose of advising the minister, we do not anticipate that there should be any substantial search time required.

When we eventually received the package of incident reports, we were shocked at what was not in that package.

Notably, there was no assessment of incidents as the basis for consideration of protective zonings. There was no reference to such an analysis (which you will note we specifically requested). And when we looked at the data provided it became apparent why - there are no data on which to base such an analysis. The recording of complaints (which we have been repeatedly assured is done) is virtually non-existent. Complaints from the foreshores (whether safety, nuisance, or noise) have not been logged by your department.

We can say this with certainty, because we have double checked the file information against complaints (including written ones) which we know have been lodged. We can, if required, produce documentary evidence of this fact.

In particular, we can point to a number of complaints from residents in Maianbar and Bundeena, including noise complaints, reports of PWC 'buzzing' swimmers and wave

jumping young children, and aggressive behaviour, none of which have been logged. We can point to written submissions by a number of residents to your officers which have not emerged. We can obtain statutory declarations from responsible community members attesting to all that we are saying in this letter.

We have previously pointed out to you our members' concern at your department's cavalier treatment of such issues. We have been officially advised from your department, on your behalf, that such issues are being followed up and recorded. These are serious safety and amenity matters which deserve serious attention.

What this information says to us is that your departmental officers have blatantly lied about this issue, and have consciously sought not to take any action or collect any information about them. It says that when they have stated directly that they are taking action, or recording and analysing incidents, that they are practising deception. We cannot help but to feel there must be a reason for this systematic deception, and this systematic burying of the information that would highlight the major problems attributable to overpowered small craft in close proximity to swimmers and foreshore users and residents.

A further concern

These concerns are compounded by another matter that emerged from our review of the information provided.

In 1996, a public meeting of citizens concerned with PWCs was held at Bonnie Vale. Whilst not convened by our organisation, clearly it was a matter of interest to us and we followed developments closely. Your officers were invited to attend, and indeed on the day were close by (offshore, on PWCs) but declined to engage in discussions with those concerned about PWC problems.

What no-one was made aware of was that your officers had commissioned jet-ski users to attend the meeting 'undercover' and to take notes and report back to your officers. The reports made by these agents of your department are inaccurate in a number of ways, but clearly were taken by your officers as input into their decisions (whereas the views of the foreshore users and residents were consciously filtered out).

The relationship between your department and the PWC user community as demonstrated by this incident, and the foregoing, seems to us corrupt. This incident, taken with the systematic deception outlined above, bespeaks a relationship that smacks of dishonesty and perhaps a wrongful alignment of interests that many would be concerned about.

Where this leaves us

These are serious incidents and serious complaints. They go to the heart of the probity of your department and the reliability of its policy development.

We anticipate that you will take them as seriously as we consider them to be. We await your response.

Attachment - facsimile sent May 28, 1997

Note to Rory O'Hara

re Safety risks to swimmers and surfers

Rory - in considering your proposal on the Southern side, you should note that the point where swimmers and board riders most come into conflict is between Pulpit rock (the Eastern end of Cabbage Tree Point) and its most north-westerly point. This is because this is where a lot of people swim, but at the same time the less responsible PWC and tinnie users come to jump waves.

It is in this area that we have had our worst incident reports, and the area where a death is most likely because the PWCs are frequently airborne. It is also the area where a number of residents have voiced frequent complaints.

Having contacted the complaints line in the past, I am aware that the data they collect may not allow you to accurately log precisely where the incident is. But your own observation of where the kids surf, and where the swimmers are during summer, will show that the problem is most pronounced in the area mentioned.

It should also be noted that the PWC users do have the further out shoals to pursue their games, though of course this is the cause of other (noise and seagrass) problems that you are not addressing at this time.

I can be contacted on 0414 445844 for most of the day, except that I have a meeting between about 9.30am and 11.30 am

regards, Paul