

Special Water Supply Catchment Areas

Guidelines for the declaration, amendment, and revocation of Special Water Supply Catchment Areas

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We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it.

We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

DEECA is committed to genuinely partnering with Victorian Traditional Owners and Victoria's Aboriginal community to progress their aspirations.



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Advice on the process to make a recommendation to declare, amend, or revoke a Special Water Supply Catchment Area can be sought from the Department of Energy, Environment and Climate Action early in the process. Requests for advice can be lodged via OurCatchments.OurCommunities@deeca.vic.gov.au.

Introduction

Special Water Supply Catchment Areas are important mechanisms to protect water resources for a range of uses. Provisions to declare, amend, or revoke these areas exist under the *Catchment and Land Protection Act 1994* to strengthen or remove protection measures to meet the needs of Victorian communities.

Purpose of these guidelines

This guidance material provides information for water corporations and catchment management authorities (CMAs) to support them in making recommendations to declare, amend, or revoke a Special Water Supply Catchment Area. They summarise the process and outline the roles and responsibilities for water corporations, CMAs, local government, and the Department of Energy, Environment and Climate Action (DEECA).

Context

Catchment and Land Protection Act 1994

Many catchments supplying water for domestic, irrigation or other purposes within Victoria are protected under the *Catchment and Land Protection Act 1994* (CaLP Act). These safeguards protect the catchments and water quality from land use and development.

Under the CaLP Act (s.27), land can be declared a Special Area where the existing or potential use of the area may adversely affect:

- The quality and condition of land; or
- Water quality or aquatic habitats; or
- Aquifer recharge or discharge areas.

A declared Special Area may be classified as a Special Water Supply Catchment Area (SWSCA) (s.27(2)), recognising the area as a significant source of water supply for potable, domestic, irrigation, stock, and industry use. Provisions for SWSCAs are contained in Part 4, Division 2 of the CaLP Act.

A SWSCA provides a greater level of protection for the supply and quality of water for communities. Water quality protection and risk management occurs through planning referrals for land use and development proposals and applications of various codes of practice and guidance for timber production, agriculture, onsite wastewater management, and others that may refer to SWSCAs.

Current Special Water Supply Catchment Areas

As of April 2024, there were 123 SWSCAs across Victoria (Figure 1). The spatial data layer (SWSCA100) is available on:

- VicPlan (<https://mapshare.vic.gov.au/vicplan>); and
- MapshareVic (<https://mapshare.vic.gov.au/mapsharevic>).

Most SWSCAs existed as Proclaimed Water Supply Catchments under the *Soil Conservation and Land Utilization Act 1958* and were transferred to the CaLP Act when the former legislation was repealed.

CaLP Act – Schedule 5

It should be noted that the list of SWSCAs in Schedule 5 of the CaLP Act was created at the time of drafting the legislation. It does not include any subsequent declaration, amendment, or revocation of SWSCAs.

Former Land Use Determinations (LUDs)

LUDs under the former legislation ceased to exist in 2006. Special Area Plan provisions replaced LUDs under the CaLP Act (s.28 to 32 and Schedule 2).

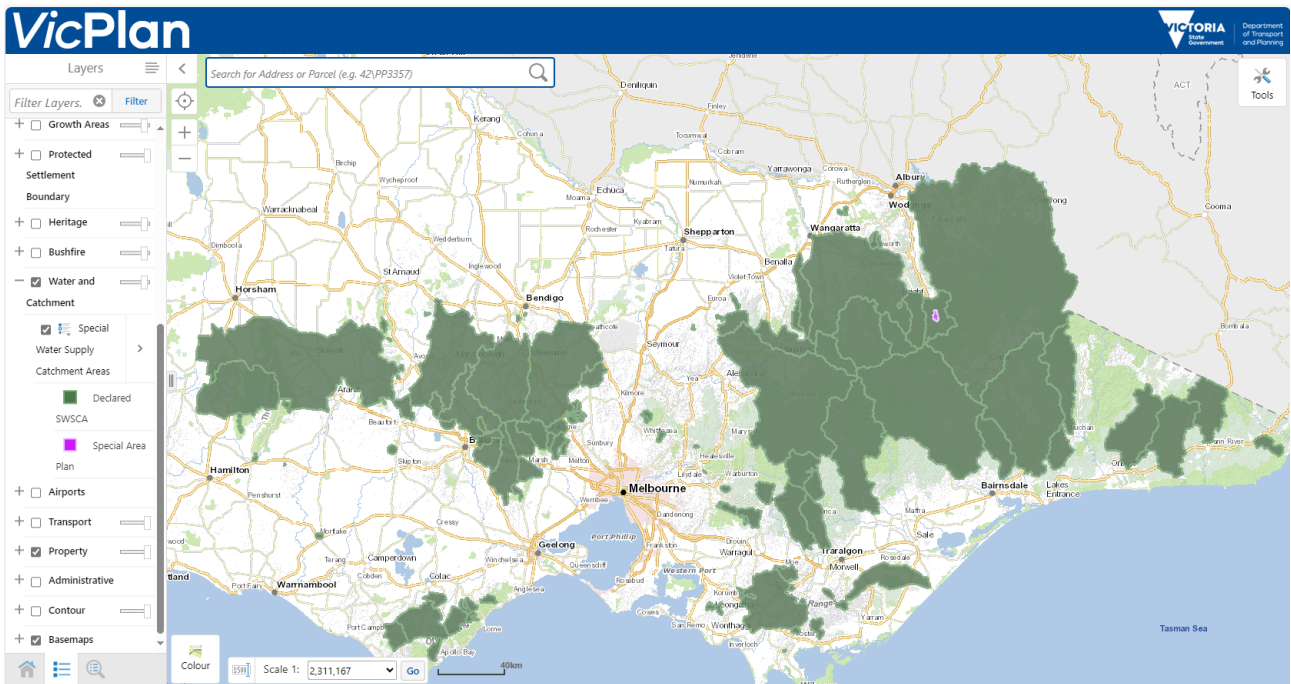


Figure 1: Declared Special Water Supply Catchment Areas.

Process to declare, amend or revoke a Special Water Supply Catchment Area

The key steps to declare, amend, or revoke a SWSCA are the same and summarised in Figure 2.

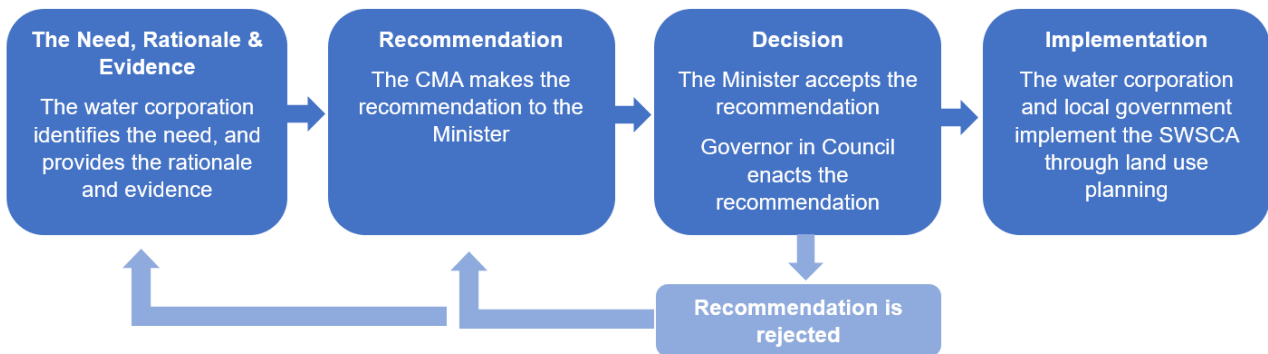


Figure 2: Process to declare, amend or revoke a Special Water Supply Catchment Area

Roles and responsibilities

The Need, Rationale & Evidence

Water corporations provide safe drinking water to customers and identify the need to declare, amend, or revoke a SWSCA. Declaring or amending a SWSCA is a tool that can be used to manage land use and development risks to water demand and quality objectives. Revoking a SWSCA removes restrictions on land use and development where they are no longer required in decommissioned water supply areas.

The water corporation should engage with the relevant CMA when identifying the need to declare, amend, or revoke a SWSCA to support their role in making the recommendation to the Minister.

To assist the Minister's consideration of a recommendation, the water corporation will be responsible for providing the CMA with the information required to support a decision, and to meet the requirements of the CaLP Act.

The Water and Catchments Group of the DEECA can provide advice to water corporations and CMAs on proposed recommendations to declare, amend, or revoke a SWSCA if requested.

Recommendation

CMAs and Melbourne Water are defined as Authorities under the CaLP Act. It is the role of the Authority to write to the responsible Minister about SWSCA recommendations (CaLP Act s.27(1)(a) and (b)). The relevant CMA does this for SWSCAs on behalf of the water corporation in their catchment and land protection regions.

Decision

The Minister for Water is the responsible Minister for SWSCAs under the CaLP Act and can accept or reject a recommendation from a CMA to declare, amend, or revoke a SWSCA (CaLP Act s.27(3)(4)). Consideration of a recommendation is based on demonstrating how the existing or potential use of the area may adversely affect:

- The quality and condition of land; or
- Water quality or aquatic habitats; or
- Aquifer recharge or discharge areas.

If accepted, the Minister makes the recommendation to the Governor in Council (CaLP Act s.27(5)).

Should the Minister reject a recommendation, the water corporation and CMA should review the proposal. Advice can be sought from the Water and Catchments Group in DEECA on the response from the Minister.

The Governor in Council is the process through which the Government implements aspects of its business. It is a body that comprises the Governor as Chair, and members of the Executive Council.

On the Minister's recommendation, the Governor in Council by Order published in the Victoria Government Gazette may declare, amend, or revoke a SWSCA (CaLP Act s.27(6)). The recommendation comes into effect on the date the Order is published, or another date specified.

The Water and Catchments Group in DEECA supports the decision processes of the Minister and the Governor in Council for SWSCAs by administering s.27 of the CaLP Act. DEECA will notify the relevant water corporation and CMA on the decision and the date of publication in the Victoria Government Gazette.

Implementation

Water corporations and the Secretary responsible for administering the CaLP Act are determining referral authorities for certain planning permit applications within a SWSCA under Clause 66 of planning schemes. The determining referral authority assesses and approves referred applications from local government, approves with conditions, or rejects applications based on risks to water resources.

As planning authorities, councils are responsible for strategic and statutory land use planning for their municipal districts. They develop local planning policy, assess permit applications, and enforce the planning and building system.

Under Clause 66 referrals of planning schemes, councils are required to enforce the decision of the determining referral authority for the referred planning applications within a SWSCA. The Clause 66 planning provisions relevant for SWSCAs are:

- Clause 66.02-3 Cattle feedlot – Determining referral authority: the Secretary to the Department administering the *Catchment and Land Protection Act 1994*.
- Clause 66.02-5 Special water supply catchment area – Determining referral authority: The relevant water board or water supply authority.
- Clause 66.02-8 Extractive industry – Referral authority: Department administering the *Catchment and Land Protection Act 1994*.

Planning decisions in SWSCAs should also consider:

- *Planning Practice Note 54 Referral and Notice Provisions*
- *Planning Practice Note 55 Planning in Open Drinking Water Catchments*
- *Planning Permit Applications in Special Water Supply Catchment Areas Guidelines (2024)* (Available at – <https://www.water.vic.gov.au/catchments/special-water-supply-catchment-areas>).

General Guidance

- The water corporation prepares the rationale and provides the evidence for the recommendation. The information needed to support the recommendation is outlined below under Specific Guidance. Supporting information may depend on a case-by-case basis and the current and future land use and development projections. It is recommended that proposals are discussed with DEECA early in the process for specific advice and support if required.
- Exemption Note: Recommendations to declare, amend, or revoke a SWSCA do not require a Regulatory Impact Statement. Under Schedule 1 of the Subordinate Legislation (Legislative Instruments) Regulations 2011, instruments under the CaLP Act are not prescribed to be legislative instruments and are exempt.
- Consultation to declare, amend, or revoke a SWSCA is not a statutory requirement under the CaLP Act (although it is required to develop a Special Area Plan). However, consultation is highly recommended to support the Minister's decision on a recommendation.

Specific Guidance

Minimum information and legislative requirements for a recommendation

The following information must be provided to meet the requirements of the CaLP Act, and will support the Minister's consideration of a recommendation:

- A summary of the reasons for/justification of the recommendation to declare, amend, or revoke a SWSCA.
- Context for the recommendation – Catchment description, water supply system, water quality, and supply demand.
- For recommendations to declare or amend a SWSCA – Description of the area and the land use zones.
- A map of the SWSCA area boundary (proposed, existing and amended, or boundary to be revoked); cadastral layer showing public and private land; water supply system (including all relevant waterways, channels, dams, reservoirs, and off take sites); topographical layer; and key defining features such as regional centres, townships, or highways.
- CaLP Act requirements – Evidence or justification how the existing and/or potential land use and development within the current or proposed recommendation area may adversely affect the quality and condition of land; or water quality or aquatic habitats; or aquifer recharge or discharge areas. This should be provided in context of the water corporation's water supply and quality needs for communities.
- It is recommended that consultation at a minimum occurs with those who have SWSCA roles and responsibilities including those responsible for giving them effect. The water corporation should consult and include the opinions of the relevant CMA and councils to inform the Minister for Water's consideration of the recommendation. The level of consultation is on a case-by-case basis reflecting the specific circumstances of the recommendation. The Minister may request further consultation where a recommendation will impact a considerable number of landowners and private enterprises, or limit or restrict land use change or development opportunities.

Optional information to support a recommendation

A water corporation may have additional information that can support the Minister's consideration of a recommendation, particularly where a considerable number of private properties are proposed to be within a SWSCA. Relevant information that is not required under the CaLP Act but may provide supporting evidence includes:

- Expected impact on current and future landowners (e.g., land use and development limitations).
- Identification and assessment of point source and diffuse water quality risks to demonstrate the threats.
- Modelled or estimated impacts of point source and diffuse water quality risks on water quality measured against statutory requirements or other standards (e.g., Health Based Targets for Australian drinking water).
- How the recommendation assists managing climate change scenario risks such as projected reduced flows and impacts on water resources.

- Effectiveness of current water treatment systems assessed against the risks posed by catchment activities (i.e., the drivers to declare or amend a SWSCA).
- Comparison of the benefits of the outcomes expected from the recommendation compared to additional water treatment infrastructure augmentation costs and impacts on the community (e.g., Essential Services pricing submission impacts).
- Any additional analysis that supports the recommendation.

For further information, visit the SWSCA page on the DEECA website:
www.water.vic.gov.au/catchments/special-water-supply-catchment-areas

Appendix



Appendix 1: Clarification between legislative areas for water

These guidelines only apply to Special Water Supply Catchment Areas under the *Catchment and Land Protection Act 1994*. The guidelines do not apply to other areas declared or designated in other legislation, including Water Supply Protection Areas or Designated Water Supply Catchment Areas.

Catchment and Land Protection Act 1994 – Special Water Supply Catchment Areas

Special Areas classified as Special Water Supply Catchment Areas that focus on how the existing or potential use of the area may adversely affect the quality and condition of land; water quality or aquatic habitats; or aquifer recharge areas or discharge areas.

Water Act 1989 - Water Supply Protection Areas

A Water Supply Protection Area is an area declared under the *Water Act 1989* for the protection of groundwater or surface water resources or both through the development of a statutory management plan.

National Parks Act 1975 - Designated Water Supply Catchment Areas

The *National Parks Act 1975* makes special provisions for Designated Water Supply Catchment Areas specifically in Kinglake, Yarra Ranges, and Great Otway National Parks for the protection of the catchment areas and the maintenance of water quality, protection of the water resources and restriction of human activity in those areas.

The National Parks Regulations 2013 also provide for Additional Water Supply Catchment Areas to be set aside for the protection of other water supply catchments in parks under the *National Parks Act 1975*.