



STORMWATER VICTORIA

Submission to the Draft State Environment Protection Policy Waters

1. Introduction

1. Stormwater Victoria welcomes the opportunity to submit comments to the consultation draft of the State Environment Protection Policy Waters and commends actions by the State Government to enhance the protection of Victoria's 'waters'. Stormwater Victoria is in support of the ambitions and goals of the SEPP. As Victoria's preeminent industry association for stormwater we have keen interest in the SEPP's success - ensuring that it can assist in achieving the best outcomes for our waterways and bays.
2. Stormwater Victoria's work involves a mixture of advocacy and support. We advocate for better regulations, policy and guidelines and facilitate information sharing, collaboration and best practice infrastructure through education, networking, research and the development of resources.

Stormwater Victoria is striving toward outcomes in four key areas:

1. Flooding Management

Stormwater infrastructure is consistently planned, designed, constructed and maintained to protect communities and the built and natural assets they rely on.

2. Integrated Sustainable Water Management

All stormwater in Victoria is managed holistically to consider flooding, ecosystem protection and community needs particularly in relation to harvesting and reuse.

3. Ecosystem Protection

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Through effective stormwater solutions with minimal resource use and emissions we will maintain, and where possible restore healthy waterways and ecosystems

4. Community and Stormwater

Assisting the Victorian community to take an active role in stormwater management through consultation and engagement on stormwater related issues and empowerment to manage stormwater around the home

For more information on Stormwater Victoria please refer to the attached Strategic Direction Paper

3. As described above, the protection of the environment aligns strongly with our key drivers as an industry association and our membership have been consistent leaders in demonstrating best practice approaches to stormwater management over many years. As an association we work hard to build capacity within our industry. Through a range of activities, events and resources we are building leaders in best practice stormwater management. We see strong alignment between the work we do and the core goals of SEPP Waters
4. The key points of this submission can be summarised as.
 - Overall direction of the SEPP is supported
 - Management of stormwater is a critical issue which deserves special attention in the SEPP. BPEMG provides the strongest tool to deliver stormwater outcomes and the weight it is given as a reference document should therefore be enhanced.
 - The SEPP is strongly dependant on outcomes of other reforms currently underway, alignment is critical
 - Compliance and accountability is a weakness especially relating to principles based responsibilities (such as stormwater management), consideration of methods for achieving greater all round accountability and identification of compliance frameworks would be beneficial
 - It is suggested that in some instances wording needs to be made stronger to remove ambiguity
 - The requirement for stormwater management plans should be extended to include other authorities with stormwater responsibilities such as VicRoads
5. Under Water for Victoria there are a raft of new initiatives which all have a strong influence on SEPP Waters or are in some way related. BPEMG review, Improving Stormwater Management Advisory Committee, The Draft Healthy Waterways Strategy, the IWM Forums and work on Melbourne Urban Stormwater Institutional Arrangements can all have far reaching consequences on the protection of Victoria's waters. SEPP can be a positive enabler for much of this reform and likewise must also be receptive to the reform packages to ensure coherency of approach.

A. General discussion

1. SEPP Waters has played a significant role in the evolution of stormwater management, enabling water sensitive urban design and providing the statutory weight to BPEM standards. By failing to keep up with the pace of change, it has more recently served as a handbrake.
2. Industry has long been advocating for a range of measures to improve our collective ability to rise to the contemporary stormwater challenge. A strong statutory framework is required to meet the challenges of the coming decades. In our urban environments, stormwater has been poorly regulated and accountability is lacking. In general, unless captured within the narrow purview of either Clause 56.07 of the Victorian Planning Provisions or a Water Sensitive Urban Design Local Planning Policy, stormwater pollutant management has sat outside the regulatory framework. Stormwater management for the protection of waters has been essentially voluntary. This has led to the ongoing degradation of urban waterways and generally poor outcomes for urban stormwater.
3. As stormwater managers, we are entering an era of uncertainty with development, population growth and climate change creating new challenges. Much of the population growth is expected to occur within existing urban areas over the next 30 years (70% under Plan Melbourne). Our ageing and undersized infrastructure, loss of permeability and legacy issues serve to make the challenge even greater. While there may be a range of challenges, the industry is demonstrating maturity and leadership while yearning for contemporary statutory tools to support our work as stormwater practitioners. Stormwater Victoria believes the SEPP plays a vital role in increasing the emphasis of sustainable stormwater management practices across our community.
4. There has been a lack of clarity around accountability and the statutory weight of the existing SEPP. Essentially it is not well understood. For example council's do not currently consider the urban stormwater clause of the current SEPP as sufficiently binding to require a BPEM response through the planning process. The Draft SEPP is stronger in this regard however this is likely to remain ambiguous without clearer wording and explanatory notes.
5. The SEPP does not deal with infrastructure funding mechanisms that impact the practicality of implementing an updated SEPP. Without addressing the cost of meeting the SEPP objectives and identifying methods to fund the necessary capital upgrades, there is a risk the SEPP intent can never be fully realised. This is especially evident in the urban stormwater sector. While this is likely to sit outside the terms of reference of the SEPP, it should be noted that current funding structures are inadequate. Mechanisms such as Environmental Contributions or a Stormwater Levy should be considered to assist the delivery of stormwater management plans.

B. SEPP Waters Specifics

B.1. Protected Beneficial Uses

1. We support the approach of establishing the Policy around the Protection of Beneficial Uses. It is recommended that stormwater harvesting be included as a beneficial use in Schedule 2, Table 1. Stormwater harvesting is incredibly important and offers a range of benefits to the community and the environment. Its important that the SEPP ensures that the viability of stormwater harvesting is not undermined or de-valued.

B.2. Environmental Quality Indicators and Objectives

1. The Environmental Quality Indicators and Objectives in the SEPP are supported

B.3 Target Setting

2. The target setting objectives, including schedule 4 of the SEPP, are supported however this section should include reference to BPEMG.
3. We note that the SEPP maintains the load based targets for receiving waters while the BPEMG is an external guideline or interpretation of the SEPP. We agree that load based targets are tangible, valuable mechanisms to ensure stormwater pollution is managed. It is also important to consider how the mechanisms supporting the targets in schedule 4 (i.e.BPEMG), can be given greater statutory weight. As BPEMG remains a reference/guideline document, it should, be mentioned in schedule 4 and its role as part of a policy mechanism more clearly defined.
4. The BPEMG is vital in the development planning process, it is also a key tool for stormwater management planning. Current methodologies for the development of integrated water management plans by councils rely on BPEMG when setting municipal targets. For this reason, it is very important to draw a more direct link between schedule 4, load based targets, and BPEMG.
5. Provisions for BPEMG reviews and updates to integrate the current state of knowledge should also be made a statutory obligation within the SEPP. It would be appropriate for the SEPP to include detail on minimum standards in BPEMG such as those relating to the relationship between:
 - BPEMG and load based targets,
 - BPEMG and geographic regions
 - BPEMG and waterway strategies and municipal water plans.
6. Some consideration should be given to a directly connected imperviousness target

B.4 Rules and Obligations

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1. The SEPP provides a statutory framework for a range of well-regulated activities/landuses where the compliance regime is clear (e.g. point source wastewater discharge). However, the complex nature of the water cycle means there are also a range of other responsibilities identified in the SEPP which are harder to manage and regulate (such as diffuse source stormwater pollution). Diffuse pollution has however been identified as a key threat and must therefore be treated appropriately. The draft SEPP is an improvement on previous versions but still has some improvement to provide sufficient statutory leverage for diffuse source pollution management and in particular, stormwater.
2. Clause 32 *Planning Schemes and Permits*,

As the Statutory Policy Review (EPA DEPI 2013) noted it is necessary to strengthen the links between the statutory land use planning system and catchment and waterway management.

Clause	Draft Wording	Recommendation	Comment
32.1	If relevant, planning authorities must have regard to this Policy when developing and amending planning schemes under the Planning and Environment Act 1987.	Provide clear definition of 'relevant' in explanatory note	a definition of where it is, and isn't, relevant is required to make this clearer alternatively, remove the word 'relevant'
32.2	If a planning permit is required by a planning scheme the responsible authority may where appropriate, consider this Policy.	Replace 'may' with 'must'	
32.2	If a planning permit is required by a planning scheme the responsible authority may where appropriate, consider this Policy.	Replace 'may' with 'must' Provide clear definition of 'where appropriate' in explanatory note	without a clear definition of ' where appropriate ' this clause becomes highly contestable. consider removing 'where appropriate'

3. Clause 34. *Urban Stormwater*.

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This section is strongly supported by Stormwater Victoria however, the wording could be clearer.

Under 34.2 'Councils must ensure all new developments meet....' The main intent in this sub-clause is to drive a statutory planning response and this can be made clearer. An example of setting a statutory obligation with more clarity can be found in Clause 28.1, 'When considering planning applications....authorities must ensure...'.
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Based on feedback from our membership, previous versions of the SEPP have failed to be implemented by council planning departments due to the weak and unenforceable language. This has meant that in many instances, the SEPP has not carried sufficient statutory weight to be a requirement of development. It is therefore vital that any ambiguity is reduced/removed as much as possible.

Under 34.4, councils must develop and implement stormwater, or equivalent, management plans. Stormwater management plans have had variable rate of success over the past decade and have been largely superseded by integrated water plans. While more closely aligned with SEPP objectives, these newer documents have often been driven by a broader set of objectives. 34.4 provides for this evolution however, there is a lack of detail to ensure uniform uptake and implementation. This is where stormwater management plans have failed in the past. Clarification of review periods and reporting frameworks along with a detailed guideline are required.

Clause 34.4 is specific to councils and there is no reason for this narrow view. The stormwater industry expects a range of other authorities who have responsibility for stormwater assets to also be made accountable. Clause 34.4 should be extended to all authorities and agencies with a stormwater or hard surface asset base. This would instigate a more comprehensive and inclusive outcome. Responsibilities identified elsewhere in the SEPP such as Clause 47 for road management are much narrower in scope. VicRoads, Victrack and others should carry an equitable level of responsibility for stormwater alongside local government.

Clause	Draft Wording	Recommendation
34.1	Stormwater must be managed in order to avoid or minimise risks posed to beneficial uses by minimising the impacts of flow, sediments, nutrients,	While this sentiment is supported, it appears to be a catch all principles based responsibility clause. If it is intended to have statutory weight it

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	pathogens, toxicants, litter and other pollutants in surface waters.	must be more targeted.
34.2	Councils must ensure all new developments meet the objectives for environmental management of stormwater as set out in the Best Practice Environmental Management Guidelines for Urban Stormwater to— (a) minimise the quantity of stormwater leaving the property boundary and to hold or use it as close to where it is generated as possible; and (b) minimise the pollution of stormwater.	Change 34.2 to “ Councils must ensure all new developments, including when considering planning applications, meet the objectives...’
34.2		Add ‘(c) maintain permeability’
34.4	Councils must, in consultation with the Authority, catchment management authorities.....develop and implement stormwater management or equivalent plans	Identify review period and reporting objectives for stormwater management plans. These could also be multi-organisational
34.4		Broaden Clause 34.4 to include other authorities who manage stormwater or who’s assets have an impact on stormwater

4. Clause 35. Management of Discharges

Development which includes basements that intersect groundwater can result in buildings which must be pumped to stay dry. In some cases very large volumes of water can infiltrate a basement and it can be highly saline and/or contamination depending on groundwater conditions. There has been a lack of clarity about how this can be managed through the statutory planning process. The result has been council stormwater networks receiving large volumes of groundwater derived basement pump-out water. In many instances this is highly saline with resultant impacts on surface water ecology, asset life, stormwater harvesting potential and in worst case situations could result in the transfer of dangerous contaminants to surface waters.

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Clause	Draft Wording	Recommendation
35.	In order to avoid or minimise risks posed to beneficial uses by the discharge of saline wastewater, including discharges from groundwater pumping and irrigation drains—	Establish separate sub-clause to directly enable the regulation of basement pump-outs.