

SEPP Waters Manager
Level 10, 8 Nicholson Street
EAST MELBOURNE VIC 3002

Dear Sir / Madam,

Consultation – Draft SEPP Waters

Thank you for the opportunity to provide feedback on the draft policy. The City of Greater Bendigo is home to an estimated 10,000 households reliant on onsite wastewater management systems. Each year, the City receives up to 200 applications for new septic tank systems. Following a re-draft in 2014-15, our staff have been busy implementing the City of Greater Bendigo Domestic Wastewater Management Strategy. This strategy is pivotal to the City's management of decentralised wastewater treatment systems and forms guidance to the City in decision making about wastewater management for existing and future development. Furthermore, it is about empowering our community to maintain a safe and healthy environment in which to live and thrive, and engage in responsible and sustainable development.

The City has a number of staff with a high level of experience in onsite wastewater management, some of whom hold positions on State, National and International committees in the development of standards and policy for onsite systems.

We provide you the following feedback on the draft State Environment Protection Policy informed by our experience and our considerable engagement in this space.

Draft Clause 28 Consideration of applications for subdivision and onsite domestic wastewater management

and

Draft Clause 29 Councils to develop a domestic wastewater management plan

Collaboration Expectations and Ownership of Solutions

The continued inclusion of the need for consultation of water corporations and community is an important inclusion and one that the City supports. This subclause would value from greater specificity. The first is what makes a water corporation relevant? Both regional water corporations and urban water corporations have interests in the development of domestic wastewater management plans, however their interests are about protecting their product to customers, the other about the potential for growth of customer base. It is surprising that catchment management authorities are not the focus of this consultation. They do not come to the table with business interests, but rather interests that align more closely with natural resource management and catchment and land protection, serving the community and not holding particular monetary or business stakes in the development of a DWMP.

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This is where the importance of a catchment management plan is highlighted. In our experience, regional water corporations have looked to the City's domestic wastewater management plan to take the role of catchment management plan, where it is not equipped to be used in this way. The DWMP should be designed to complement a catchment management plan, but it encompasses a very small part of catchment protection and should not be regarded as a sole basis for catchment management, nor a supplement for lack of a catchment management plan.

Leadership by the Environment Protection Authority is extremely important in the formulation of a DWMP. While developing our current DWMP for City of Greater Bendigo, engagement of the Authority proved very challenging. Responses received from the Authority directed our contact with our local office to that of the onsite group, disbanded during the development of the DWMP. This is a key guidance role for the Authority and it is pivotal in achieving state-wide consistency amongst Councils, a point that the VAGO report from 2006 highlighted as a key issue. This is particularly so if the findings for the DWMP and the risk assessment contained therein is being used to apply for state grants.

Where sewer is highlighted as an appropriate solution to offsite discharge, the following steps are clearly mapped by the SEPP. However, where options such as cluster wastewater treatment systems and small scale decentralised sewer systems are identified as more viable options for wastewater management, policy is very unclear on what authority is the lead agency in the delivery and operation of such systems. Is this a role for Local Government or is it a role for water corporations? While urban water authorities are best suited to managing the installation and operation of such systems, they often come at a cost to those authorities. While decentralisation provides a simpler technological solution for future wastewater management, it is not conducive to scalable business operations and this makes these systems unattractive to water authorities where centralisation forms a core structure to business operations. Private companies may be responsible for providing services, however water authorities still wear the risk being provider of last resort. The definition of a lead agency in these situations is an essential role for the SEPP as it is not clearly defined anywhere else and leads to a recoil from responsibility by all agencies involved. Outcomes are not realised for our community and our environment because no agency is clear on their responsibility and authority in these situations.

The City strongly supports the proposed wording and structure of subclause (4)(c) (i) & (ii). Basing compliance and enforcements activities on conformity to the DWMP is a highly valuable inclusion and allows municipal councils to make meaningful difference.

The City does not support the inclusion of subclause (4)(d). The *Guidelines for Planning Permit Applications in Open Potable Water Supply Catchments* have been developed and more importantly revised without an acceptable level of consultation, solely reflecting the opinion of an industry peak body and failing to be based on either rigorous science or evidence. These guidelines should not be empowered in any way by the SEPP if the policy is to be received as credible and reasonable policy reflecting the views and values of Victorians.

Evidence Based

This point highlights the need for the SEPP to be based on solid evidence. The positioning of onsite wastewater systems in this policy requires more established contextual grounding, particularly in the comparison to other sources of water pollution for intensity and likelihood of pollution. This has resource implications for municipal councils, already in a rate capping environment. In order for municipal councils to be investing resources in the audit, enforcement, planning and infrastructure of managing onsite domestic wastewater management systems, the benefits need to balance with the investment. The point we aim to make here is that it's essential to determine that a problem exists and its extent before expending considerable resources to solving the problem. This requires strong guidance from EPA to assist municipal councils determining the actual impact of poorly managed onsite wastewater management systems in their municipality. Council officers are generally not equipped with the necessary scientific knowledge to make informed decisions about tracing sources of pollution and interpreting test results. Neither are water corporations, particularly planning officers that are often pushed into this space with the Minister's Guidelines for OPWSCs.

Risk Conceptualisation

It is important to highlight the contradiction of application and portrayal of the precautionary principle in the Minister's Guidelines for OPWSCs and that of the SEPP. The precautionary principle as originally defined has two elements; the first element is the postponing of works where risk is unknown in the absence of scientific evidence, the second is a commitment to assessing the risk weighted consequences of various options, requiring detailed scientific investigation in many cases. It is essential that the two elements are made clear in the SEPP to ensure the principle is applied appropriately rather than as a simple blanket clause for refusal of development applications.

With consideration of this, the conceptualisation of risk has been taken to a strange place that does not align with other environmental policy, particularly following influence by VCAT. The notion that no risk is an acceptable risk as inferred in the hearing of the case of *Rozen v Macedon Ranges S C* is not healthy policy. Risk is acceptable, negligence is not. VCAT, when considering the Ministers Guidelines for OPWSCs and the SEPP have not viewed the matter of risk this way. Providing a stronger basis for development of healthy and fair precedence in matters of unsewered development is an essential role for this SEPP.

This is the expectation of EPA as a science based regulator, as recommended by the Independent EPA Inquiry.

Applicability of Case Studies

Danger to public health is regularly discussed in the onsite wastewater management space, particularly in catchment management. There is regular reflection on the Great Lakes incident of contaminated molluscs and it is noted that this has again been used as an example in the Policy Impact Assessment for the Draft SEPP. This example is highly

inappropriate to inform decisions on drinking water catchment protection because there are different disease vectors in this scenario that have caused illness and death.

Bioaccumulation and no critical control point following harvesting of molluscs is what has caused illness and death in this instance. Drinking water contamination was not the issue. Drinking water treatment has a critical control point following harvesting of drinking water for supply, providing a multi-barrier approach. Drinking water does not bioaccumulate. It does not concentrate contaminants like molluscs that filter their water environment, drawing out particulates and toxins over time. There is no dilution or disinfection of the molluscs prior to consumption which has led to the Great Lakes incident. The City encourages the selection of a more appropriate case study for inclusion in the Policy Impact Assessment with respect to drinking water supply protection to improve its accuracy, and to minimise the risk of this misapplication being perpetuated in other policies and guidance. This particular case study may remain and add value but needs to be presented clearly that it relates to mollusc farming in fresh water catchments.

Reporting and Accountability

The inclusion of subclause 6 appears to be a valid inclusion in the draft. It would be helpful to identify to whom the reporting should be submitted. Municipal councils already have reporting requirements under the Environment Protection Act with regard to septic tank systems. It would be a logical progression that the submission of these reports be to the Authority, along with publication on the council webpages.

Reasonable expectation of homeowners (governance v interventionism)

While the SEPP outlines the intention is protection of beneficial uses of surface and groundwater, being such a high level policy, it would be logical for the policy to reference an intention that it is for the people of Victoria. Solely focussing on protection of beneficial uses causes the policy to feel like it has been founded on consultation only with government and industry and is designed for their needs. Further to this, there is value in centring the Victorian community in this policy. Tell the people why we are protecting beneficial uses for them. Tell them what they can do, not just what they cannot do. Taking a community centred approach to building the policy draws it back to the realm of governance, not interventionism which is currently the flavour coming from the draft. If the EPA inquiry has highlighted anything, it is that there needs to be strong governance from the Authority. Where polluters contravene policy and statute, hold them accountable through interventionist approaches but remain a governor when providing guidance and policy. It feels as though developers of this draft have not reflected on the findings of the EPA Inquiry.

On a more specific level, legacy issues with offsite discharge need to be carefully considered with this SEPP. Historic iterations of this SEPP have permitted offsite discharge of domestic effluent. Following the state policy direction of the time, properties have been developed in a manner where offsite discharge of effluent was expected to be sustained as a method for disposal and consequently cannot manage wastewater within the boundaries of the property. Further amendments to this SEPP have now seen the policy switch to forbid offsite discharge, but also require that municipal councils develop plans on how to reverse

situations of offsite discharge where these properties were developed in line with the SEPP in the first instance. There's an element of natural justice that has been overlooked for municipal councils and homeowners in this policy evolution. There is a role here for EPA and DELWP to assist municipal councils and homeowners to find solutions and support their implementation of the policy.

Thank you for the opportunity to comment on this draft policy. The City is generally supportive of the draft and trust that the feedback provided is valuable in your refinement of the policy. Should you wish to discuss any of this feedback further, please do not hesitate to contact me on [REDACTED]

Yours faithfully,

[REDACTED]
**Coordinator Inspections
Greater Bendigo City Council.**