



## **Draft State Environment Protection Policy (Waters)**

### **MAV Submission**

**June 2018**

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*MAV Submission on the Draft SEPP (Waters), June 2018 has been prepared by the MAV for discussion with member councils, and the Victorian Government on water policy.*

*The MAV is the statutory peak body for local government in Victoria. The MAV would also like to acknowledge the contribution of those who provided their comments and advice during this project.*

*While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.*

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## 1 Executive summary

The MAV welcomes the opportunity to provide comment and recommendations for the Draft State Environment Protection Policy (Waters) which sets out an updated legal framework for protecting and improving water quality in Victoria's waters for the next 10 years.

We acknowledge that the incorporation of new science and national guidelines, and amalgamation of location-specific schedules mean that standards for many water bodies will increase. Even though this will require action by agencies, industry and individuals, increased standards need to be considered to mitigate the significant environmental, social and economic costs associated with deteriorating water environments (such as loss of biodiversity, economic production and tourism revenue, environmental rehabilitation, clean-up and water treatment).

In urban settings increasing densification and rise in impermeable surfaces due to development, and loss of canopy in private spaces mean that increased standards and practices by agencies, industry and the community need to be considered to retain our goals of liveability and resilience of our cities and towns. Local government is committed to utilizing its resources and effort to achieving these goals.

There are many issues being managed through this SEPP that we welcome, such as more specific requirements for landowners and businesses to minimise runoff of pollutants from their premises and land.

We are very concerned, however, at what appears to be a last-minute decision to increase the obligations of councils in respect of their management of roads, and we seek an urgent commitment from the Victorian Government to amend this clause. We also have recommendations for amendments to the urban stormwater clause.

For the draft SEPP Waters to achieve its objectives, it will be important that agencies such as local government have the capacity and resources to make the step changes required. We therefore seek a commitment from the Victorian Government to include a number of initiatives that will assist the local government sector support achievement of improved health of our waterways. Some of these relate directly to the implementation of the new policy, others build on the learnings emerging from reviews being undertaken through Chapter 5 of Water for Victoria, the Victorian Floodplain Management Strategy, and various other strategies currently being implemented.

Councils have also identified important opportunities for reform for onsite domestic wastewater management, such as developing accreditation for land capability assessment providers and provide a cost recovery system for septic tank management, along with more enforcement powers and better guidance in addressing onsite domestic wastewater management issues.

We note that many of the Critical Actions in the Implementation Plan involve changes being made by local government. Investing in the programs outlined alongside the clauses requiring council action will assist them to respond effectively:

Topic	Initiatives recommended for the Implementation Plan
Urban stormwater	<p>Identify DELWP working with Melbourne Water and MAV on the continuation of the Melbourne Urban Stormwater Institutional Arrangements Review (MUSIA) in the Implementation Plan as part of the work being undertaken by government agencies to enable institutional arrangements meet the needs of the future for one of the critical actions identified in the plan</p> <p>Maintain the Integrated Water Management Forums to facilitate catchment-scale partnerships to enable delivery of priority water initiatives for their communities by optimising use, management and access to water to improve liveability and amenity</p> <p>Include MAV in the development of any guidance being developed for councils in stormwater management and the responsibilities of councils</p> <p>Provide a funding assistance program to enable council officers to participate in capacity building forums</p> <p>Assess the effectiveness of SMPs as part of the review that will be undertaken as part of Critical Action 3.2, and clarify whether IWM plans or water sensitive city strategies are interchangeable with SMPs. Consider delivery of this project through the MAV</p> <p>Provide funding to the MAV to coordinate a stormwater infrastructure improvement program with councils aimed at ensuring infrastructure critical to managing stormwater is more effectively included in councils' asset registers and annual maintenance programs. The project would also aim to identify cost-savings and efficiencies for councils utilising an upstream/downstream perspective. It would contribute to achievement of the critical areas identified in the Implementation Plan.</p>
Road management	<p>Assessing the impact these changes would have for councils before any increases in prescription of requirements and obligations are made</p> <p>Consider using interim regional targets and identification of priority area plans to identify priority roads for upgrade for improved water quality, rather than the current catch-all to improve all roads</p> <p>Guidance be developed, in consultation with councils, about measures that could be taken in a practical way to manage that stormwater runoff would be beneficial for road authorities</p>
Onsite domestic wastewater management	<p>That DELWP and EPA will involve the MAV and councils in the review of key documents currently badged by the MAV, and the Code of Practice</p> <p>An assistance program for councils to revitalise their DWMPs in the implementation plan. Such a program could be targeted to those areas known to be high-risk for diffuse pollution and potential adverse public health impacts.</p> <p>Development of an accreditation program for Land Capability Assessment providers</p> <p>Tools to be developed that would assist the applicant to self-assess against these documents as part of the application requirements.</p> <p>A small towns sewerage program to explore integrated water solutions for domestic wastewater and innovations in recycled water</p> <p>Collating materials already developed to enable renewed community education program about the need for landowners to maintain their ODWW systems</p>
Water conservation	<p>Development of a state-wide Environmentally Sustainable Development Policy which allows for local variations to strengthen delivery of this commitment</p>

## 2 Introduction

The Municipal Association of Victoria is the peak representative and advocacy body for Victoria's 79 councils. The MAV was formed in 1879 and the *Municipal Association Act 1907* appointed the MAV the official voice of local government in Victoria.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. Our role is to represent and advocate the interests of local government; raise the sector's profile; ensure its long-term security; facilitate effective networks; support councillors; provide policy and strategic advice; capacity building programs; and insurance services to local government.

### 2.1. Relevance of the SEPP Waters for councils

Councils are affected by the SEPP Waters in a number of ways, including as:

- Regulator/enforcer of the SEPP Waters - eg, as the responsible planning authority assessing and issuing permits for development of land which comply with the policy, construction activities, onsite domestic wastewater management, native vegetation removal
- Infrastructure and operations manager of activities which impact surface water – eg, urban stormwater management, polluted run-off from local roads, dredging
- Landowner of municipal service sites which have potential to pollute waters, such as depots which store chemicals and waste collection sites
- Environmental health responder to nuisances causing risks to public health, such as algal bloom events, flood recovery activities
- Community advocate for access to waters for recreation and tourism purposes
- Marine port operators (a small number of councils have this role).

### 2.2. Local government involvement in the policy's development

We welcomed the opportunity to participate in the Stakeholder Reference Committee and a number of workshops on individual topics in which council representatives participated. We also convened a small working group of rural council officers with DELWP to consider onsite domestic wastewater management issues.

The MAV's perspective outlined in this submission is informed from consultations undertaken with councils from several reviews undertaken by the Victorian Government in recent years.

For urban stormwater, we are involved in various reviews arising from Chapter 5 of Water for Victoria, the Victorian Floodplain Management Strategy. We have also been convening a Melbourne Urban Stormwater Institutional Arrangements Local Government Working Group which is considering reforms to the way councils manage stormwater management into the future.

### 3 MAV response

The MAV is generally supportive of the changes proposed in the new policy.

We are concerned that the roles of DELWP and EPA are now more diffuse, however, and that there is potential for greater lack of accountability about the actions and processes the Victorian Government commits them to undertake over the life of the plan.

We are also concerned about the increase in obligations for councils in what they need to do to manage polluted runoff from roads.

We strongly encourage DELWP and EPA to involve the MAV and councils early on in any review process to ensure the products developed are able to be implemented as effectively as possible.

We also have recommendations for activities and projects to be considered in the Implementation Plan, plus some projects which will build on the outcomes emerging from various other reviews and activities currently being undertaken which will strengthen the capacity of councils to achieve changes over the next 10 years of the life of the proposed new policy.

Our detailed comments respond to the following questions DELWP has sought feedback about. These include:

1. Whether the Draft SEPP (Waters) achieves its objectives of providing a framework to protect and improve the quality of Victoria's waters, improving certainty and clarity for industry to enable compliance
2. Ease of use of the schedules
3. Policy Impact Assessment document
4. Draft Implementation Plan priorities for the first 3-5 years
5. Specific clauses, including whether there is sufficient clarity of rules and obligations to enable implementation

### **3.1. Whether the Draft SEPP (Waters) achieves its objectives of providing a framework to protect and improve the quality of Victoria’s waters, improving certainty and clarity for industry to enable compliance**

The Draft SEPP (Waters) articulates a clear statutory framework through its ordered sections and explanatory notes. It clearly sets out the beneficial uses requiring protection, the environmental objectives being sought, and what agencies and individuals need to do achieve the protections the policy is seeking to achieve.

In achieving this clarity, however, we note that this SEPP is more instructional than the current policy, and that this will raise the risk profiles of agencies which will have legal liabilities if they fail to meet requirements set out in the policy. It is therefore important that the requirements are well considered for their achievability and the capacity of agencies to resource and perform the function assigned to them.

There is also a tendency for this new policy to read more like a set of regulations. There is increasing requirement-creep for councils when they are referred to in their regulatory capacity – there are quite a few more “council must” clauses than in the current document. Whilst this may be appropriate for some particular clauses in order to meet emerging issues requiring management, it does mean that it would be desirable for the implementation plan to be more robust in terms of funded projects where state goals need to be achieved through the agency of local government.

To ensure that this policy does not become de facto regulation which sidesteps the higher level status of regulations, we suggest that the Preamble contained in the current policy be retained, as this succinctly outlines the purpose and context guiding why the policy is necessary.

While there is much greater specificity being defined for actions to be undertaken by agencies, industries and landowners, there appears to be much less definition of the obligations DELWP and the EPA than exist in the current policy.

We therefore suggest that the roles of DELWP and the EPA are more clearly defined in the introduction of the policy. We note that the Implementation Plan articulates that DELWP and EPA will consult with councils where they are tasked with developing guidance for them, this would be much stronger and operate for the life of the policy if this were specified in the policy itself. We note that the Implementation Plan is only for 3-5 years, which is no guarantee that this will continue for the life of the policy, which is 10 years. A governance process outlining how DELWP and EPA will work with councils needs to be written into the policy to enable it withstand changing political and budgeting priorities.

Where the clauses articulate that DELWP and EPA will provide guidance to councils, it would be important for all these references to include the requirement for the agencies to consult with councils early on – guidance is going to be far more effective if it is practicable to implement, so it’s important for the agencies to have the obligation to involve councils in what they develop where it involves council actions and resources.

No matter how clear the policy is however, the key to it achieving its objectives is that the agencies and individuals which have to take action are able to do what is outlined as their role.

To this end, funding and resourcing of the Implementation Plan is therefore a vital complement essential for the Draft SEPP (Waters) to achieve its objectives.

One of the externalities in respect of actions by councils is that in water management, actions by parties upstream of the waterway deliver considerable benefits to those downstream. Communities in one municipality investing their resources that will benefit communities outside their municipal boundaries is a critical issue which will need to be accommodated if step-change is to occur over the next 10 years. While councils seek to work to the common good as well as their own narrow confines, the cross-jurisdictional nature of water flows across land illustrate the complexity of action being needed to be undertaken by those who are not necessarily the immediate direct beneficiaries.

These externalities mean that new ways of thinking about institutional arrangements where there are acute problems will need to be considered.

### **3.2. Ease of use of the schedules**

The Draft SEPP Waters is logically presented, and is a much easier document to navigate compared with the current multiple documents agencies need to examine to understand their obligations. Inclusion of the explanations directly under the clause is helpful, rather than being buried in footnotes at the back of the documentation.

### **3.3. Policy Impact Assessment document**

The MAV has no specific comment on the Policy Impact Assessment, other than to note it is helpful in outlining the issues DELWP has considered in developing changes from the current policy, and that the Office of Better Regulation has endorsed its adequacy for the purpose of assessing the development of a state policy. While the Policy Impact Assessment provides a useful outline of the issues considered in developing recommendations for the clauses which are being proposed, we note that for those clauses which have been drafted to be more similar to a regulation should involve greater analysis of their impact than this policy has required

If elements of the proposed policy are to be considered for incorporation into other instruments, such as the Act, regulations or codes of practice, we are willing to work with DELWP and EPA on this issues of relevance to local government.

### **3.4 Draft Implementation Plan priorities for the first 3-5 years**

Fundamental to the Draft SEPP (Waters) achieving its objectives over the next ten years is that agencies and individuals have the capacity and knowledge to perform the functions and actions it outlines. The question the Victorian Government needs to consider is the pace of change it is seeking, and whether or not the status quo will be sufficient to achieve the objectives laid out in the policy to protect Victoria's waters.

Our assessment is that if step-change is to be achieved as a result of actions undertaken by local government, then a greater level of resourcing will be required to be provided to local government. We note that there are no plans identified in the Implementation Plan for any new funding program specifically for local government to manage. While there are many initiatives being funded by DELWP and water authorities with individual or groups of councils, there is no funding program which enables local government to drive change through its own processes.

Without investment in helping councils themselves consider reforms, the achievement of the objectives will be dependent on 79 councils working individually to accommodate the changes. This will result in gradual and patchy implementation, due to various available resourcing and local priorities. Currently there are some councils undertaking significant reforms to the way they manage stormwater. There are many other councils, however, for which stormwater management is but one of many pressing high priority areas of work they need to attend to.

The risk is that there will be some areas where advanced practices are being achieved, and other areas which will increasingly be left behind.

The conundrum of stormwater management is that the overlay of municipal boundaries and councils' current allocation of resourcing does not accord with efficient allocation of expenditure to where attention can deliver the most benefit.

While there is considerable investment being made by DELWP to enable reforms through the development of guidance and capacity building programs such as funding contributions to the Clearwater program provided by Melbourne Water, these need to be complemented by councils themselves considering how they can generate efficiency savings in their stormwater management. This may relate to collective procurement of services, consideration of new water-sensitive urban design measures and other efficiencies gained from sharing of expertise.

The MAV suggests that to bring the whole sector forward, funding provided directly to the MAV to work with and councils would enable necessary changes to happen more quickly and effectively over a broader range of upstream/downstream areas.

[The proposals recommended for inclusion in the Implementation Plan for each clause will be replicated in this section of the online submission]

### 3.5: Specific clauses, including whether there is sufficient clarity of rules and obligations to enable implementation

Set out below are the MAV's comments on clauses relevant to local government. In summary, the clauses of particular interest to councils are:

<p>As a regulator:</p> <ul style="list-style-type: none"> <li>• Urban stormwater (proposed Clause 34)</li> <li>• Planning schemes and permits</li> <li>• Onsite domestic wastewater management</li> <li>• Vegetation protection and rehabilitation</li> <li>• Floodplains and flood detention</li> <li>• Animal wastes</li> <li>• Recreation management</li> <li>• Construction activities</li> <li>• Waste and wastewater from ports, marinas and vessels</li> </ul>	<p>As an agency undertaking activities which pose risks to specific beneficial uses:</p> <ul style="list-style-type: none"> <li>• Spills, illegal discharges and dumping</li> <li>• Storage and handling of fuels and potentially polluting chemicals</li> <li>• Management of roads</li> <li>• Prevention of groundwater pollution</li> </ul> <p>As an advocate for local standards to benefit the community:</p> <ul style="list-style-type: none"> <li>• Forestry activities</li> <li>• Water conservation</li> <li>• Protecting catchment areas used to supply water</li> </ul>
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The following abbreviations are relevant:

- WoV – the current SEPP (Waters of Victoria)
- GoV – the current SEPP (Groundwaters of Victoria)
- F3 – Regional schedule for the Gippsland Lakes and Catchment
- F5 – Regional schedule for the waters of the Latrobe and Thompson River Basins and the Merriman Creek Catchment
- F6 – Regional schedule for the waters of Port Phillip Bay
- F7 – Waters of the Yarra Catchment
- F8 – Waters of Western Port and Catchment
- PIA – Policy Impact Assessment

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<b>INTRODUCTORY SECTIONS</b>		
<p><b>Introduction, title and purpose</b> <b>Clauses 1-2</b></p>	<p>The process of achieving greater clarity about the obligations of agencies has led to the clauses in the policy increasingly being more regulatory in format and content than the current SEPP WoV and GoV. To provide clarity that this is a policy and not a set of regulations, we suggest additions to the introductory sections.</p> <p>In particular, we suggest that the Preamble contained in the current policy be retained, as this succinctly outlines the purpose and context guiding why the policy is necessary to protect our water environments. It would be useful to describe that there are many effective processes for managing water environments, involving a number of stakeholders, each having different but complementary roles and responsibilities. For example, ensuring the protection and management of Victoria’s water is a shared responsibility. No single group or agency has an overall custodial role for ensuring the management of the region’s water environments, and as such, the arrangements for their management is complex.</p> <p>We also suggest that the roles of DELWP and the EPA are more clearly defined in the introduction. While there is much greater specificity being defined for actions to be undertaken by agencies, industries and landowners, there appears to be much less definition of the obligations DELWP and the EPA than exist in the current policy.</p> <p>We also note that many of the actions assigned to DELWP and EPA are included in the Implementation Plan, rather than the policy itself. As the Implementation Plan is only for 3-5 years, this is of concern in respect of the integrity of the government support for the life of the policy, which is ten years.</p>	<p>Retain the preamble contained in the current SEPP (WoV)</p> <p>Provide greater description about the roles of DELWP and EPA in the introductory section.</p>
<p><b>Definitions</b> <b>Clause 6</b></p>	<p>Many more definitions are included, arising from the amalgamation of SEPP(WoV), SEPP(GW) and greater clarity being provided for a wider range of references</p>	<p>Include a definition of ‘Protection Agency’ and ‘Authority’</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Segments of the water environment Clause 9</b></p>	<p>Support in principle the application of the criteria used for the segments being state-wide, rather than the current situation where there are different segments specified in different schedules. The expanded urban segment provides greater consistency of application at the same time as taking into account locational drivers</p>	<p>Support.</p>
<p><b>Assessing practicability Clause 12</b></p>	<p>We suggest that “financial aspects” needs to be inserted into 12(2)(b), so that it reads “the availability, suitability <u>and financial aspects</u> of actions or management practices...”. Although this is mentioned in the explanatory notes, we think it should be articulated in the actual SEPP. The quantum of resources available to undertake some of the designated activities is a very relevant consideration for responsible agencies.</p> <p>More clarity about this definition is also required – the explanation is convoluted with circular references to being practicable where practicable. A clear definition of practicability is important, as much of the policy relies on this definition for its effectiveness.</p>	<p>Insert “financial aspects” into clause 12(2)(b)</p>
<p><b>PROTECTION OF ENVIRONMENTAL QUALITY</b></p>		
<p><b>Beneficial uses of all waters Clause 14</b></p>	<p>This clause as currently drafted could be impossible to achieve. We suggest it be amended to read “the obligations on duty holders to protect beneficial uses <u>and strive to improve water quality</u>”.</p> <p>We acknowledge that the list of uses have been developed on informed scientific research and collaborative work, including the incorporation of national standards.</p>	<p>Insert “<u>and strive to improve water quality</u>” into Clause 14</p>
<p><b>Beneficial uses of groundwater Clause 15</b></p>	<p>Support geothermal being added as a beneficial use.</p>	<p>Support</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Environmental quality indicators</b> <b>Clause 17</b></p>	<p>Support in principle, in recognition that environmental indicators are relevant to complement identification of beneficial uses, and that they have been developed on informed scientific research and collaborative work, including the incorporation of national standards.</p> <p>We note that the new policy is proposing to include water-based recreation standards based on current scientific studies linking water quality with the risk of illness to human health, and national guidelines used by many other Australian states. We note that these standards are more precautionary than those in the current SEPP(WoV), and that it is likely there will be an increase in the number of advisories issued by the EPA for the public not to swim at monitored beaches and waterways.</p> <p>We welcome the objectives being reported annually, to identify areas in need of long-term management interventions.</p> <p>We support EPA maintaining a rolling water quality data set with minimum numbers of samples to be developed and maintained for the life of the policy.</p>	<p>Support in principle.</p> <p>Encourage the EPA to share annual reporting data with councils to enable them to better respond to areas at high risks to human health.</p>
<p><b>Developing interim regional targets in priority areas</b> <b>Clause 18</b></p>	<p>Councils are already involved in various reviews and target setting activities under various Victorian Government action plans</p> <p>Many of these are already underway under various plans and strategies, and councils will already be aware, particularly those councils located near Western Port and Port Phillip Bays that considerable resources are being devoted by Melbourne Water and CMAs to developing these in consultation with councils and the community. Many of these projects will be being undertaken with funding from other agencies. Councils will also be funding some of these initiatives because of local priorities.</p> <p>Having regular evaluation and reporting back to relevant councils would enable adjustment and adaption through the ten-year life of the policy.</p>	<p>Support in principle, noting that councils need to be involved in the setting of targets and opportunities explored for partnership opportunities where councils' role in stormwater infrastructure improvement programs</p> <p>Include permeability indicators in regional targets to strengthen links between planning approvals for developments and stormwater management</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Pollutant load reduction targets</b> <b>Clause 19</b></p>	<p>Ditto comments above. We also note that Melbourne Water is considering targets through its Healthy Waterways Strategy currently being developed and consulted on with communities.</p>	<p>Support in principle, noting that councils need to be involved in the setting of targets and opportunities explored for partnership opportunities where councils' role in stormwater infrastructure improvement programs</p>
<p><b>RULES AND OBLIGATIONS</b> <b>Waste and water management</b></p>		
<p><b>Onsite domestic wastewater management</b> <b>Clauses 28 to 31</b> <i>(Clauses 32 -33 of WoV)</i></p> <p>See PIA Chapter 12 for detailed discussion</p> <p>Critical Action 5 in Implementation Plan (p17)</p>	<p>The PIA provides a useful outline of the issues and options being considered for the changes proposed in the SEPP.</p> <p>While it makes sense if councils are preparing DWMPs that they also review and monitor these, the proposed wording does increase requirements on councils for which they will need to allocate new resources (both additional staff time and purchasing of expert advice). We also note that the many of the councils where there are the highest risk problems are likely to be the small rural municipalities which also face some of the greatest resourcing constraints.</p> <p>We also note that under clause 30 when areas are highlighted in DWMPs as requiring offsite treatment, the water authority is only required to respond in writing with a justification as to the required works in relation to other sewerage connection works. In councils' experience the justification often allows for much longer timeframes than desired and allows high risk locations to continue discharging raw sewage into waterways far longer than anticipated after an issue has been identified. For example, one councils has reported that this could be between 10 and 20 years, and that this is unacceptable when there are groups of properties that in some cases are discharging raw effluent directly into stormwater drains.</p> <p>We strongly suggest that greater specificity needs to be assigned for the EPA to develop guidance for councils about ODWW systems and conditions they should meet in particular settings, and for this to be undertaken in consultation with them. For example, 30(2) leaves it open to EPA to decide whether to provide</p>	<p><u>Amend</u> Clause 28 to also refer to properties that are expanding in size or adding outbuildings</p> <p><u>Amend</u> clause 29 and Clause 30(2) that EPA <u>will</u> provide guidance in consultation with councils</p> <p><u>Add</u> in to the explanatory notes for the ODWW clauses a reminder that the obligation for maintenance of ODWW systems is with the premises occupier</p> <p><u>Include</u> in the Implementation Plan:</p> <ul style="list-style-type: none"> <li>• That DELWP and EPA will involve the MAV and councils in the review of key documents currently badged by the MAV, and the Code of Practice</li> <li>• An assistance program for councils to revitalise their DWMPs in the implementation plan. Such a program could be</li> </ul>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
	<p>guidance or not – we would like to see wording much more specific that EPA <u>will</u> provide guidance, and that it be developed in consultation with the responsible authorities.</p> <p>We also endorse Critical Action 5.1 that a local government/water corporation working group is established to scope the revision of current guidance/code. As a number of the documents are currently published in MAV’s name, MAV should be represented on this group. We would also like to see EPA involved as well.</p> <p>From a local government planner’s perspective, Clause 28 is unclear and it would be useful if the clause outlined an objective, listed all documents (and preferably the particular sections or clauses) a responsible authority has to have regard to and outlined some general matters to be considered when making a decision. More details about these could be included in the explanatory notes.</p> <p>Clause 28 talks about applying the Code of Practice for Onsite Wastewater Management and the Victorian Land Capability Framework in the consideration of all subdivisions where reticulated sewerage is not provided. This also references the <i>Guidelines for Open Potable Water Supply Catchments</i>. These guidelines have been a significant issue for councils as they are not risk based and basically include a prohibition of development on lots less than 40 hectares. Councils would welcome further discussion about this issue.</p> <p>We note that Clause 32(1) in SEPP(WoV), which reaffirms that it is occupiers of premises who have the responsibility to manage their onsite domestic waste system, has been omitted from the new policy. Although this is already referenced in the Environment Protection Act, it would be helpful for the explanatory notes at the commencement of the ODWW clauses to confirm this obligation is with owners of the systems, not with councils or water authorities.</p>	<p>targeted to those areas known to be high-risk for diffuse pollution and potential adverse public health impacts.</p> <ul style="list-style-type: none"> <li>• Development of an accreditation program for Land Capability Assessment providers</li> <li>• Tools to be developed that would assist the applicant to self-assess against these documents as part of the application requirements.</li> <li>• A small towns sewerage program to explore integrated water solutions for domestic wastewater and innovations in recycled water</li> <li>• Collating materials already developed to enable renewed community education program about the need for landowners to maintain their ODWW systems</li> </ul> <p><u>Consider amendments</u> for the Environment Protection Act to:</p> <ul style="list-style-type: none"> <li>• Enable cost-recovery for council’s services to inspect, monitor and manage ODMWS</li> <li>• Provide enforcement powers to councils to be able to require improvements or rectification</li> </ul>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
		<p>works to be carried out on ODWMS</p> <ul style="list-style-type: none"> <li>• Provide greater powers for councils to withdraw/amend/transfer/existing permits</li> <li>• Powers to deal with all ODWMS (permitted and non-permitted)</li> </ul>
<b>Management of specific risks to beneficial uses</b>		
<b>Planning schemes and permits Clause 32</b>	<p>We note there are only minor changes to the wording of this clause. It provides the policy framework for identifying and assessing the significant effects which a planning scheme amendment or development might have on environmental quality for the purposes of sections 12(2)(b) and 60(1)(e) of the Planning and Environment Act 1987. Although some of the SEPP Waters are re-articulated in the Victoria Planning Provisions, this clause provides a direct reference point for standards needing to be complied with by development.</p>	<p>Support its retention in the revised SEPP Waters.</p>
<b>Protecting catchment areas used to supply water Clause 33</b>	<p>We note that this clause is currently only included in the Regional schedule for the Yarra Catchment (Regional Schedule F7). It requires land managers responsible for managing the land within designated water supply catchment areas, within the aquatic reserves segment, to manage the land consistent with agreements in place for those areas, such as public access to these areas being restricted in accordance with management policies and risk management plans approved by the Minister for Water.</p>	
<b>Urban stormwater Clause 34</b>	<p>See Attachment 2 for details.</p>	<p>See Attachment 2 for details</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Management of saline discharges</b> <b>Clause 35</b></p>	<p>We support the authorising environment and guidance this clauses provides to councils with areas subject to saline groundwater discharge, or high ground water recharge, that they need to ensure that their planning schemes address this risk through the inclusion of objectives and strategies to manage the risks in their Municipal Strategic Statements, and that they need to apply the existing Salinity Management Overlay to those areas.</p>	<p>Support.</p>
<p><b>Management of recreation activities</b> <b>Clause 38</b></p>	<p>Victorian beaches, coasts, rivers, lakes and estuaries provides a wide range of recreational opportunities. This clause empowers agencies responsible for recreational facilities that are operated in or near water need to require that recreational activities are undertaken in a sustainable manner when permits are issued. In particular, swimming, camping or boating in parks and reserves may need to be controlled where water supplies need to be protected</p> <p>We note that the environmental objectives outlined in Schedule 3 of the proposed SEPP Waters includes more precautionary attention to protecting public health from illness associated with recreational water-based activities. This clause supports these objectives by requiring planning authorities such as councils to consider the impacts of proposed activities requiring planning permits on beneficial uses.</p> <p>The supporting documentation notes that there are only minor changes proposed to the wording from the previous policy, however we note that Clause 54(2) in the current policy which specifically refers to the use of powerboats and other activities which result in wave or propeller action as an environmental risk to beneficial use has been omitted in the new clause. On balance we consider that the overarching terminology still enables councils to have local laws where these pose issues to amenity and safety.</p>	<p>Support in principle.</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Minimising runoff of pollutants from agricultural activities Clause 39</b></p>	<p>In rural environments the main contributors of animal wastes are stock access to surface waters and illegal discharges from intensive agricultural industries. In urban environments, animal waste in surface waters largely result from the runoff of dog and horse faeces to stormwater drains. Given that that urban stormwater is identified as a critical threat in the Policy Implementation Plan, we consider that WoV Clause 39(2) be reinstated in the new policy.</p> <p>Although most councils have local laws setting out responsibilities of pet owners to collect animal wastes from public areas, and there is a general clause which prohibits waste and wastewater being dumped, deposited or discharged into waters or onto land unless authorised by the EPA, we consider that it is unlikely that pet-owners will be aware of these obligations in state policy. Retaining clauses in the SEPP provides additional authorisation for councils.</p> <p>Councils also require further guidance on wastewater management and nutrient reduction 39(2) from animal based industry in areas without sewer including, but not limited to, dog kennels and dog washes, horse stables and veterinary clinics.</p> <p>The current policy also does not clarify which authority should oversee the monitoring of these activities under clause 39, whether it be the EPA or the relevant CMA to assess which individual or authority is responsible for the source of pollution.</p>	<p>Recommend that Clause 39(2) be reinstated to strengthen the regulatory environment that councils need to encourage animal owners to collect animal wastes from public areas</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Storage and handling of fuels and potentially polluting chemicals</b> <b>Clause 41</b></p>	<p>The current SEPP includes a clause that requires protection agencies and businesses to undertake measures to prevent spills of chemicals, oil, grease, oily mixtures or other hazardous substances into surface waters and to ensure that appropriate action is taken in the event of such a spill. The discharge of oil and other noxious substances into surface waters presents a risk to the aquatic ecology and its dependent industries, and are costly to clean up.</p> <p>Prevention measures, spill response capabilities, appropriate response action and enforcement are implemented by regulatory authorities through existing legislative frameworks. These legislative responsibilities are outlined in the <i>Emergency Management Act 2013</i>, <i>Marine (Drug, Alcohol and Pollution Control) Act 1988</i>, <i>Environment Protection Act 1970</i> and the <i>Pollution of Water by Oil and Other Noxious Substances Act 1986</i>.</p> <p>It is proposed to remove this clause as it duplicates the existing regulatory and management frameworks for spill prevention and clean up. This is consistent with the recommendations of the Statutory Policy Review undertaken by EPA and DELWP in 2013 to simplify and clarify the focus of statutory policy by removing rules that are already defined elsewhere.</p>	<p>Support the intent of the Clause.</p> <p>We would like to see EPA's role outlined in Clause 37(3) of the current policy to be retained, so that it is expressly tasked with working with protection agencies, businesses and communities in the development of guidance</p>
<p><b>Management of construction activities</b> <b>Clause 42</b></p>	<p>Support the rewording of this clause to enable it to be easier to understand and enforce.</p> <p>Further clarification on how this clause would be enforced is required. .</p>	<p>Support in principle</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<b>Protecting surface waters beneficial uses in particular</b>		
<p><b>Commitment to water conservation Clause 44</b></p>	<p>We support the objective of this clause is to conserve the use of water by encouraging water saving practices (water use efficiency) particularly for new uses and developments. Wiser use and conservation of Victoria’s water resources will ensure the protection of beneficial uses and values through reduced or delayed need to seek additional water sources, maintaining water in supply catchments and source systems, minimising water quality impacts associated with increased runoff from impermeable surfaces in new developments through water conservation, reuse and retention.</p> <p>We note that the clause does not include any requirement on new developments, and therefore it may not generate the required change in water conservation. Water efficiency in buildings and rainwater capture and use makes a significant contribution to integrated water management and the quality of Victoria’s waters.</p> <p>Existing clauses in planning schemes are delivering on this opportunity for some councils. These include Clauses 55.07 and 58.03-8 for new apartment developments state-wide and Environmentally Sustainable Development (ESD) Local Planning Policies (LPPs) in 10 Melbourne metro councils which include water efficiency objectives and requirements. Other councils have Planning Scheme amendments with the Minister for Planning seeking approval for ESD LPPs which apply the SEPP.</p> <p>A state-wide ESD planning policy with local variations would allow all councils and water to realise the benefits of water conservation.</p> <p>The explanatory note refers to water saving practices and efficiencies through the statutory planning process, noting clause 56.07 and clause 14.02. Reference should be included to Clauses 55.07 and 58.03-8 for new apartment developments state-wide and Environmentally Sustainable Development (ESD) Local Planning Policies (LPPs) in 10 Melbourne metro councils which include water efficiency objectives and requirements</p>	<p><u>Include in the Implementation Plan:</u> that development of a state-wide Environmentally Sustainable Development Policy which allows for local variations to strengthen delivery of this commitment</p> <p><u>Amend</u> the explanatory note to include clauses 55.07, 58.03-8 and the ESD LPPs of councils.</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Native vegetation protection and rehabilitation Clause 45</b></p>	<p>The objective of the current clause is to ensure that the beneficial uses of surface waters are not impacted by sediments and pollutants entering waterways from the removal of vegetation within or adjacent to surface waters. To support the role of vegetation in stabilising the bed and banks of water environments and reducing run-off of sediments and pollutants, the existing clause sets a goal of net gain in the extent and quality of coastal, aquatic and riparian vegetation over the lifetime of the policy.</p> <p>We agree it remains relevant to protect vegetation for its function in protecting water quality and works in with other instruments such as the Victoria Planning Provisions to protect water quality from vegetation removal activities.</p>	<p>Support</p>
<p><b>Floodplains and flood detention Clause 46</b></p>	<p>We note that the origins of this clause come from the Schedule F7 “Waters of the Yarra Catchment”. As this clause will now apply to all councils, rather than just those in the Yarra catchment, we will need to assess the impact of those clause once we consult with councils when the draft SEPP is available for public comment. We note that it covers land use planning decisions and activities councils will be involved with. We are less certain about the responsibilities of councils to ensure floodplains retain sufficient flood detention capacity, as this is more likely to be the responsibility of the floodplain managers, namely Melbourne Water and CMAs. It would be desirable for 49(b) to be more specific about the agencies involved.</p>	<p>Support in principle</p> <p><u>Amend</u> to be more specific about the agencies responsible for floodplain management</p>
<p><b>Management of roads Clause 47</b></p>	<p>MAV supports the inclusion of this clause in the Draft SEPP Waters, as the Road Management Act deals with operational issues rather than specifically addressing environmental considerations. We recognize that roads, particularly unsealed roads, erode and that that they collect pollutants from vehicles which in turn flow to surface waters, ending up in stormwater systems and waterways. Roads and other transport related surfaces also make up a significant proportion of impervious areas in an urban catchment, which contribute to greater movement of stormwater when it rains.</p> <p>We are concerned, however, that clauses 47(1) and (2) of the draft SEPP Waters places new and increased obligations on councils, as road authorities, which they may not be able to meet due to capacity and resource restraints. For example, one council has highlighted that it has hundreds of kilometres of unsealed roads near waterways, but it is not uncommon for proposals to seal them to be rejected by the community. This</p>	<p>Support inclusion of this clause in the SEPP Waters, conditional on the following amendments:</p> <p><u>Delete</u> “must” from 47(1), and replace with “should” or using the word ‘priority’.</p> <p><u>Amend</u> the explanatory note to clarify that this clause is advisory</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
	<p>clause therefore has considerable potential to place obligations on councils which are beyond their capacity to achieve. It is also unclear what standards are to be met.</p> <p>In respect of Clause 47(2), we note that any requirement to upgrade roads is contrary to duties of road authorities under section 40(2) of the Road Management Act, which specifically provides that a Road Authority does not have a statutory duty under the Road Management Act to ‘upgrade a road or to maintain a road to a higher standard than the standard to which the road is constructed.’ To require road authorities to upgrade roads could place an unreasonable burden on some councils, particularly smaller rural councils which manage hundreds of thousands of kilometres of unsealed roads. Greater clarity is required regarding the standards to be met.</p> <p>Guidance from other agencies may be required as to subclause (3) and effective mechanisms that can be used to minimize contaminated stormwater runoff from sealed roads. VicRoads’ ‘Integrated Water Management Guidelines – 2013’ highlight the complexity various road design treatment elements can have, and the detail which would be introduced overnight into council requirements if this clause were to be confirmed unamended.</p> <p>We also seek clarification about the definition of “protection agencies” included in Clause 50(2). In the previous draft SEPP ‘Protection Agencies’ was defined as being the definition in the Environmental Protection Act. However, this definition has now been removed from the new policy. It would be helpful for the definitions or at least the Explanatory Notes for this clause to outline whether councils were considered to be a protection agency.</p> <p>If SEPP clause 47(3) does apply to councils, MAV has similar concerns as outlined above in relation to 47(1) and 47(2). Draft clause 47(3) places onerous requirements on protection agencies that approve, construct and manage unsealed roads. These include, where practicable, implementing stabilisation measures to prevent erosion and runoff of sediment to waters and also to maintain roads, or where necessary seal them to protect beneficial uses consistent with best practice or relevant guidelines. MAV considers that if this clause is intended to apply to councils that the resources of achieving this objective should be considered. Further, it is considered this should be advisory rather than a requirement.</p>	<p><u>Amend</u> Clause 12 which outlines the criteria which defines practicability to include “resources”</p> <p><u>Include</u> in the Implementation Action Plan:</p> <ul style="list-style-type: none"> <li>• Assessing the impact these changes would have for councils before any increases in prescription of requirements and obligations are made</li> <li>• Consider using interim regional targets and identification of priority area plans to identify priority roads for upgrade for improved water quality, rather than the current catch-all to improve all roads</li> <li>• Guidance be developed, in consultation with councils, about measures that could be taken in a practical way to manage that stormwater runoff would be beneficial for road authorities</li> </ul>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<p><b>Forestry activities Clause 48</b></p>	<p>Forestry activities, including private forestry activities, require short-term vegetation removal, subsequent revegetation and the construction of roads that, if not appropriately managed, can result in increased run-off of suspended solids due to erosion. Timber harvesting and forestry operations also have the potential to impact on water quality by altering water regimes from changed water tables and the dynamics of water run-off.</p> <p>The objective of this clause is to ensure that forestry and timber harvesting activities on both private and public land are carried out in accordance with the Code of Forest Practices for Timber Production (the Code), to minimise environmental impacts from land disturbance and runoff of pollutants into surface waters. The Code outlines the management practices to be implemented to effectively prevent and minimise land disturbance and impacts on beneficial uses. Independent audits are conducted to ensure compliance with the Code.</p>	<p>Support.</p>

Topic & reference	MAV Submission – comments proposed to be included	Proposed recommendations
<b>Protecting groundwater beneficial uses</b>		
<b>CLAUSES PROPOSED FOR DELETION</b> - Clauses 13-23, 25, 38, 41, 48, 58		
<b>Animal wastes</b> WoV Clause 39	Clause 39(2) in WoV has been deleted in relation to animal waste in public areas	<u>Reinstate</u> Clause 39(2) in the Draft SEPP Waters

**Introduction and general comments:**

We understand the need for the draft SEPP Waters to meet the needs of the next 10 years in relation to urban stormwater, and that some changes in regulatory requirements need to be considered for government agencies to not only deal with current issues of ageing infrastructure renewal and higher community expectations about better service levels, but also plan and respond to emerging issues. These include strains from more built structures in higher density suburbs due to urbanisation and development choices which result in loss of permeable surfaces to absorb and filter stormwater. More dry periods punctuated by more severe storm events causing damage, including in areas not previously prone to flooding, are also new features needing to be managed in the coming decade. Population growth in urban centres is exacerbating housing affordability and cost-of-living pressures which in turn drive utilities and infrastructure providers to deliver more with less funding.

These challenges are very real, particularly for greater Melbourne, which is dependent on there being healthy rivers and bays to maintain liveability and amenity for the people living and working in its environs.

We therefore acknowledge that the increased breadth and standards in this policy to manage pollution of waterways are worth striving to achieve.

There is already a considerable body of reform activity being undertaken on a number of fronts as a result of policy initiatives such as Chapter 5 of Water for Victoria, and the Victorian Floodplain Management Strategy which have generated a number of reviews involving councils' role in stormwater management. We also note that DELWP and water authorities have undertaken a considerable amount of work in recent years to plan ahead to minimise negative effects of changing weather patterns and accommodate growing numbers of people in Victoria's urban centres.

Achieving the Draft SEPP Waters' objectives across many of its clauses is dependent on the adequacy of council resourcing, regulatory powers and activity in stormwater management. We note that the local government sector as a whole is not nearly as advanced as the water sector generally. This is to be expected, given that water is core business for water authorities, but it does mean that when stormwater becomes a critical dependency in the water cycle, consideration of ways to boost the capacity of councils becomes important.

**Practical issues in achieving the objectives - resourcing and implementation**

Although the proposed Clause 34 confirms the obligations of councils in the previous policy to prepare stormwater management plans, we consider that the PIA's assessment that there are only minimal changes being proposed is oversimplifying the effect of the wording changes for councils. In fact there are significant changes from the current clause because of the reverse of onus of agencies from the current requirement for EPA to assist councils, to councils now "must" consult the EPA in their development of plans. Introducing more 'must's into the clause will raise the legal liability profile and costs to small rural councils where the benefits of another plan being developed by the council are not so clear. The perverse effect could be that the new policy will increase the liability profile of those councils least able to resource the activity.

We suggest that to truly enable councils to contribute to the water system more effectively, there needs to be funded programs to councils to work on specific priority areas of stormwater management. In our experience, step change in council practices is most reliably achieved when there is partnership investment between the state and local government. In the case of stormwater, there is certainly a case for bringing councils together to achieve better consistency and share knowledge, instead of the current implementation plan proposals which rely on 79 autonomous organisations working separately. It is important that the new policy enables councils, rather than impedes them, in their work.

#### **Greater clarity required for the roles of DELWP and EPA**

We are concerned that at the same time this policy has many more ‘musts’ for councils, the roles for DELWP and EPA are far less defined, and mainly involve them developing guidance for councils in the 3-5 year long Implementation Plan. We find this surprising, given that stormwater management is listed as a critical action for the 10 year life of the policy.

In our view, without more defined roles for DELWP and EPA, and specific funding programs identified for local government, this will mean that reform will continue at current paces. The question for the Victorian Government to consider is whether this is sufficient to meet impending challenges.

#### **Optimising catchment opportunities for effective stormwater management:**

We note that minimising the pollution carried by stormwater before it enters waterways is far more cost-effective at achieving waterway health than the economic and social costs that arise when they become polluted and unavailable for human and environmental purposes. The trend to more localised stormwater management solutions means that more and more assets needing to be maintained are falling to councils, which is resulting in them bearing more costs than in the past. Councils taking action on stormwater will contribute considerably to savings for CMAs and Melbourne Water which would otherwise have higher water treatment costs.

The next generation of projects to build on the work of the last 10 years will need to focus on issues such as the link between developments and stormwater, and the sorts of incentives and targets which incentivise developer and landowner action in order to enable the actions of many individuals generate an overall positive benefit for the community. New catchment based governance arrangements will also be important to achieve action where it is most effective (usually upstream, in a water context). Examining opportunities for urban forests, minimising loss of canopy and permeable surfaces from an increasingly built environment are important topics to be considered for their intimate connection to the management of stormwater.

Collaboration is vital to state and local agencies achieving stormwater reform in the most efficient and smartest way possible. We’re disappointed therefore, that a signature collaboration between DELWP, Melbourne Water and MAV is not referenced in the Implementation Plan. Although the review of the 90-year old 60 hectare convention which delineates responsibility between Melbourne Water and the 38 councils in its service area is occurring as an action from the Victorian Floodplain Management Strategy, the outcomes

of this historic review will emerge in the life of this new policy. Referencing this review in the SEPP Waters would assist the reforms being developed to proceed beyond the current political cycle.

Provision of a grant program to enable the diversity of councils to participate in reviews would enable a broader spectrum of council officers to contribute their views and ensure that guidance materials are fit for purpose. Council engineering, planning and environment units are needing to respond to myriad requests for information, participate on multiple review and advisory committees and contribute their time to attend workshops, in addition to undertaking their own work required by their communities. There is a real danger that the views of those councils which do not have the staffing resources to apply to all of these reviews are left out. The funds required would not be significant in total, but would make a difference to individual councils

**Implementation plan suggestions:**

- Identify DELWP working with Melbourne Water and MAV on the continuation of the Melbourne Urban Stormwater Institutional Arrangements Review (MUSIA) in the Implementation Plan as part of the work being undertaken by government agencies to enable institutional arrangements meet the needs of the future
- Maintain the Integrated Water Management Forums to facilitate catchment-scale partnerships to enable delivery of priority water initiatives for their communities by optimising use, management and access to water to improve liveability and amenity
- Include MAV in the development of any guidance being developed for councils in stormwater management and the responsibilities of councils
- Provide a funding assistance program to enable officers to participate in capacity building forums.

Our comments about the particular details of the clause are set out below:

**CLAUSE 34(1)**

The MAV supports the intent of Clause 34(1) that stormwater be managed to minimise the risks to beneficial uses. We note that there are many road, rail and vegetation corridors that traverse through urban areas that are not managed by councils which could also be more specified within the scope of this clause. For example, actions by other authorities such as Melbourne Water (for stormwater assets over 60 hectares), VicRoads, VicRail, Parks Victoria, and also very important to be recognized and acknowledged.

***Suggested amendments to Clause 34(1):***

- Add additional clauses into Clause 34 to require the EPA and/or DELWP to consult with councils in the development of any guidance
- Clarify that this clause also relates to other authorities where they have responsibility for developments
- Clarify that where offset arrangements have been agreed by the responsible authorities because of space or other constraints that this practice is supported

**CLAUSE 34(2):**

Ensuring that the scope of this clause is clear, and that its requirement is relevant for state-wide application will important to its effectiveness. In this regard, we recommend wording changes because as currently drafted in implies that councils are taking on the obligations of landowners and developers. This is not appropriate or practical. Councils cannot “ensure” all developments meet the requirements set out in the BPEM guidelines for urban stormwater, rather they can require new developments to meet certain criteria in the permits they issue.

In terms of scope of the clause, the current wording suggests councils will need to apply this requirement to permits over and above the developments referenced in the Victoria Planning Provisions. We note that the VPP’s reference to the SEPP currently applies to Clause 56 which applies to new subdivision developments and Clauses 55.07 and 58.03-8 which apply to new apartment developments. Ten Melbourne metropolitan councils include stormwater requirements which apply the SEPP and 8 councils have WSUD specific Local Planning Policies which also apply the SEPP. Other councils have Planning Scheme amendments with the Minister for Planning seeking approval for Environmentally Sustainability Design Local Planning Policies. The wording of proposed 34(2) suggests all councils will need to apply this requirement to permits for other developments as well. Although this is a change which will be welcomed by a number of metropolitan councils facing acute development pressures, it does represent a considerable expansion from the current policy for the majority of councils.

As there is a diversity of capacity within the local government sector to apply the “must” for all new developments, we suggest that further work is required to enable us to provide a definitive view of the proposed clause, and whether or not “must” would be more

appropriately replaced by “should”. We note that the Issues Paper recently released by the Improving Stormwater Management Advisory Committee has also proposed a conceptual planning control option for discussion with stakeholders which includes a variety of exemptions.

The MAV is prepared to work with DELWP further on this matter to enable strong local government sector participation to inform development of an appropriate transition plan from the current standards.

***Suggested amendments to Clause 34(2):***

- Include a definition of “new developments”. This definition will need to be developed urgently in consultation with councils if this is to be included in the SEPP Waters to not unduly raise standards where the costs are outweighed by the benefits. If this is not possible, the explanatory notes will need to give more explanation about the situations where exemptions may be allowed by councils
- Urgently review whether 34(2) should be amended in respect of whether councils “should” or “must” require developments to meet the objectives set out in the Best practice environmental management guidelines for urban stormwater”. If “must” is considered necessary to be retained, then a meaningful funding program needs to be provided to councils to transition to the new standard. We note that this is a substantial change from the current SEPP(WoV) which focusses on EPA assisting councils in the application of the clause.

**CLAUSE 34(3)**

We welcome the inclusion of owners and managers of assets created to protect water quality landowners. There are a number of challenges associated with the maintenance of water quality assets and understanding their current performance, however. Due to the variable nature of stormwater and waterways and the fact that councils have very limited data on the water quality of receiving bodies, it can be difficult to determine if assets for which landowners are responsible are functioning in a manner that is consistent with purposes for which they were designed and constructed. There is also often lack of clarity about ownership, and where responsibilities lies for maintenance. These assets often require specialised knowledge and experience to be manage effectively. In order to overcome these challenges, additional training for council maintenance and engineering staff may be required/

Clause 34(3)(b) regarding the unacceptable impacts on animals and humans is vague and subjective and further clarification would be desirable about what this means.

Clause 34(3)(d) suggests that assets that are being renewed or replaced must meet the latest environmental quality objectives. These assets are resource intensive and it should be noted that councils would need to prioritise these against other capital works and renewal projects

***Suggested amendments to Clause 34(3)***

- Amend Clause 34(3)(d) that the replacement of these assets should be considered against the “as far is practicable’ criteria.

**CLAUSE 34(4)**

Council support in principle that they should prepare stormwater management plans. Further clarification around the scope and detail envisaged in these plans would be helpful, to enable councils develop new iterations. We note that councils within Melbourne Water’s service area have been able to access funding from Melbourne Water to develop stormwater and integrated water management plans, but rural and regional councils have had less access to funding for this purpose. Consideration needs to be to be considered about effective funding being available across the sector. To ensure their content is relevant to councils, this project would ideally be delivered through the MAV, which is familiar with council processes and capacities.

An assessment also needs to be undertaken of the effectiveness of the current SMPs, and how they can best provide a useful management tool. A desktop study of council websites undertaken by the MAV in January 2018 showed that of the 79 Victorian councils, 66 councils had references to plans on their council websites or via google searches. Thirteen councils did not appear to have stormwater management plans (or plans with similar titles) and that it was rural councils which dominated the profile of councils with plans dating back to the early 2000’s when funding was provided by the EPA through the Victorian Stormwater Action Plan initiated in the early 2000’s. See figure 1 below.

In recent times, councils have moved away from SWMPs to developing IWMPs – see Figure 2 below. The change in terminology from stormwater management to integrated water management reflects a maturing of local government capacity in water management as councils have shifted from a focus on stormwater management to protect waterways to a more holistic integrated approach that considers waterway protection alongside a range of diverse sources and uses of water for multiple benefits and allowing opportunities to plan water outcomes across a number of council service delivery areas. There continues to be great diversity across the 79 councils, however. There are also many other policies and strategies prepared by councils relating to their public places and general environment.

We recognize that it is desirable for councils to consult to assist the achievement of positive outcomes for stormwater management and community understanding of their role in stormwater management, and the prioritization process councils need to give to where resources are applied. The consultation with industry and communities outlined in Clause 34(4) is potentially an intensive and fraught process, however, with many communities having strong and passionate views about council resources being directed to the drains near their properties. There is a danger that the loudest and most active voice will drive where resources are applied, rather than necessarily the best environmental outcome being achieved. Consultation is important of course though, so we suggest that there should be greater flexibility for councils to identify in their SMPs how they will engage with their communities on stormwater management and priorities for the municipality

***Suggested amendment to Clause 34(4):***

- Delete landowners and the community from the introductory sentence of Clause 34(4), and replace this with a new sub-clause “identify consultation opportunities with landowners and the community to assist their understanding of stormwater management and priority actions proposed by the council.

***Implementation Plan recommendations:***

- Assess effectiveness of SMPs as part of the review that will be undertaken as part of Critical Action 3.2, and clarify whether IWM plans or water sensitive city strategies are interchangeable with SMPs. Consider delivery of this project through the MAV.
- Provide funding to the MAV to coordinate a stormwater infrastructure improvement program with councils aimed at ensuring infrastructure critical to managing stormwater is more effectively included in councils’ asset registers and annual maintenance programs. The project would also aim to identify cost-savings and efficiencies for councils utilising an upstream/downstream perspective. It would contribute to achievement of the critical areas identified in the Implementation Plan.

