



12 June 2018

Veronica Lanigan
Manager SEPP (Waters) Review
Catchments, Waterways, Cities and Towns
Water & Catchments
Department of Environment, Land, Water and Planning
11/8 Nicholson Street, East Melbourne, Vic 3002

Dear Veronica

Re: Melbourne Metropolitan Water Business Submission to the SEPP Waters Review

Thank you for the opportunity to make a submission on the draft of the revised SEPP (Waters), released for comment on 26 February 2018. This submission is made jointly by the following Melbourne metropolitan water corporations:

- City West Water;
- Melbourne Water;
- South East Water;
- Western Water; and
- Yarra Valley Water.

We congratulate DELWP and the EPA on providing a much-improved revised SEPP (Waters), which succinctly weaves together the previously separated surface water and groundwater policies. We also welcome the simplified schedules and note that the use of direct language makes this a clearer and easier-to-interpret instrument.

We note and support the positive direction taken with regard to moving towards a more risk based methodology in the associated regulatory approach to ensure protection of the water environment – an approach which the water corporations believe will lead to an overall catchment based, risk management approach for protecting beneficial uses. The reference in relevant clauses of the draft SEPP to assessing practicability of actions and management practices (as set out in clause 12) provides a definite mechanism to support moving in this direction. We see this as an important step forward to better support the pursuit of actions and associated investments that provide the most efficient means for realising tangible improvements in catchment environmental and health

outcomes, and hence avoiding perverse and/or inefficient investment of public funds. A key focus of the comments we have provided is therefore on highlighting and ensuring the move in this direction is explicitly supported by the SEPP.

We believe there has been a thorough, well-planned and constructive consultative process used to engage with the water industry throughout the SEPP review. This process, over time, has provided us with clarity and a solid understanding of the rationale behind the changes made in the new SEPP.

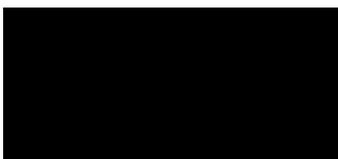
In this context, we see the benefit of making a joint submission to DELWP in response to the draft SEPP (Waters) to further strengthen, enhance and improve the policy, with the aim of ensuring that the SEPP provides:

- Sufficient clarity to underpin pragmatic implementation by the water businesses (and others); and
- Appropriate consideration for the need to achieve value for money outcomes and to maintain affordability in water services to customers, whilst protecting environmental and public health outcomes.

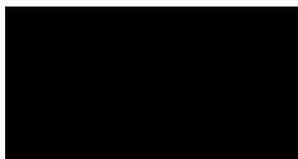
Our submission, as set out below, provides both general comments and specific comments relating to particular sections or clauses in the draft SEPP. We have also included an attached marked-up version of the draft SEPP incorporating suggested changes that could be made to the wording of particular clauses to assist in addressing the improvement opportunities raised.

Thank you again for the opportunity to make our submission. We look forward to continuing to work with you in the development and implementation of the new SEPP (Waters) and would be very happy to discuss our submission further to clarify any aspects. Please do not hesitate to contact [REDACTED], in relation to any queries or questions you may have.

Yours sincerely,



Michael Wandmaker
Managing Director
Melbourne Water



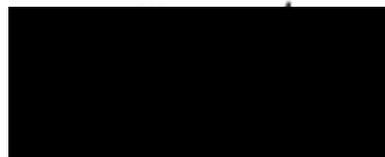
Pat McCafferty
Managing Director
Yarra Valley Water



Terri Benson
Managing Director
South East Water



David Ryan
Managing Director
City West Water



Neil Brennan
Managing Director
Western Water

General Comments

Potential implications of further review of the Environment Protection Act 1970

From an overall perspective, it is noted that there is an intention to undertake a further review of the *Environment Protection Act 1970* once the SEPP review is completed. The businesses would like to understand what the implications of this review of the Act might be in relation to the outcomes of the SEPP review. In particular, we seek reassurance that the palpable gains made through developing the revised SEPP (Waters) are not lost in any subsequent statutory changes. In this context, the water businesses are seeking further clarity on the process that is expected for the review of the Act, and how this might impact on the SEPP and on ensuring the strengths of the approach to environmental regulation embodied in the SEPP are not lost.

Use of explanatory notes

The inclusion of the explanatory notes in the draft SEPP (Waters) provides better clarity as to the intent of the clauses, and this is certainly appreciated as a welcome addition. In particular, the wording of many of the clauses is such that sufficient understanding of intent is difficult without the assistance of the explanatory notes. They are therefore needed to support clearer interpretation and practical implementation of the clauses.

It is not clear at this stage whether or not these explanatory notes will be kept in the final version of the SEPP, and the businesses are therefore concerned that if they are removed there may be a loss of clarity regarding the intent of some of the clauses. As such, we emphasise that it is extremely important for the notes to remain in and be considered part of the final version of the SEPP. If this is to be the case, the water businesses would also like to understand better the legal standing of these explanatory notes in relation to how the SEPP clauses would be interpreted in practice.

In addition, we suggest that parts of the explanatory notes that are critical to understanding intent should be incorporated directly into the relevant clauses themselves.

Climate change and population growth impacts

To provide better context in recognising the need to operate within a changing environment, it would be useful for the SEPP to provide some form of acknowledgement of the impacts of climate change in relation to potential additional influence on negative impacts on beneficial uses. Similarly, population growth and its modelled trajectory also provide an important reference. Both of these factors will potentially impact on the relevance of environmental indicators and associated targets, which are currently based predominantly on the outcomes of scientific assessment and analysis focused on past and current states, but not necessarily future states under various climate change and population growth scenarios.

These potential (currently unknown) impacts should be acknowledged and taken into account in relation to how they may impact on the water businesses' ability to achieve the objectives of the SEPP into the future. It is suggested that this could be addressed by including some guidance with respect to how climate change impacts should be considered as part of the assessment of practicability, both as a specific reference as part of Clause 12 and further expanded as part of additional guidance provided by the EPA and/or other agencies (i.e. inclusion in any relevant guidelines currently being developed).

Specific Comments – Part I Application

Clause 6 - Definitions

There would be value in clarifying definitions relating to ‘authority’ and ‘protection agency’ to make it clearer as to which entities are being specifically referred to when these terms are used in the SEPP document. While we understand that these are terms which have legal implications, the specific entities referred to need to be clarified – if not in the SEPP itself, then in a practise or explanatory note.

In relation to the definition of best practice under this clause in the draft SEPP, there would be value in explicitly referencing the EPA’s *Demonstrating Best Practice Guideline* (Publication Number 1517 February 2013).

Clause 11 – Policy principles

Unlike previous SEPPs, the policy principles of the draft SEPP (Waters) have not been spelled out in the document, but instead refer back to Part 1 of the *Environment Protection Act 1970*. As referred to above, it is understood that the Act, and the policy principles underpinning it, are currently under review. If the policy principles were to change as an outcome of this review, this might have far reaching implications in regard to the ongoing effectiveness of the SEPP, its interpretation and its application.

As articulated in previous submissions from some of the businesses, the revised SEPP should promote the balanced use of all policy principles. In this respect, a significant challenge is making a decision when the value of an externality is difficult to monetise. A current example of this is using oversimplified methods for valuing biodiversity. In the absence of a common unit of currency for assessing impacts, more subjective processes can lead to decisions that are not in balance with ensuring resources are directed to achieving the best value outcomes. This is especially difficult to achieve where there are no, or weak, regulatory instruments to support the assessment.

To manage the balance between economic and social development and protecting and improving environmental outcomes, the businesses hold that the Act policy principles, *when applied collectively*, appropriately guide this balance. Furthermore, the integration of these policy principles into a decision framework could be beneficial in facilitating their use to achieve more balanced outcomes. It would additionally provide better transparency of robust drivers for business decisions and better support related government funded business cases.

As such, it is recommended that these policy principles remain in SEPP (Waters) because they:

- Reinforce what the policy stands for;
- Make the policy work better as a “one-stop document”, further reinforcing the benefits of consolidating existing policies into one SEPP; and
- Underpin decisions and guide how to apply the clauses in the SEPP for the protection and management of Victoria’s waters.

Clause 12 – Assessing practicability (and move to a more risk based approach)

Although, as referred to above, the water businesses support the direction taken in the draft SEPP to move towards a more risk based, outcomes focus in environmental regulation for water, we also understand that such a move must be taken cautiously. It is therefore acknowledged that the retention of standard based objectives (such as the 1 in 5 year rainfall event sewage containment standard) as a benchmark in the SEPP at this point in time is appropriate, given that the “so far as practicable” addition to that clause opens the potential for using an alternative, risk based approach.

As such, it is further understood that there may be an intention for the current review of the SEPP to:

- Incorporate a move towards formally incorporating a risk assessment process to be used for determining whether or not particular management practices and/or actions required to minimise risk to and impacts on beneficial uses are practicable (as a first step); but that
- Formally incorporating specific risk based mechanisms and approaches for developing appropriate and acceptable alternative ways for managing impacts on the environment (in situations where the required management practices and/or actions are determined to not be practicable) will not be considered for the SEPP at this point in time, but may be considered further as a second step in the future.

The merit of such a staged approach is that an opportunity will be provided to see how the move to a risk based assessment of whether or not required actions are practicable works in practice, before formally adopting into the SEPP risk based mechanisms for assessing and determining alternative actions. The water businesses emphasise that they are keen to work further with DELWP and the EPA in relation to progressing towards this second step.

The water businesses would, however, also like to further confirm that, where appropriate and where default benchmarks such as the 1 in 5 year rainfall event sewage containment standard are determined to not be practicable, the EPA will consider alternative approaches to managing environmental impacts developed using risk based approaches, ahead of any further future reviews of the SEPP (for example, working with waterway managers and other stakeholders on broader catchment scale pollution reduction).

We see that the key value this clause adds to the SEPP is to provide an explicit mechanism to avoid perverse and/or inefficient investment of public funds. As such, the SEPP should support the pursuit of actions and associated investment that provide the most efficient means of realising tangible improvements in catchment health outcomes. Where appropriate this may, for example, result in pursuing a smaller investment in stormwater catchment management initiatives that deliver better environmental and human health outcomes, rather than a less effective, less efficient and more costly large infrastructure upgrade investment.

Whilst supporting the move to formally incorporating a risk assessment approach in the SEPP for determining practicability, the water businesses note that there is a lack of clarity regarding what would be required to undertake such assessments in an appropriate manner. The inclusion of Clause 12 to provide guidance is certainly appreciated, however, despite the obvious best intent of the drafters to provide clarity, we feel there are still issues with interpretation of this clause and therefore how assessment of practicability would apply in practice to other relevant clauses in the SEPP. In particular, the following comments and recommendations are made to help provide better clarity in this respect:

- Clause 12 should be more explicit in requiring a risk based approach to assessing practicability that considers achieving an appropriate balance between social, environmental and economic impacts, rather than only referring to these in the explanatory notes;
- Assessment of practicability should also more explicitly consider whether or not the outcomes of any potential actions or management practices (to minimise risks to and impacts on beneficial use) will achieve any tangible improvement – i.e. assessments should

not just consider least cost as part of the economic assessment, but should also consider the value of the outcome;

- It is suggested that these considerations can be addressed by enhancing the existing draft Clause 12 (2) (c) relating to proportionality of actions or management practices.

In addition, relevant clauses in the draft SEPP that incorporate an assessment of practicability could include specific reference to utilising a risk assessment approach with reference to appropriate guidelines (as is already the case draft Clause 21 (3)).

Some consideration may also need to be given as to the potential differences in resource availability and capacity across all water businesses to support demonstration of practicability using a risk based approach. Although this is not an issue for the metropolitan water businesses, it may be an issue for some other businesses.

Specific Comments – Part II Protection of environmental quality

Clause 18 – Developing interim regional targets in priority areas

The businesses note that Melbourne Water aims to develop interim regional targets in its upcoming Healthy Waterway Strategy (mid 2018). The ability to set targets that drive improvement, however, will rely on continued strong partnerships with the EPA. Ideally, an appropriate process should be put in place for the EPA or DELWP to endorse the targets, perhaps as part of a letter of expectation or some other instrument, so that the regional targets can be appropriately linked to undertaking environmental protection works.

Specific Comments – Part III Rules and obligations

Clause 21 – Applications for wastewater discharges

It is suggested that the flexibility in adopting a risk based approach under this clause could be further strengthened by explicitly including the potential for an applicant to initiate the inclusion of a risk assessment as part of the existing draft Clause 21 (3). Additional clarity with respect to expectations on how a risk assessment should be applied could also be strengthened by making explicit reference within the clause to existing guidance available (rather than this only being contained within the explanatory notes).

Clause 23 – Mixing zones

It is noted that the explanatory notes provided for Clause 23 greatly assist with providing clarity regarding the intent of the clause - in particular in relation to the potential for offset measures to be used where reducing or eliminating mixing zones is determined to not be practicable. Our understanding is that using offsets as an alternative to reducing mixing zones (where the latter is determined to not be practicable) is one of the primary purposes of providing this as an alternative management instrument. As such, our recommendation is that the potential use of offsets should be explicitly referenced within the existing draft Clause 23 (3).

The use of offset measures to protect beneficial uses is strongly supported. The water businesses appreciate that, in some cases, there is minimal additional environmental benefit in investing further in environmental protection works at a particular site. In these cases, where there is evidence that there will be little or no tangible improvement (i.e. the required benefits will not be realised by any further upgrade), an offset approach should be considered as an alternative.

Further guidance would be welcomed, however, as to how these offsets mechanisms might work in practice. For example:

- Would offsets need to be considered only within the same sub-catchments, or more broadly across the full catchment?
- In this context, how might investment in integrated water management at a catchment level be considered? -For example, might non-like for like offsets (such as management actions to reduce the impacts of diffuse source pollution rather than actions to further address specific point sources) be considered and, if so, under what circumstances?
- What are the expectations in relation to the temporal patterns of implementing offsets (eg. timing of implementation to avoid any target exceedances, or alternative approaches)?
- The Water Quality Offsets Framework developed under the Smart Water Fund (and currently administered by Vic Water) is a good basis for the development of an EPA endorsed framework which might meet these needs.

Noting that Action 4.1 identified in DELWP/EPA's *Draft Implementation Plan for Consultation – State Environment Protection Policy (Waters) (September 2017)* relates to providing such guidance, we suggest that the points outlined above should be considered as part of progressing that action.

Clause 25 – Discharges providing environmental benefits

The water businesses support the inclusion of Clause 25, setting out circumstances in which the EPA may approve an application to discharge wastewater to surface waters to provide water for the environment, as a positive and welcome addition to the SEPP.

To better support application of this new clause in practice, it is suggested that an appropriate set of guidelines could be developed, focused in particular on how to balance environmental, social and cultural and spiritual values of discharges.

It is further suggested that consideration also be given to including an additional clause relating to discharges that provide cultural/spiritual values benefits, or inclusion of these values within an expanded Clause 25.

Clause 27 – Management of sewerage systems

Overall, the clauses as proposed, and their intent, are supported by the water businesses, with the following suggestions made to provide further clarity:

- For draft Clause 27 (1) (a) (i), further clarity is sought regarding exactly what is meant by “chronic” sewer leakages; it is assumed that this refers to ongoing exfiltration from sewerage infrastructure as a result of poor or lost integrity or cross connection to stormwater drainage. Confirmation that this is the case or regarding any alternative interpretation (for example, whether or not customer cross connections to stormwater drainage, as opposed to water business asset cross connections, are included) would be appreciated.
- It is suggested that words specifically referring to use of an appropriate risk assessment focused on beneficial uses (consistent with guidelines or guidance issued by EPAV) to determine practicability should be included in Clause 27 (1) (a) (iii) regarding flow containment within the 1 in 5 year standard.
- It is also suggested that wording should be added to clause 27 (1) (a) (ii) and (iii) clarifying that the 1 in 5 year rainfall event to be used as the benchmark standard should relate to the critical duration event. This reflects the most appropriate approach, as well as the approach the water businesses have already been taking.
- In relation to determining the appropriate critical duration 1 in 5 year rainfall event, it would be useful for the explanatory notes to outline that this should be based on the application of appropriate techniques consistent with the guidance provided by the *Australian Rainfall and Runoff (2016)* national guideline.
- Acknowledgement of the potential impacts of climate change is of particular importance to this clause. The suggestions made above in relation to modification of Clause 12 to include

consideration of climate change and population growth as part of any assessment of practicability are aimed at addressing this, as Clause 27 already refers to practicability. It is suggested, however, that the explanatory notes could include additional commentary from the EPA and DELWP in relation to providing better insight and understanding into the impacts of climate change on meeting the requirements set out in this clause (noting that the explanatory notes already make reference to the need to consider population growth in the design of new infrastructure).

In relation to providing further clarity to support interpretation and application of this clause, it is understood that a guideline for sewerage management is currently being developed. It would be important for the SEPP to reference this guideline (or appropriate, or other relevant, guidelines and updates from time to time) to ensure that an appropriate level of clarity is provided. It will also be important for the development of this guideline to include consultation with and input from the water businesses to ensure the guidance provided is pragmatic and addresses unresolved uncertainties.

Clause 29 – Domestic wastewater management

The water businesses note and strongly support the inclusion of the following two components in the draft SEPP:

- Clause 29 clearly establishes that councils are responsible for developing onsite wastewater management plans; and
- This clause also requires the councils to actively engage with water businesses as these plans are developed.

However, we consider that the proposed wording of Clause 29 (4) (b) represents a change in policy compared to the existing SEPP – i.e. a shift from demonstrating that onsite wastewater containment is not possible, to an approach where sites not currently retaining wastewater onsite (but where onsite containment is physically possible) would potentially be referred for sewerage servicing. There appears to be a lack of clarity in this respect with the current wording.

In this context, it is suggested that the words “as demonstrated by a land capability assessment in accordance with the Victorian Land Capability Assessment Framework” should be added within Clause 29 (4) (b) to clarify this point (ie. that the trigger for referral for sewerage servicing should relate to a lack of land capability, not a lack of intention by the land owner, and/or a lack of commitment to enforcing these obligations on landowners by local government).

The water businesses are also interested in the future potential for a risk based approach to be applied to assessing and managing the risks of failing onsite domestic wastewater systems (under Clause 29), similar to that being adopted for managing sewerage system spills and leaks (under Clause 27). As such, once the guidelines being developed for sewerage system management have been implemented, there would be value in considering development of a similar guideline for managing onsite domestic wastewater systems.

Clause 34 – Urban stormwater

Clause 34(3) (b,) (c) and (d) – assets created to protect water quality

Draft Clause 34 (3) (b) states that owners and managers of assets created to protect water quality, including constructed sediment ponds and wetlands, must ensure that assets are designed and managed so they are not harmful to humans or have unacceptable impacts on animals.

We note, however, that there is a potential tension between this clause, as drafted, and draft Clause 16 (4) (c), which says that the EPA may determine that beneficial use in a surface water segment does not apply to water within artificial assets that have been constructed for a specific purpose.

The water businesses acknowledge the need to design and manage assets in the public domain that are not harmful to humans. Constructed sediment ponds and wetlands, though primarily built for the purpose of pollutant management, are designed to protect human safety, both in the context that they are accessible to the public and that they are accessed for operational and maintenance activities. For example, wetlands are constructed with physical safety measures such as battered slopes and fringing vegetation to deter physical human access to the water.

However, it does not appear reasonable for such assets to be expected to provide a further level of service to protect human safety related to recreational contact activities that are outside the scope of the services intended to be provided by those assets. As an example, primary and secondary contact in wetlands is not encouraged, and is certainly not within the design service intent for these assets. Ongoing restriction of such recreational access is managed by the use of vegetation, paths and boardwalks. In circumstances where a non-routine event occurs that may increase the risk of harm to humans, such as when a blue green algal bloom occurs, signage is also used to provide warnings and to ensure people limit contact with the water. With the current wording of Clause 34 (3) (b), there is potential not only for such assets to be required to protect beneficial uses for activities that are not consistent with their design intent, but also for them to be required to meet beneficial use obligations to standards that are currently not being achieved in the surrounding waterway.

In this context, it is suggested that what we see to be the principal intent of this draft clause could be better focused by:

- Adding constructed wetlands and other relevant assets to the list of exclusions for which primary and secondary contact recreation is not protected (in Schedule 2, Table 5: Exclusions to Beneficial uses in Surface Waters); and
- Enhancing the wording of the existing draft Clause 34 (3) (b) to make explicit reference to the exclusions set out in Schedule 2 and to those that may also be determined under Clause 16 (4).

Further guidance is also sought as to what is considered to be an unacceptable impact to animals. Constructed stormwater treatment wetlands are not primarily managed as habitat for animals – however this is a bi-product of their existence. Asset owners and managers reduce specific risks to animals (such as animals becoming trapped in outlet pits). We would welcome further understanding of the intent of this draft clause and how it would be interpreted in practice.

In relation to draft Clause 34 (3) (d), we seek clarification that the intent in reference to renewal or replacement relates specifically to assets that have reached the end of their design service lives, rather than to meet increased service performance requirements for assets that would otherwise not yet require renewal or replacement. It would be considered prudent that, where existing assets may have been built to satisfy different standards relating to the state of scientific understanding a number of years ago, any new understanding that might shift performance level standards should be incorporated into renewals and/or replacements when the affected assets reach the end of their service life cycles, rather than before. In this context, the wording of this clause could be enhanced to make this clearer.

Clause 34 (2) – Best Practice Environmental Management Guidelines for Urban Stormwater

In relation to the requirement outlined in this draft clause regarding the objectives that Councils must ensure all new developments meet for management of quantity and quality of urban stormwater runoff, the water businesses would prefer that the objectives set out in the Best Practice Environmental Management Guidelines for Urban Stormwater should be met as a minimum. We therefore recommend that the wording of this clause be enhanced to reflect this.

Clause 34 (4) – Development and implementation of stormwater management plans

Draft Clause 34 (4) refers to council consultation in developing and implementing stormwater or equivalent plans. The clause refers to consultative parties being: “the Authority, catchment management authorities established under the Catchment and Land Protection Act 1994, water corporations, landowners and the community.” While it is appreciated that Melbourne Water is included here as a water corporation, we suggest that its inclusion as a waterway manager would also be important to avoid potential confusion in relation to its specific roles in stormwater management (as separate to those relating to the provision of water supply and sewerage services). As such, the wording of this clause could be altered to include reference to waterway managers.

Specific Comments – The SEPP schedules

Schedule 1 – Clause 2 Surface water segments

In relation to Figure 1 in this draft clause, it is suggested, whilst the majority of land in the “Upland A” segment is forested, that there are some regions that are clearly used for agricultural purposes and are unlikely to be returned to forested condition. Given that land use is one of the best predictors of water quality, it would seem useful to include land-use as one of the factors used to define segments. As such, it is further suggested that areas of the Yarra Valley could be re-examined in this light. Melbourne Water, as the relevant waterway manager, will continue to prioritise these catchments for future investment to target restoration of riparian areas, but it is important to acknowledge that the likelihood that agricultural land will return to predominantly forested land-use is extremely low. Melbourne Water would be happy to work with DELWP and EPA to provide more specific information regarding the particular segments within the Yarra Valley that would benefit from further consideration.

Schedule 1 – Clause 3 Segment definitions

In reference to the segment definitions of rivers and streams, specifically Clause 3 (3) (e) urban segments, the businesses seek better clarity as to whether the main stems of the lowland reaches of the rivers listed would have urban objectives or coastal hills objectives. We note that Clause 2 (5) in Schedule 3 specifies that the objectives set out in Table 1 of the schedule apply for urban segments, except for the mainstem of the Yarra, Maribyrnong and Werribee rivers, for which the objectives of the Central Foothills and Coastal Plains segment apply. However, it may be useful to consider developing a user guide to further assist practical interpretation.

Schedule 3 – Clause 3 Environmental quality indicators and objectives

General comment

The water businesses congratulate DELWP and the EPA for the detail provided in the draft of Schedule 3. This is a significant improvement on the previous SEPP and provides more clarity for data collection and analysis (in particular comparison to ANZECC guidelines). To provide further clarity, it is suggested that guidelines could be prepared for the development of reference data for Port Phillip Bay, Western Port Bay and the open coasts segments. This would also be very useful for setting the targets for the treatment plant discharges that may impact the bays and also for the South Eastern Outfall at Boags Rocks.

Geelong Arm dissolved inorganic nitrogen

The dissolved inorganic nitrogen (DIN) target is quite low in comparison to the total nitrogen target in the Geelong Arm. The Corio long term monitoring dataset was used to develop the objectives, which is a good choice for most indicators as it is quite a distance from the Western Treatment Plant (WTP) discharge and therefore more representative of background levels. However, it is not a good representation for DIN, which is very low in Corio Bay compared with the rest of the segment. Studies have shown significant nitrogen fixation in Corio Bay, which would tend to convert DIN to

organic N and therefore result in a much lower DIN target. DIN levels offshore of WTP are more similar to those at Hobson's Bay than Corio Bay.

This low DIN target will be difficult for the WTP discharge to meet, as most of the nitrogen discharged is in inorganic forms (ammonium, nitrite and nitrate). Whilst the total nitrogen (TN) concentration target is higher than the previous SEPP, and it may be possible to meet this at the boundary of the 2km WTP mixing zone, it is unlikely that the DIN target could be met as it is so low in comparison to TN (20 compared to 300ug/L). The DIN discharged from the WTP has also shown to be important in maintaining the Ramsar values of the site and intertidal zone, and more generally the productivity of Port Phillip Bay. Therefore, any reductions in the discharge would need to be balanced against the environmental benefits of the discharge and cost of further treatment.

The water businesses would like to better understand the rationale for the setting of the DIN target at 20 ug/L, and review the analysis for the Long Reef site to predict failure rate against the proposed SEPP targets. It is also suggested that the DIN target be reviewed against Hobson's Bay data, and consideration be given to using the Hobson's Bay target for the Geelong Arm. Melbourne Water would be happy to further discuss this issue with DELWP and EPA.

Table 14 – short term indicators and objectives for water based recreation

The cyanobacteria/algae indicators listed in Table 14 of Schedule 3 for marine and estuarine waters refer to:

< 10 cells/mL Karenia brevis and/or Lyngbya majuscula and/or Pfiesteria not present in high numbers

Further clarity is sought in relation to:

- Which of the organisms the “not present in high numbers” relates to and which the “< 10 cells/mL” relates to; and
- What is considered a “high number” in this instance?

We recommend that the wording of Table 14 should be revised accordingly to ensure the intent is clear.

Schedule 4 – Pollution load reduction targets for Port Phillip and Western Port Bays

The water businesses understand and acknowledge that considerable research and application of robust scientific analysis underpin the pollution load reduction targets set out in Schedule 4. In particular, the nitrogen and suspended solids targets set out in Clause 3 of this schedule reflect the review of the Port Phillip Bay (PPB) Environmental Management Plan undertaken in 2017. Similarly, the sediment load targets for Western Port Bay (WPB) have been informed by some excellent research carried out by Melbourne Water, in partnership with other Victorian government agencies and leading environmental scientists, to improve our knowledge of the WPB marine and coastal environment. As such, we appreciate our responsibilities to contribute, in partnership with others, to meeting these targets.

It is important, however, that the manner in which these targets are set out in the schedule is clear and unambiguous. It is also important that they are met in the most effective manner and also in a way that appropriately manages the cost impacts on end customers through the water businesses. In this context, we see that further improvements can be made in the following areas.

Improving clarity and interpretation of load reduction targets to PPB set out in Section 3

Whilst Clause 1 of this section requires annual total nitrogen (TN) and total suspended solids (TSS) loads into PPB to be maintained within the levels set out in Table 2, Clause 2 (a) further requires that annual load of TN must be reduced by a total 300 tonnes by 2027. However, Table 2 shows no reduction in target loads from the 2017 baseline to the 2027 target. As such, further clarity is sought regarding:

- The interpretation of how the 300 tonne reduction objective for annual TN load to PPB by 2027 relates to the targets set out in Table 2;
- How the baseline values for 2017 in Table 2 were determined (for both TN and TSS);
- The definition as to how the targets in Table 2 (for both TN and TSS) should be interpreted (eg. are they reduction targets or absolute targets, are they annual rolling averages or absolute targets to be met each year?).

Further clarity is also sought regarding Clause 3 (2) (d), which requires no net increase in the annual load of TN from wastewater treatment plants (both existing and proposed) discharging into waterways in the PPB catchment:

- How the baseline should be determined for assessing whether or not a net increase would occur;
- Confirmation of whether or not this clause includes wastewater treatment plants that discharge directly to PPB (as well as those that discharge into waterways that discharge into PPB)? If not, we note that expectations regarding Western Treatment Plant are clearly set out in Clause 3 (3), but those regarding other plants (existing and future) that discharge directly to PPB are not.

We would be happy to work with DELWP and EPA to improve the clarity as to how the relevant targets are set out in Section 3 of this schedule, and then to modify the wording in the draft clauses accordingly.

Further research into the causality of sediment loads to WPB

It would be useful for ongoing research for WPB to focus on better understanding the sources of sediment being generated by coastal and instream erosion. We see great value in protecting the beneficial uses of WPB and, as such, believe that resources used to achieve this may not be used appropriately if efforts are solely focused on waterway discharge load targets without improved understanding of alternative local sources. We therefore suggest that progressing such research should be considered as part of developing a coordinated plan for achieving the sediment load reduction target for WPB under Action 2.1 identified in DELWP/EPA's *Draft Implementation Plan for Consultation – State Environment Protection Policy (Waters) (September 2017)*.

Management of diffuse source pollution

The draft SEPP refers to the need to manage both diffuse and point source pollution in an integrated manner, and also improves the focus on diffuse source management through incorporating the clauses regarding stormwater management. Whilst this improved focus is supported by the water businesses, we would like to see a more specific, heightened focus placed on addressing diffuse pollution sources in a way that is more aligned to the focus placed on management requirements for point sources. This is particularly the case given that diffuse sources of pollution can have a significant impact on the beneficial uses of water. Although we understand that the SEPP might not be the most appropriate instrument on its own for tackling diffuse source pollution, we seek clarity on the EPA's intent in this respect.

In any case, there would be merit in providing a stronger emphasis on the need to appropriately manage the contributions from diffuse load sources as well as point sources (such as water business treatment plants), to achieve an appropriate balance for managing loads to PPB and WPB. To assist in achieving this, we suggest that the SEPP could provide:

- More emphasis placed on strengthening the use and application of the Best Practice Environmental Management Guidelines for Urban Stormwater in the SEPP in reference to managing diffuse source pollution; and
- Stronger articulation of the intent to focus on management of diffuse source pollution in relation to the use of offset measures and the setting of interim regional targets on waterways.

In addition, we note that the pollution load reduction targets set out in Schedule 4 relate exclusively to marine and estuarine waters. Future focus by the EPA could be directed to considering whether it might also be appropriate for targets to be used in relation to fresh water as a means of increasing the emphasis on managing diffuse source pollution. It may also be helpful for the EPA to take a stronger role in encouraging cooperation between responsible agencies (including local government) to improve diffuse source pollution management.

Use of offsets in water business management of pollutant loads

The water businesses believe there is potential to expand the role that offsets could play in determining an appropriate mix of point source and diffuse source control measures for managing loads to PPB and WPB to achieve the relevant targets and to appropriately protect the environment and beneficial uses.

In particular, there could be merit in considering opportunities for the offset clause (clause 24) to be used in connection with load discharges from wastewater treatment plants when assessing alternative options for achieving an appropriate balance between point and diffuse source loads (consistent with a risk based approach to protecting beneficial uses). In this context, it is not clear whether (and if so how) the offsets clause might apply to management of the wastewater treatment plant nitrogen load discharge targets included in Clauses 3 (2) (d) and 3 (3) in Schedule 4, and as such we seek further clarity in this respect.

Development of risk based catchment source pollution load reduction targets

Considering the points raised above, the water businesses are interested in further discussing with the EPA the potential for developing catchment wide, risk based assessments of the relative importance of the various point and diffuse sources of pollution loads across the PPB and WPB catchments. This could then provide the basis for developing a better understanding of the most effective mix of point and diffuse source pollution reduction targets for the catchments, with ongoing focus directed at developing strong partnerships between responsible agencies and stakeholders to develop and implement programs for meeting those targets.

The water businesses are most willing to work with EPA to successfully implement a more integrated, overall catchment based, risk management approach in a way that provides the best outcomes for beneficial uses, customers, the community and all relevant stakeholders.