



COMMISSIONER FOR  
BETTER REGULATION

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12 October 2017

Ms Helen Vaughan  
Acting Deputy Secretary  
Water and Catchments  
Department of Environment, Land, Water and Planning  
Level 11, 8 Nicholson Street  
EAST MELBOURNE VIC 3002

Dear Ms Vaughan ~~Helen,~~ Helen,

**POLICY IMPACT ASSESSMENT FOR REVISED STATE ENVIRONMENT PROTECTION POLICY (WATERS)**

I would like to thank your staff for working with the Office of the Commissioner for Better Regulation on the preparation of the Policy Impact Assessment (PIA) for the proposed *State Environment Protection Policy (SEPP) (Waters) 2018*, designed to bring together (and replace) two existing SEPPs — *SEPP (Waters of Victoria) 1988* (SEPP (WoV)) and its Schedules, and *SEPP (Groundwaters of Victoria) 1997* (SEPP (GoV)).

As you know, under an agreement with the Environment Protection Authority, independent advice is provided on the adequacy of analysis presented in PIAs prepared in Victoria, analogous to that given for Regulatory Impact Statements. The Commissioner's role is to advise on the adequacy of the discussion and analysis presented in an impact assessment. To be adequate, the analysis should be logical, draw on relevant evidence, be transparent about any assumptions made, and be proportionate to the proposal's expected effects: the PIA needs to provide relevant information to enable informed community consultation on the proposal.

I am pleased to advise that the final version of the PIA for the proposed SEPP (Waters) 2018 received by us on 9 October 2017 meets the adequacy standard.

The PIA deals with one part of the legislative framework established in Victoria to protect water environments — SEPPs. The SEPPs' specific role in this legislative framework is to set out the beneficial uses to be protected (such as direct use or consumption, recreational use or cultural values) and how this will be done.

Broadly speaking, the proposed SEPP is largely an 'enabling' instrument. For example, it enables plans to be developed for addressing a particular water quality threat in a given area, or it outlines the factors that regulatory agencies must take into account when deciding whether to undertake enforcement action. Many of the proposed revisions in this draft SEPP are directed at making these matters clearer, and more targeted at addressing risks, without changing in substance requirements under the current SEPPs.

The PIA summarises the outcomes of a decennial review of both the current SEPP (WoV) and the SEPP (GoV). The review has considered the achievements of the SEPPs to date, key risks to water environments going forward and changes in scientific understanding and community attitudes and values to identify revisions and improvements to the SEPPs to provide for continued protection of water environments.

In addition to reflecting feedback from a broad range of stakeholders, the review occurred in the context of other significant recent reviews. These were the Victorian Government's *Independent Inquiry into the Environment Protection Authority* (2016), which recommended significant reforms to legislative arrangements for environmental protection (including water environments) and the Statutory Policy Review (2013), undertaken by the Environment Protection Authority and the (then) Department of Environment and Primary Industries, which reviewed the appropriate function and form of statutory policy. The PIA states that a key role of the proposed SEPP is to provide for transitional arrangements for the protection of water environments while the Government response to the outcomes of the Independent Inquiry is implemented.

The revisions to the SEPPs proposed in the PIA aim to:

- produce a SEPP that is simpler, more streamlined and provides for greater accountability — by merging the two existing SEPPs into one to remove duplication and inconsistency, and to recognise the inter-relationships between surface water and groundwater;
- ensure that SEPP objectives, environmental quality indicators and 'segments' (areas of the water environment where values are to be protected) are updated to reflect the latest scientific understanding and knowledge of risks and harm;
- ensure that clauses contained in the proposed SEPP result in effective and efficient actions to protect water environments; and
- ensure that the proposed SEPP reflects any new and/or enduring water quality threats and priorities.

The main groups affected by the proposed SEPP will be:

- industry sectors including those licensed by the EPA such as water corporations, agricultural producers, and port and marina operators who are affected by obligations outlined in the SEPP;
- government agencies with responsibilities for the protection of water quality, such as the EPA and DELWP, and other bodies such as catchment management authorities; and
- the broader community in general as water quality outcomes (resulting from the proposed SEPP, and other legislative arrangements to protect water environments), affect how water can be used and enjoyed.

The proposed revisions to the SEPP have been informed by analysis of the problems identified by stakeholders, and/or the Department, with the implementation of the current water SEPPs. The PIA explores alternative options, and the expected effect on the costs and benefits, of addressing key problem areas such as managing:

- the discharge of wastewater to surface waters;
- onsite domestic wastewater systems; and
- stormwater and sewerage system overflow.

Other, relatively minor, revisions to the SEPP are also outlined in the PIA, which includes a 'mapping' of existing clauses in the proposed SEPP to clauses in the current SEPPs so that revisions can be clearly identified.

The PIA outlines likely benefits and costs from its proposed key changes. The impact of the proposed new approaches will be informed by the consultation which will take place on this draft PIA. This consultation will help to inform development of final policy proposals to be outlined in a Final PIA.

Should you wish to discuss any issue raised in this letter, or subsequent changes to the proposal arising through the public consultation process, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anna Cronin', written in a cursive style.

Anna Cronin

**Commissioner for Better Regulation**