

STATUTORY POLICY REVIEW - DISCUSSION PAPER
Template for written submissions

Please provide your name and address and details of your organisation (if relevant)

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Questions from the discussion paper

CHAPTER 2: HOW STATUTORY POLICY WORKS

Question 1: A - In your experience, what has worked well with statutory policy? B - What has not worked well?

A SEPPs set objectives and targets for various environmental values, and rely on a number of tools (CoP, guidelines) to ensure delivery or performance. In relation to SEPP (WoV), management of point sources of pollution have significantly improved since their introduction. Terms are clearly defined in technical sense, although term beneficial use not well understood by general community.

B The performance of the tools prescribed in the policies has not been tested or audited. EPA assumes that the tools are being implemented as prescribed and are achieving the outcomes required. As we are talking about risk based management systems, different organizations involved will all vary in the level of risk that is acceptable to them. Periodically it would be useful for the EPA to review/ audit how the tools are being implemented and whether or not their implementation is delivering the required outcomes.

There has not been a significant improvement in management of non-point or diffuse sources of pollution. Many of the activities involved do not require any licensing or permissions from local or regional agencies, ie broad acre grazing or cropping, stormwater runoff from non-urban areas. Yet such activities can have significant effects on the local rivers and wetlands and is the area where the most gains are yet to be made.

Question 2: How well do you think the features and obligations in statutory policy are understood? Are some parts better understood than others? (We would welcome some examples).

Without performance reviews it is difficult to demonstrate that all parties are effectively working towards objectives set in SEPPs, as all agencies and parties involved will have different levels of understanding of their role in implementing the SEPP objectives.

Supporting agencies such as local government, catchment management authorities and water businesses generally acknowledge that they have a role in implementing SEPP objectives, but the level of effort required to achieve these SEPP objectives varies because their specific obligations are not clearly defined and therefore not well understood.

Periodic performance reviews would enable gaps in understanding and tools to be highlighted to all parties involved.

Question 3: Are there critical issues, risks or relevant processes (e.g. upcoming reviews, strategic planning processes) that should be considered in prioritising individual policy reviews?

For G-MW, those SEPPs relating to surface and ground water are of direct interest. Obviously other industries will have different priorities.

Although LGAs acknowledge SEPPs in their planning schemes, the SEPP objectives are viewed more as aspirational targets and have not been used to implement or drive performance improvements in various areas under LGA control/ management. Currently there is significant variation in the approaches used by LGAs in their application of tools and guidelines such as the COP Domestic Onsite Wastewater Management. For example, if septic tanks were considered as a point source of pollution, then their performance should be reviewed or audited in a formal manner. Yet this does not occur.

G-MW would like to see an audit process of the statutory planning process, including the application of Codes and Guidelines for compliance with SEPP (WOV) as suggested in Q1.

Engaging in catchment management areas to improve water quality in rivers, wetland and aquifers. Some players don't seem to link water quality and aquatic health in rivers and wetlands. The role of SEPPs in catchment management need to be more explicit and EPA needs to be more actively involved in this arena, as currently there is no accountability for water quality management. There are a number of agencies that have an interest in improving water quality but no one agency that has primacy for the management of water quality.

Currently the Planning Process is also under review, so that any lesson learned there may have relevance for the SEPP reviews as well.

CHAPTER 4: CRITICAL CHALLENGES FOR STATUTORY POLICY

Question 4: What do you think are the main challenges for statutory policy? Are there other challenges not presented in the discussion paper?

It would be useful if the terminology used in statutory policy and legislation was consistent, i.e. terms such as waterways, watercourses etc all meant the same thing regardless of in which Act or policy they were being used.

Non-point sources of pollution continue to be the most difficult to manage. Many of the activities involved are not regulated in any way, so it's by public education and goodwill that there are practice changes.

Working with catchment management authorities and other regional agencies looking to improve water quality in rivers and wetlands continues to be challenging. In this context, ecosystem services are being promoted as the values that need to be supported, however there is poor alignment between this concept and the specific objectives set out in SEPPs.

Ensuring the new findings from research can be taken up effectively through appropriate referencing in policy documents.

Question 5: In your work, which instruments or documents under the Environment Protection Act do you (or your organisation) use most often? The Environment Protection Act, Regulations, statutory policies or guidance?

G-MW applies various tools or instruments to minimise the environmental impacts of our works and activities, such as construction site guidelines, Irrigation drainage MoU, CoPs for onsite domestic wastewater management and intensive piggery developments.

CHAPTER 5: APPROACHES TO STANDARD SETTING

Question 6: What types of measures or provisions in the 'attainment programs' of statutory policy do you find most useful?

Do you think these need to stay in statutory policy or may be better placed in other regulatory instruments or guidance?

The attainment program assumes that existing tools/ guidelines, etc are performing or delivering the environmental outcomes required. It would be useful first to assess / determine if this is the case and the tools are actually working towards meeting the environmental objectives. For example, the application of tools/ guidelines for assessment of contaminated land, waste management or onsite domestic wastewater management are not reviewed as they are not generally required to do so by the EPA .

Question 7: How well do you think statutory policies perform their standard-setting role?

Would specific types of standards be better placed in other regulatory instruments or guidance?

Scientific research and/or Australian standards are used to inform many of the policy objectives used in the SEPPs, which is a reasonable approach. The performance of tools/ guidance in working towards these objectives is not as well known or measured. The policies themselves and the tools/ guidance are not able to readily pick up the new information that comes from research.

Question 8: Has including the roles and responsibilities of agencies — which often sets out how agencies will jointly tackle particular issues — in statutory policy been valuable?

Why/why not?

This has been useful in the documentation. Industry and agency groups need to better understand their roles and responsibilities within the delivery of the SEPPs, etc. It is not widely understood within the various industry and agency groups involved whether the objectives are obligations or aspirational goals. More awareness raising or information sessions could be undertaken to ensure senior management of industry and agencies have the opportunity to discuss the implications of the SEPPs.

Question 9: In your experience, are there features in other fields of regulation that would be useful in the Victorian environment protection framework?

The Victorian Planning framework is based on an integrated hierarchy of state and local planning objectives, and involves interaction between the responsible authorities and relevant industry group as referral authorities for provision of technical advice and input to the statutory planning process. This can work well providing all parties involved understand each other's roles and interests. This interaction is currently under review, partly because some LGAs do not appreciate the input from the referral authorities, however if they understood their accountabilities better this may change rapidly.

Question 10: In your experience, what features of statutory policy in other states or overseas work well?

No comment

CHAPTER 6: POTENTIAL MODELS FOR REFORM

Question 11: Which, if any, of the model(s) do you think may work well? Why?

Models 1, 2 and 3 all have merit but would take varying lengths of time to implement. Model 3 from a regional perspective would be our preferred long term objective and by staging the reform process, it is possible that the outcomes of models 1 and 2 could occur along the way.

Streamlining statutory policies and reviewing the scope of the SEPPs, eg combining the SEPPs for surface and ground waters, would improve the SEPPs as would reviewing the performance of existing systems in delivering the desired environmental outcomes.

Model 4 would be a significant change. As many of the SEPPs are operating in the catchment where impacts of activities are often less direct, it is not clear how this model would result in improved environmental performance. Statutory legislation is more difficult to amend, and would still have to refer to some aspirational standards being set in some supporting instrument that can be revised over time.

Question 12: Are there other models that should be considered?

These models seem to cover the full gamut of options that could be considered.

Utilising the web to keep available information and supporting documents current and up to date could be useful

Question 13: What do you think of the specific suggestions for reform (on pages 25-26)?

Support all of these suggestions to reform SEPPs, especially the following:

- Consolidated versions of each policy.
- Avoiding repetition and jargon.
- Publishing a user's guide to each policy
- Consolidating policies re subjects, eg water.

Statutory policy should be aspirational, so should not need updating that frequently providing the goals are clear and well set. Tools such as Codes, guidelines, etc may need more frequent reviewing based on research and performance.

User's guide would clarify roles of those involved, integration of policy and tools and determination of successful application or implementation of the policies.

Question 14: What else should be done to make statutory policy more responsive, accessible and easier to apply?

Better definition of the roles and responsibilities of all parties involved – making it clear what Government expects of the parties.

Better scrutiny of the performance of all parties involved would make industry and agencies more accountable to these obligations.

Improved awareness raising to ensure all involved clearly understand what their obligations are and their implications for their respective organisations.

Question 15: How could the links between statutory policy, catchment planning, statutory planning and other frameworks be improved?

Awareness raising or information session for various industry and agency groups to highlight the integration of policy and tools and what they are meant to achieve.

EPA can more actively participate in the catchment management forums. It varies across the State but often EPA is perceived as just coming out with the big stick on point source discharges, but do not want to tackle the non-point sources of pollution.

Question 16: Do you have any other suggestions for reforms to the statutory policy framework?

Welcome ongoing opportunities to discuss/ debate the reform or review of statutory policy. This is significant step towards improving environmental outcomes.