



STATUTORY POLICY REVIEW - DISCUSSION PAPER

Template for written submissions

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

Name:	Peter O'Brien
Organisation:	Mornington Peninsula Shire
Address:	Private Bag 3939 ROSEBUD VIC 3939
Email address:	obripm@mornpen.vic.gov.au

Questions from the discussion paper

CHAPTER 2: HOW STATUTORY POLICY WORKS

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

EPA SEPP's set out minimum standards for industry and local government which can be incorporated into Council policies, planning schemes and local laws. These standards can assist in resolving environmental pollution and nuisance complaints

EPA SEPP's are not legally binding or enforceable and unless referenced in legislation cannot be enforced by local government. Existing SEPP's are also inconsistent with each other and many are outdated. Often they are used by developers or polluters to defend legal action brought about by Councils

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).

With regard to water and noise policies these are poorly understood. Applicants, developers and land owners are mostly unaware of EPA SEPP's

Consultants and designers do not have a full understanding of their obligations to adopt the precautionary principle when making assessments and in many cases produce reports and recommendations to purely suit their clients needs

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?

EPA is currently reviewing draft Publication 891.3 (On-site Wastewater Management) and has circulated a draft for industry comment. EPA contact is Sarah West

EPA and DSE have committed to a review of on-site wastewater management however no further details have been provided to local government

Green wedge policy and protection is also an important consideration for Mornington Peninsula Shire and the Shire's Strategic Planning Unit should be part of any review of EPA policies

Shire is currently reviewing its Environment Local Law which refers to EPA policies and publications

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?

Inclusion of the precautionary principle into all EPA policy so that it is clear to applicants, land owners and consultants

Making sustainability and resource efficiency a mandatory consideration in all EPA policy

Ensuring that policy is consistent with existing legislation and planning schemes

Making policy adaptable to likely changes in legislation i.e Climate Change Act

Producing policies that can be easily understood by consultants, applicants, land owners and VCAT

Ensuring that policies require a clear and transparent process for assessing works approval that includes local government as a mandatory referral authority

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?

EP Act for wastewater, pollution and noise

EP Scheduled Premises Regulations

SEPP WoV, Waters of Westernport and Waters of Port Phillip

EPA Wastewater Publications – 891.3, 746.1, 464, & 500

EP Residential Noise Regulations

SEPP N-1 and N-2

EPA Noise Guidelines

We use the EP Act for understanding our landfill licence requirements and The Best Practice Environmental Management - Siting, Design, Operation and Rehabilitation of Landfills and [EPA Publication 1208 - Best Practice Guidelines for Landfills Accepting Category C Prescribed Industrial Waste](#)

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?

Attainment programs are generally not useful as they cannot be enforced by local government

These programs should be adopted into legislation wherever possible

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?

Standards set out in the noise and policies do assist Council in assessing compliance and investigating complaints. They also assist in assessing planning and development applications

The boundary area for SEPP N-2 should be extended to include all residential areas of the Shire to assist Council further

Confusion does arise when consultants refer also to relevant Australian Standards (i.e AS 1547 – 2000) which are sometimes inconsistent with SEPP standards. Council then finds it difficult to argue against the Australian Standard as SEPP’s are not mandated

EPA should consider referring to the SEPP standards in current EP legislation thus making it an offence not to comply with the standards

--

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 is poorly explained for both noise and wastewater

EPA has stated that local government is responsible for any noise impacts from commerce onto residential properties. This is not supported by enforcement tools, and Councils are often under-resourced to investigate these complaints. Contacting EPA officers for advice or assistance can be a difficult process

EPA officers have also stated that they cannot respond to local government queries regarding wastewater issues as this is not their role, even though the EPA develops wastewater legislation and publications for Victoria. This is not consistent with the EPA's stated objectives of being open, transparent and responsive

Memorandums of Understanding between EPA, local government and other agencies should be considered in the EPA policy review

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

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

CHAPTER 6: POTENTIAL MODELS FOR REFORM

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

Model 2 would provide a suitable range of enforcement options for EPA and local government

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

EPA Policy should be enforceable through the EP Act and Regulations

--

CHAPTER 6 (CONT'D): SPECIFIC SUGGESTIONS FOR REFORM

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

The Shire supports these specific suggestions

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

Policies should be made simpler and clearer. Consultation should include land owners, applicants and consultants to determine how to make the policies easy to understand

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

State Planning Scheme and local planning schemes must be considered and referred to during the EPA Policy Review

Catchment management plans must also be considered and reviewed/consolidated where possible

Any inconsistencies identified during the review must be addressed by EPA

The effectiveness of existing policies must be assessed and measured, and measurable performance indicators must be included in new EPA policies

Results of these reviews and measurements should be published on EPA web site

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

EP Act must be amended to require review of each statutory EPA Policy every 5 years

Any changes to the statutory policy framework should not impact on the quality of the natural environment that we presently enjoy

It would be advantageous to simplify the content of statutory policies and ensure consistency across policies, without compromising the quality objectives they aim to achieve

--