

16 December 2020

Ms Sigourney Irvine
EPA Victoria
200 Victoria Street,
Carlton VIC 3053

Dear Sigourney

Draft urban stormwater management guidance (publication 1739)

Thank you for the opportunity to provide feedback on the Draft urban stormwater management guidance (guidance document), released to industry on 21 October 2020.

Stormwater Victoria commends the effort required to develop regulatory reforms of this nature however based on feedback from our members, we cannot support the guidance document in its current form. The recommendations provided below will enable SV to support the guidance on behalf of our members.

As the key body representing organisations and individuals involved in stormwater management, Stormwater Victoria brought its members together on 24 November 2020 to seek their feedback and inform this submission. Based on the discussion, the following recommendations reflect our 279 members:

1. flow standards must use a specific number, rather than a target range. Use of a range introduces a level of ambiguity that is ineffective for statutory planners to achieve interventions commensurate with the level of risk
2. flow standards should adopt metrics that reflect the importance of both rainfall and impervious area. This ensures that the metrics reflect the most relevant and practical information when determining the level of harm from urbanisation on receiving environments
3. importance of a compliance mechanism cannot be understated and the use of 'reasonably practicable' in land use planning is considered unworkable without a clear compliance trigger, equivalent to current BPEM standards. Compliance under the Victoria Planning Provision at the release of the final is considered essential for successful adoption.
4. supporting policy mechanisms (e.g. roles and responsibilities, offsets, cost distribution analysis) will be essential to the success of the flow standards
5. more 'proof of concepts' be provided, particularly proof of concepts that detail the ongoing maintenance roles and responsibilities of any proposed asset

Based on the feedback from our members, successful adoption of the new flow standards would be aided by items 1, 2 and 3 being resolved prior to the release of the final guidance, with a commitment from relevant agencies that items 4 and 5 will follow. The complete submission below describes the above recommendations in more detail.

SV recognises that many of the items outlined within this submission sit beyond the immediate role of the guidance document and remit of the EPA. SV is committed to working with all parties to influence positive change and working with our members, the EPA, DELWP and others, to help enable the successful adoption of



the standards. In this regards, we welcome the opportunity to work with the EPA and DELWP in understanding industry needs to inform the final guidance document and supporting mechanisms. If needed, further meetings with our members can also be facilitated as part of this process. We are all in this together and SV are committed to changing how we manage urban stormwater to better protect (and improve) our environment.

Kind regards,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by several loops and a trailing flourish.

Jamie Tainton

President, Stormwater Victoria

Stormwater Victoria

Stormwater Victoria (SV) is the pre-eminent body in Victoria representing organisations and individuals involved in stormwater flow, environmental quality and use, adopting an integrated approach to stormwater management by encouraging interaction between the many disciplines and parties engaged in our industry.

SV provides leadership, professional support, and technical guidance on niche issues specific to stormwater management, and advocate to ensure sustainable stormwater management is fully integrated into broader discussions around water management and urban development at a state and national level through our links to Stormwater Australia and the network of state-based stormwater associations.

Stormwater Victoria represents 279 members, who are diverse, knowledgeable and committed professionals working across government, industry and academia from a range of technical and professional backgrounds, including engineering, landscape architecture, urban planning, education, environmental management, policy, sustainability and community engagement. Collectively, they bring a desire to support positive change for improved stormwater management and supports SV's shared vision:

Stormwater is an invaluable resource, and it is our vision that stormwater is integrated into holistic water management creating sustainable communities, connecting built and natural environments.

As an active leader in the water and urban development industries, SV plays a central role in bringing together government, industry, and practitioners to affect sustainable and holistic management of stormwater by:

- giving an independent and authoritative voice on stormwater issues which represent the views, interests, and concerns of its members;
- building a cross-disciplinary, cross-sectoral community of shared interest, collaboration, and responsibility in stormwater management;
- driving positive change, encourage innovative practices in stormwater service delivery to achieve improved environmental and sustainability outcomes;
- facilitating professional development, fulfilment, and growth for its members;
- communication and advocacy for better regulations, policy, and guidelines; and
- identifying and actively working towards new and innovative approaches in engaging and empowering the community in stormwater water management.

Finally, as the peak body for the stormwater industry, this submission represents the interests of our members for improved management of stormwater. In doing so, it advocates for robust regulatory frameworks that promote industry best practice, reflect well-established science and are supported by the necessary compliance and implementation mechanisms to ensure the required paradigm shift towards achieving flow standards within urban development.

Clear, accessible targets to drive change

The introduction of flow standards is a welcomed addition for the stormwater industry and reflects the well-established science linking significant ecological degradation to increasing urbanisation and principally, the altered flow regimes that are introduced as Melbourne continues to develop. In this regard, SV support of the introduction of flow standards. It must be noted however, that the diverse experience across our membership base have advised that introduction of a target range (e.g. 50-90%) will be ineffective in driving the desired outcomes. Reasons for this include:

- many developers will choose the lowest option of the range, therefore a minimum standard should be set from the outset
- statutory planning requires a specific number to inform performance objectives, this is a core requirement of the planning framework where clear criteria can be measured in assessment. Use of a target range will prove extremely difficult in practice for council officers and without clear performance objectives councils will likely be adverse to going to VCAT, even in instances where the intervention is disproportionate to the risk
- targets provided need to be achievable in both a metro and regional context at multiple scales. This target can be aspirational as long as government provides supporting policy and mechanisms that support implementation
- If aligning to targets within Healthy Waterways Strategy for priority areas, important to be explicit
- targets should be clearly linked to the mean annual runoff and impervious areas. These two factors are critical in determining the level of harm from urbanisation on receiving environments. These metrics should inform specific performance objectives that are required. Clear, accessible targets are essential for implementation.

In light of these considerations, SV recommends that the targets are revised to reflect mean annual runoff and impervious area. Use of these metrics will allow appropriate consideration of waterway health outcomes, ease of application in practice and result in suitable stormwater infrastructure. Further, SV recommends that a specific performance objective is used rather than a range and presented in a clear and accessible format.

Compliance through the Victoria Planning Provisions

It is understood that the approach to 'reasonably practicable' is well understood in the EPA and its use in long established risk prevention industries (e.g. occupational health and safety) has been effective. Its translation into the planning scheme framework is less clear. The extensive experience of our membership base has reinforced that without a clear structure, the necessary shift to adopt flow standards is highly unlikely.

Reasons for this include:

- Uncertainties of how this will operate in practice – how will reasonably practicable be demonstrated? Will costs override the necessary environmental intervention? who will assess what is reasonably practicable? How will consistency be achieved? How will decisions be made or disputes resolved if referral agencies have no authority to act?
- Reasonably practicable is not measurable and open to interpretation. Its therefore impractical for a statutory planner to enforce as there are no clear performance objectives to measure. With no clear minimum expectations or authorising environment, a council is unlikely to invest time and money to progress outcome through VCAT

- Developers are looking for specific requirements on what needs to be done (minimum requirements). Ambiguity in this space is counterproductive to achieving a good outcome for the environment and community.
- Greenfield sites allow for innovation and opportunity to influence. Infill environments require a rigorous target and compliance to enable referral agencies to achieve change. This should be reflected in the targets.

In summary, the use of reasonably practicable has generated significant opposition amongst the SV membership as practitioners feel it will be ineffective in practice. SV strongly recommends that reasonably practicable is reconsidered and a clear compliance and authorising environment, via the Victoria Planning Provisions reinforces the flow standards when released to industry.

Ensuring successful adoption of flow standards

Sustainable stormwater management enables urban development while ensuring that waterways are protected from further decline and adapt to the impacts of climate change by providing an additional water source for community use and well-being. In this context, it is important that the guidance document reinforces the importance of management stormwater as both a challenge and opportunity.

Over recent years, the collective and collaborative effort towards integrated water management has gained significant traction and the industry has been calling for further stormwater reforms to support better stormwater management. To achieve the necessary shift of introducing flow standards, it is important to see government leadership, support and funding for a range of mechanisms, in summary:

- clear compliance mechanisms, without deferral to ‘reasonably practicable’ (see *Compliance through the Victoria Planning Provisions* below)
- achieving the flow targets will require new approaches to managing stormwater. Solutions will be required at multiple scales, where regional harvesting and reuse complements household and street scape initiatives. Clear roles, responsibilities, and funding mechanisms (both initial and ongoing) are required in order to achieve targets.
- it is important that tools for both design and compliance requirements are updated to support rollout. This includes industry training and capacity building to support adoption
- offset schemes will be an important component, particularly within infill scenarios. SV would recommend the EPA provide an expected framework for these within the ‘Indicative Stormwater Treatment Scenarios’ section of the document
- maintenance and enforcement is foundational to the long term success of stormwater management initiatives. Planning requirements, if not coupled with a strategy to resolve current challenges with maintenance is considered futile. At present, councils are unable to dedicate resources to ensure maintenance and enforcement of existing assets and are calling for government support to introduce new supporting mechanisms. Some examples in other states include:
 - Maintenance management plans as part of building approvals
 - Maintenance plans and Section 173 Agreements
 - Certificate of compliance at time of sale
 - Submitting an annual inspection report to demonstrate maintenance

- The higher flow standards proposed are occurring on the city fringes and it's important that the costs of delivering these assets are not met by lower socio-economic areas resulting in higher house prices. The distribution of the costs is likely to be complex and require a range of policy options to balance benefits, costs and equity considerations.

SV recognises that reform of any nature is complex and requires a range of partners (e.g. EPA, DELWP, CMA's, LGA) and mechanisms to support change. While it is not expected that the items above are all resolved at the time of finalising the flow standards, it is essential the pathway to support adoption is set out with clear commitments as to the lead agency, timing and process.

Achieving flow standards

As stated above, achieving the flow targets will require new approaches to managing stormwater. Solutions will be required at multiple scales, where regional harvesting and reuse complements household and street scape initiatives. Initiatives that will support industry to achieve targets include:

- clear demands for stormwater needs a balanced approach between recycled water and stormwater for potable water substitution and supporting per urban agriculture. Without these clear demands, use of stormwater is limited
- consider opportunities for evapotranspiration to remove water from the system
- coordinated approach that demonstrate the best approach to improve waterways for each area
- proof of concept – demonstrations of sites with 25%, 50% and 90% flow reduction, as well as demonstration of the baseflow contribution. These proof of concepts should also show how the systems are being maintained (or plan to be maintained) to ensure that the environmental targets are continually met, not just at inception. Particularly for any proof of concept that relies on numerous 'private' assets (i.e. rainwater tanks) to achieve regional outcomes
- a clear methodology to enable validation of the stated metrics during a typical handover period

SV is committed to working with industry partners to support this change and encourages EPA and its partner agencies to consider the points above to support the successful transition to adopting flow standards.