



**AGENDA APPENDIX**  
**Council Meeting**  
**Wednesday 28 August 2013**

**AGENDA ITEM FOR SEPARATE DISTRIBUTION TO COUNCILLORS AND EXECUTIVE LEADERSHIP TEAM DUE TO DOCUMENT SIZE.**

**THE ITEM IS ACCESSIBLE VIA THE COUNCIL WEBSITE OR BY CONTACTING COUNCIL ON 03 5662 9200.**

**E.7 TARWIN RIVER WATER SUPPLY CATCHMENT - INCLUSION OF THE OPEN POTABLE WATER SUPPLY CATCHMENT IN THE ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2**

**APPENDIX 1- Council Report 22 May 2013**

**Councillor Fawcett left the room at 3.45pm with a declared indirect conflict of interest in Council Reports Item E.5 – PLANNING PERMITS APPLICATIONS WITHIN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS as he has a conflicting duty in that he is a Director of South Gippsland Water which has an interest in this item.**

**E.5 PLANNING PERMITS APPLICATIONS WITHIN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS**

Development Services Directorate

**EXECUTIVE SUMMARY**

This Report is provided in response to a Resolution of Council from the Ordinary Meeting of 24 April 2013 being:

**THAT COUNCIL PREPARE A REPORT THAT:**

- 1. IDENTIFIES THE ISSUES FACING LANDOWNERS WITHIN THE SHIRE CAUSED BY PLANNING APPLICATION REFERRALS TO SOUTH GIPPSLAND WATER FOR DWELLING AND SUBDIVISION APPLICATIONS WITHIN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS.**
- 2. UPDATES COUNCIL ON THE PROGRESS OF DISCUSSIONS WITH SOUTH GIPPSLAND WATER WITH REGARD TO INTERPRETATION OF CATEGORY 3 AND 4 EXEMPTIONS OF THE PLANNING PERMIT APPLICATIONS IN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS GUIDELINES 2012.**
- 3. PROVIDES OPTIONS TO COUNCIL, AND ESTIMATED COSTS, TO ADDRESS THE IMPACT TO SOUTH GIPPSLAND OF THE OPEN POTABLE WATER SUPPLY GUIDELINES.**
- 4. INCLUDES A FACT SHEET EXPLAINING THE IMPLICATIONS OF POTABLE WATER SUPPLY WITH REGARD TO PERMIT APPLICANTS AS IT NOW STANDS AND DISTRIBUTES THIS DOCUMENT TO ALL REAL ESTATE AGENTS AND MAKES THIS AVAILABLE ON COUNCIL'S WEBSITE IN THE APPROPRIATE SECTIONS INCLUDING A LINK FROM THE FRONT PAGE.**
- 5. IS INCLUDED IN THE COUNCIL AGENDA 22 MAY 2013.**

The resolution requests that the report identifies issues faced by landowners for planning applications for dwelling and subdivision applications within open, potable water supply catchment areas and provides options and costs for Council.

The resolution is particularly concerned with the Guidelines "Planning permit applications in open, potable water supply catchment areas" (the guidelines) published in November 2012 by the Minister for Water.

This report provides a complete response to resolution items one, two, four and five, in that it:

- Identifies issues facing landowners;
- Updates council on the progress of discussions with South Gippsland Water with regard to category 3 and 4 exemptions of the guidelines; and
- Tables a fact sheet that has been produced to communicate with landowners.

Options available to Council to address the impact of the guidelines and currently being discussed with SGW include:

1. Introduction of an Environmental Significance Overlay (ESO2) into the South Gippsland Planning Scheme that cover the Tarwin Catchment;
2. Development of a Catchment Strategy; and
3. Development and implementation of a Municipal Domestic Waste Water Management Plan.

As discussions with South Gippsland Water (SGW) are ongoing, this report recommends that a later report be presented to Council identifying the options available to Council and estimated costs, to address the impact to South Gippsland of the guidelines.

*Document/s pertaining to this Council Report*

- **Attachment 1** - Tarwin River Water Supply Catchment Proclaimed Area.
- **Attachment 2** - SGSC Fact Sheet on Planning Permit Applications In Open Potable Water Supply Catchments.
- **Appendix 1** - 'Planning Permit Applications In Open, Potable Water Supply Catchment Areas' - DSE Publication November 2012.
- **Appendix 2** - 'Guidance Note For Determining Dwelling Density When Assessing Planning Permit Applications' - Victorian Water Industry publication December 2012.

A copy of **Appendix 1 and 2** are available on Council's website: [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) or by contacting 5662 9200.

**LEGISLATIVE / ACTION PLANS / STRATEGIES / POLICIES**

Planning and Environment Act 1987

## **INTERNAL POLICIES / STRATEGIES / DOCUMENTS**

Municipal Domestic Waste Water Management Plan 2013 (draft)

### **COUNCIL PLAN**

Strategic Goal:	2.0	A Sustainable Environment
Outcome:	2.2	Land Management
Strategy No:	2.2.1	Land Use Planning

### **CONSULTATION**

During the review of the guidelines in 2012, a number of Victorian Council's including South Gippsland, lobbied the Minister for Planning and Minister for Water through a working group formed by the Municipal Association of Victoria (MAV). It is South Gippsland's view that the dwelling density guideline does not have the adequate scientific research to support the prescriptive dwelling density restrictions.

Since the introduction of the revised guidelines in November 2012, Council has held discussions with SGW. These discussions have focused on potential options for permitting a higher density of development than would otherwise be permitted by the guideline. Discussions have been positive but it is not yet clear what the future costs and impacts will be associated with the development of catchment policies or implementation of compliance programs.

### **REPORT**

#### **Background**

##### Tarwin River Water Supply Catchment (Tarwin Catchment)

Water supply catchments are geographic areas (watersheds) where water is drawn from a waterway or reservoir for the purpose of domestic use, including human consumption. An 'open catchment' is where part or all of the catchment area is in private ownership and access to the catchment is unrestricted.

The largest declared catchment within South Gippsland Shire is the Tarwin Catchment. Under the Act, Council is required to refer planning permit applications for dwellings located within the Tarwin Catchment to SGW. Council is required by the Act to include permit conditions, or refuse permit applications, as directed by SGW.

The Tarwin Catchment was proclaimed on 2 May 1990 and has an area of 107,200 hectares and extends into Baw Baw Shire at its northern extent and Latrobe City at its eastern extent. It covers approximately one third of the Shire's total area.

The Tarwin Catchment includes the townships of Leongatha, Korumburra, Koonwarra, Meeniyah, Dumbalk, Mirboo and the southern extent of Mirboo North. The purpose of the Tarwin Catchment is to protect the potable water supply of Meeniyah and Dumbalk. Both townships draw water from the Tarwin River.

(Please refer to **Attachment 1** - Tarwin River Water Supply Catchment proclaimed area).

#### Planning Permit Applications In Open, Potable Water Supply Catchment Areas Guidelines

Council is required to refer all new planning permit applications for dwellings within declared open, potable water supply catchment areas for comment to the responsible water authority under s.55 of the Planning and Environment Act 1987 ("the Act").

Council refers planning permit applications for new dwellings within the Tarwin Catchment to South Gippsland Water (SGW). The Act requires Council to include permit conditions, or refuse permit applications, as directed by SGW.

Subject to adequately addressing other applicable planning controls of the South Gippsland Planning Scheme, Council's recently adopted Rural Land Use Strategy (RLUS) supports the development of dwellings on lots less than 4.1 ha in area. A refusal may result in a direct conflict with Council's RLUS.

Water Authorities assess planning permit applications for new dwellings using the Department of Sustainability and Environment (DSE) guidelines for 'planning permit applications in open, potable water supply catchment areas'. In the absence of satisfying a category exemption, these guidelines limit the development of new dwellings within water catchment areas to 1 in 40 hectares (ha) or more explicitly 8 dwellings within a 1km radius i.e. 8:314 ha.

The Minister for Water reviewed these guidelines in November 2012 following concerns raised by Councils through the MAV that the guidelines didn't have the appropriate scientific merit and resulted in undesirable development restrictions.

The review of these guidelines resulted in the retention of the 1 in 40 ha dwelling density guideline. However, four exemptions were included and if satisfied, the water corporation will consider allowing a higher density of development than would otherwise be permitted by the guideline.

Council is currently in discussion with SGW to identify options to satisfy the various category exemptions listed in the dwelling density guideline. Options include developing a Catchment Policy, implementing a Municipal Domestic Waste Water Management Plan (MDWMP) or placing an Environmental Significant Overlay (ESO2) over the Tarwin Catchment which schedules out certain development proposals. Developing strategies to SGW satisfaction

will allow a higher density of development than would otherwise be permitted by the dwelling density guideline.

(Please refer to **Appendix 1** - 'Planning Permit Applications In Open, Potable Water Supply Catchment Areas' - DSE Publication November 2012)

### VCAT and Victorian Supreme Court Decisions

The significance of water supply catchments for land use planning was reinforced in February 2012 when VCAT determined (Simpson V Ballarat CC. Ref No.P2179/2011) that a dwelling in a water supply catchment area should be refused because of the potential cumulative impact dwelling approvals may have in a catchment. VCAT determined that protecting potable water supply quality and human health are of paramount importance and justified the refusal of a single dwelling on a vacant Farming Zone lot. Subsequent VCAT decisions have affirmed this decision with further developments which do not meet the guidelines being refused in water supply catchment areas.

VCAT in its decision often refers to a Supreme Court decision of 2010 which found that when considering development in open potable water supply catchment areas, risk to human health is highly relevant, and, because of its serious nature, must be given priority over other planning objectives.

Until the significant ('red dot') decision by VCAT in February 2012 and subsequent review of the guidelines in November 2012 application and interpretation of these guidelines varied significantly between the States Water Authorities.

### Current Status

Following the review of the guidelines SGW has indicated that it will refuse all planning permit applications within the Tarwin Catchment that result in a dwelling density of greater than 1:40 ha until appropriate provision is made to address the relevant guideline exemptions.

The criteria SGW and other water authorities use for determining dwelling density when assessing planning permit applications is provided in a guidance note produced by Vic Water in February 2013. This guidance note assesses dwelling density using a 1km radial method. This method results in water authorities not supporting planning permit applications for new dwellings where there are currently 8 or more dwellings within a 1km radius of the subject site, i.e. 8:314 ha, regardless of property size.

There are four category exemptions to the dwelling density guidelines, however other than the provision of sewer, the other three category exemptions are not currently developed and implemented to SGW satisfaction. The different category exemptions are discussed later in this report. Council is currently in discussion with SGW about the criteria required to satisfy the three other category exemptions.

Some recent referral responses from SGW have required Council to refuse dwelling applications on vacant Farming Zone lots in the Tarwin Catchment. This includes lots that otherwise fulfil the new dwelling requirements of the Rural Land Use Strategy. The only avenue for appeal available to the applicant is an application for review to VCAT. Given recent VCAT decisions it is unlikely that these appeals would be successful.

(Please refer to **Appendix 2** - 'Guidance Note For Determining Dwelling Density When Assessing Planning Permit Applications' - Victorian Water Industry Publication December 2012)

#### Potential Impacts on future development opportunities

It is estimated that there is currently 881 vacant lots less than 4.1 ha and a further 922 vacant lots between 4.1 and 40 ha affected by this planning control within the Tarwin Catchment.

The full extent of the future impacts of the 1:40 ha dwelling density guideline are not yet known. Calculating the impact is difficult as it is not known which current or future land owners intend on developing their land. Many lots are currently used for active agricultural purposes.

The requirement to assess the number of existing dwellings within a 1km radius further complicates the assessment of overall impacts. In many cases approval will be subject to property sizes and where future dwellings may be located.

It is anticipated that without the development of the required strategies to meet the category exemptions under the guidelines many planning permit applications will be refused that would be otherwise supported by the South Gippsland Shire Planning Scheme.

### **Discussion**

#### What are the guidelines?

There are five guidelines to consider when assessing planning permit applications in open, potable water supply catchment areas. Guideline 1 is the most relevant to the discussions of this report.

#### Guideline 1 - Density of dwellings

Where a planning permit is required to use land for a dwelling or to subdivide land or where a planning permit to develop land is required pursuant to a schedule to the Environmental Significance Overlay that has catchment or water quality protection as an objective:

- the density of dwellings should be no greater than one dwelling per 40 hectares (1:40 ha); and

- each lot created in the subdivision should be at least 40 hectares in area.

What exemptions exist to guideline 1?

There are four categories of exemption to guideline 1.

Category 1

A planning permit is not required to use land for a dwelling, to subdivide land or to develop land pursuant to a schedule to the Environmental Significance Overlay that has catchment or water quality protection as an objective.

Category 1 Exemption Response

Currently there is no Environmental Significance Overlay (ESO2) covering the Tarwin Catchment in the South Gippsland Planning Scheme. The absence of this overlay means that current and prospective property owners may not be informed that a planning control exists over a property. Prospective property owners identify planning controls when requesting a section 32 vendor statement. A section 32 is a statement of matters affecting land being sold.

Whilst it is common practice for prospective buyers to purchase subject to a planning permit where 'as of right' does not exist, those that do not and perhaps rely upon Council's RLUS may be purchasing on the misinformation that no planning controls exist.

Discussions with South Gippsland Water (SGW) and other affected municipalities have commenced and a future Council report is being prepared to consider the introduction of an ESO2 which would cover the Tarwin Catchment. Whilst the introduction of an ESO2 is unlikely to resolve this issue, it will at least ensure that prospective land purchasers can make informed decisions.

Category 2

A permit is required to use land for a dwelling, to subdivide land or to develop land pursuant to a schedule to the Environmental Significance Overlay that has catchment and water quality protection as an objective but the proposed development will be connected to reticulated sewerage.

Category 2 Exemption Response

This exemption simply requires that a development is connected to reticulated sewer. However, this is not practicable for the majority of towns or development proposals within the Tarwin Catchment.

Category 3

A Catchment Policy has been prepared for the catchment and endorsed by the relevant water corporation following consultation with relevant local



governments, government agencies and affected persons. The proposed development must be consistent with the Catchment Policy.

#### Category 3 Exemption Response

There is currently no applicable catchment policy relevant to the Tarwin Catchment that can be used to consider exemption under category 3. Discussions have commenced with SGW to consider what is required within the policy for it to be endorsed by SGW. Depending on the required complexity, a catchment policy could cost up to \$100k to develop. A range of funding options are being investigated to reduce Council's costs associated with its development.

#### Category 4

The water corporation will consider allowing a higher density of development than would otherwise be permitted by Guideline 1 where:

All of the following conditions are met:

- the minimum lot size area specified in the zone for subdivision is met in respect of each lot;
- the water corporation is satisfied that the relevant Council has prepared, adopted and is implementing a Domestic Wastewater Management Plan (DWMP) in accordance with the DWMP Requirements; and
- the proposal does not present an unacceptable risk to the catchment having regard to:
  - the proximity and connectivity of the proposal site to a waterway or a potable water supply source (including reservoir);
  - the existing condition of the catchment and evidence of unacceptable water quality impacts
  - the quality of the soil;
  - the slope of the land;
  - the link between the proposal and the use of the land for a productive agricultural purpose;
  - the existing lot and dwelling pattern in the vicinity of site;
  - any site remediation and/or improvement works that form part of the application; and
  - the intensity or size of the development or use proposed and the amount of run-off that is likely to be generated.

### Category 4 Exemption Response

Councils draft MDWMP has been prepared prior to the recent matters coming to light and cannot be used in its current form to justify a reduction in the development density requirements. Council is currently in discussion with SGW about what amendments are required for this plan to be completed to their satisfaction. It is clear that Council would have to fund a waste water compliance program that would ensure systems located within the catchment are operating in accordance with EPA guidelines and issued septic tank permit conditions. Implementing a compliance program within the Tarwin Catchment will be a considerable cost to Council. It is estimated that there are over 2000 waste water systems currently located within the catchment.

Whilst a MDWMP which incorporates a compliance program to SGW satisfaction is a viable option, a catchment policy is presently the most effective way to address the current uncertainties faced by Council regarding approval of new developments within the catchment.

### **Options**

As discussed above, Council has four options to address the matters raised in the report. The options are to:

1. Accept that development will not exceed more than 8:314 ha within the Tarwin Catchment.
2. Develop a Catchment Policy to the satisfaction of SGW.
3. Develop a MDWMP, incorporating a waste water (septic tank) compliance program to the satisfaction of SGW.
4. Prepare a planning scheme amendment for the introduction of an ESO2 for the Tarwin Catchment which schedules out certain development proposals within the catchment.

Option 1 is not considered a satisfactory result considering the work and aims of Council's RLUS.

Option 2 is considered the most practicable method for identifying and encouraging development within areas of the Tarwin Catchment which does not present a risk to the potable water supply of Meeniyan and Dumbalk.

Option 3 is likely to be required to increase development in areas of higher risk identified in the development of a catchment policy.

The introduction of an ESO2 presented in option 4 should be considered a priority for Council. An ESO2 will ensure that prospective land buyers are aware of planning controls and can make informed decisions. It is unlikely that the development of a schedule to ESO2 will resolve Council's development concerns.

Reducing the geographic size or changing the boundaries of the Tarwin Catchment is not an option. SGW have informed Council that the boundary of the Tarwin Catchment is based on the watershed of the Tarwin River system and cannot be changed. SGW will not support a request by Council to modify the area of the declared Tarwin Catchment.

### **FINANCIAL CONSIDERATIONS**

Enforcement of the 'planning permit applications in open potable water supply catchment areas' guidelines by SGW detrimentally affects the development potential of land within the Tarwin Catchment. To mitigate this risk Council must negotiate suitable exemptions to the guidelines listed above.

### **RISK FACTORS**

The primary reason for recommending the introduction of an ESO2 into the Planning Scheme is the recognition that a substantial risk is presented to landowners, Council and SGW resulting from the absence of the overlay control from the Planning Scheme.

Council is the Planning Authority responsible under the Planning and Environment Act 1987 for the administration of the South Gippsland Planning Scheme. Failure to take appropriate action to inform landowners of the statutory requirements affecting land (by the application of appropriate overlay controls) may open Council to criticism that it has not fulfilled its role to responsibly administer the Planning Scheme.

### **CONCLUSION**

Until the significant ('red dot') decision by VCAT in February 2012 and the subsequent review of the 'planning permit applications in open potable water supply catchment areas' guidelines in November 2012 application and interpretation of the guidelines has varied significantly between the States Water Authorities.

Following the review of the guidelines SGW has indicated that it will refuse all planning permit applications within the Tarwin Catchment that result in a dwelling density of greater than 1:40 ha until appropriate provision is made to address the relevant guideline exemptions.

Council must continue to work with SGW to identify and implement the required policy to ensure that development can occur within the Tarwin Catchment in accordance with Council's recently adopted RLUS.

The absence of the ESO2 from the Planning Scheme must be rectified as a matter of urgency. Until this is achieved land will continue to be sold and proposals developed without knowledge of the existence or implications of the Tarwin Catchment.

## **RECOMMENDATION**

That Council:

1. Continue to negotiate with SGW and agreed understanding of the necessary requirements for the development of a Catchment Strategy and Municipal Domestic Waste Water Management Plan (MDWMP) to satisfy category 3 and 4 exemptions of the planning permit applications in open potable water supply catchment areas guidelines.
2. Following negotiations with SGW, receive a report on the various options and costs associated with implementing the required controls required to satisfy category 3 and 4 guideline exemptions.
3. Receive a report to consider the impacts of undertaking a scheme amendment to introduce an ESO2 into the South Gippsland Planning scheme covering the Tarwin catchment.
4. Adopt the attached fact sheet on planning permit applications in open, potable water supply catchment areas as a method of informing current and future landowners on this issue.

## **STAFF DISCLOSURE OF INTEREST**

**Nil**

**MOVED: Cr Davies**

**SECONDED: Cr Brunt**

**THAT COUNCIL:**

- 1. CONTINUE TO NEGOTIATE WITH SOUTH GIPPSLAND WATER AN AGREED UNDERSTANDING OF THE NECESSARY REQUIREMENTS FOR THE DEVELOPMENT OF A CATCHMENT STRATEGY AND MUNICIPAL DOMESTIC WASTE WATER MANAGEMENT PLAN (MDWMP) TO SATISFY CATEGORY 3 AND 4 EXEMPTIONS OF THE PLANNING PERMIT APPLICATIONS IN OPEN POTABLE WATER SUPPLY CATCHMENT AREAS GUIDELINES.**
- 2. FOLLOWING NEGOTIATIONS WITH SGW, RECEIVE A REPORT ON THE VARIOUS OPTIONS AND COSTS ASSOCIATED WITH IMPLEMENTING THE REQUIRED CONTROLS REQUIRED TO SATISFY CATEGORY 3 AND 4 GUIDELINE EXEMPTIONS.**
- 3. RECEIVE A REPORT TO CONSIDER THE IMPACTS OF UNDERTAKING A SCHEME AMENDMENT TO INTRODUCE AN ESO2 INTO THE SOUTH GIPPSLAND PLANNING SCHEME COVERING THE TARWIN CATCHMENT.**
- 4. ADOPT THE ATTACHED FACT SHEET ON PLANNING PERMIT APPLICATIONS IN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS AS A METHOD OF INFORMING CURRENT AND FUTURE LANDOWNERS ON THIS ISSUE.**

**AMENDMENT**

**MOVED: Cr Hill**

**SECONDED: Cr McEwen**

**THAT COUNCIL:**

- 1. CONTINUE TO NEGOTIATE WITH SOUTH GIPPSLAND WATER AN AGREED UNDERSTANDING OF THE NECESSARY REQUIREMENTS FOR THE DEVELOPMENT OF A CATCHMENT STRATEGY AND MUNICIPAL DOMESTIC WASTE WATER MANAGEMENT PLAN (MDWMP) TO SATISFY CATEGORY 3 AND 4 EXEMPTIONS OF THE PLANNING PERMIT APPLICATIONS IN OPEN POTABLE WATER SUPPLY CATCHMENT AREAS GUIDELINES.**
- 2. FOLLOWING NEGOTIATIONS WITH SGW, RECEIVE A REPORT ON THE VARIOUS OPTIONS AND COSTS ASSOCIATED WITH IMPLEMENTING THE REQUIRED CONTROLS REQUIRED TO SATISFY CATEGORY 3 AND 4 GUIDELINE EXEMPTIONS.**
- 3. RECEIVE A REPORT TO CONSIDER THE IMPACTS OF UNDERTAKING A SCHEME AMENDMENT TO INTRODUCE AN ESO2 INTO THE SOUTH GIPPSLAND PLANNING SCHEME COVERING THE TARWIN CATCHMENT.**

4. **ADOPT THE ATTACHED FACT SHEET ON PLANNING PERMIT APPLICATIONS IN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS AS A METHOD OF INFORMING CURRENT AND FUTURE LANDOWNERS ON THIS ISSUE.**
5. **INVESTIGATES WHETHER THOSE SUPPLIED BY WATER FROM THE POTABLE WATER SUPPLY AREA COULD BE SUPPLIED BY ANOTHER MEANS SUCH AS DIRECT CONNECTION TO MELBOURNE WATER SUPPLIES THEREBY REMOVING THE TARWIN CATCHMENT FROM THE POTABLE WATER SUPPLY AREA.**
6. **IDENTIFY OUTCOMES TO SOUTH GIPPSLAND DUE TO LOSS OF DEVELOPMENT ACTIVITY, EFFECT ON POPULATION GROWTH AND LOSS OF RATE INCOME (ASSUMING LOTS WOULD THEN BE RE-RATED).**
7. **IDENTIFY THE EARLIEST DATE THAT CAN BE FOUND TO REQUEST MEETINGS WITH THE FOLLOWING TO LOBBY FOR A WORKABLE SOLUTION TO THIS PROBLEM THAT WILL ALLOW USE AND DEVELOPMENT IN ACCORDANCE WITH OUR PLANNING SCHEME AND THAT ANY FUTURE RESTRICTION CAUSED BY POTABLE WATER SUPPLY BE BASED UPON SCIENTIFIC AND EVIDENCE BASED RESEARCH:**
  - a. **MINISTER FOR WATER, HON. PETER WALSH;**
  - b. **MEMBER FOR GIPPSLAND SOUTH, HON. PETER RYAN;**
  - c. **MINISTER FOR PLANNING THE HON. MATTHEW GUY;**
  - d. **BOARD OF SOUTH GIPPSLAND WATER;**
  - e. **MELBOURNE WATER**
8. **IDENTIFY THE ISSUE OF EXISTING RIGHTS USE CLAUSE IN THE PLANNING SCHEME AND THE IMPLICATION FOR DWELLING IN AN AREA OF GREATER THAN 8 DWELLINGS PER 40 HA AND THE INABILITY TO REBUILD IN THE EVENT OF DISASTER OR OTHERWISE OCCURRING TO THAT DWELLING.**

**The Amendment was CARRIED and became the Motion before the Chair.**

**For: Crs McEwen, Hill, Newton, Hutchinson-Brooks and Kennedy.**

**Against: Crs Brunt, Davies and Harding.**

**The Mayor agreed to separate the parts of the Motion.**

**MOVED: Cr Hill**

**SECONDED: Cr McEwen**

**THAT COUNCIL:**

- 1. CONTINUE TO NEGOTIATE WITH SOUTH GIPPSLAND WATER AN AGREED UNDERSTANDING OF THE NECESSARY REQUIREMENTS FOR THE DEVELOPMENT OF A CATCHMENT STRATEGY AND MUNICIPAL DOMESTIC WASTE WATER MANAGEMENT PLAN (MDWMP) TO SATISFY CATEGORY 3 AND 4 EXEMPTIONS OF THE PLANNING PERMIT APPLICATIONS IN OPEN POTABLE WATER SUPPLY CATCHMENT AREAS GUIDELINES.**
- 2. FOLLOWING NEGOTIATIONS WITH SGW, RECEIVE A REPORT ON THE VARIOUS OPTIONS AND COSTS ASSOCIATED WITH IMPLEMENTING THE REQUIRED CONTROLS REQUIRED TO SATISFY CATEGORY 3 AND 4 GUIDELINE EXEMPTIONS.**
- 3. RECEIVE A REPORT TO CONSIDER THE IMPACTS OF UNDERTAKING A SCHEME AMENDMENT TO INTRODUCE AN ESO2 INTO THE SOUTH GIPPSLAND PLANNING SCHEME COVERING THE TARWIN CATCHMENT.**
- 4. ADOPT THE ATTACHED FACT SHEET ON PLANNING PERMIT APPLICATIONS IN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS AS A METHOD OF INFORMING CURRENT AND FUTURE LANDOWNERS ON THIS ISSUE.**

**CARRIED UNANIMOUSLY**

**MOVED: Cr Hill**

**SECONDED: Cr McEwen**

- 5. INVESTIGATE WHETHER THOSE SUPPLIED BY WATER FROM THE POTABLE WATER SUPPLY AREA COULD BE SUPPLIED BY ANOTHER MEANS SUCH AS DIRECT CONNECTION TO MELBOURNE WATER SUPPLIES THEREBY REMOVING THE TARWIN CATCHMENT FROM THE POTABLE WATER SUPPLY AREA.**

**CARRIED**

**For: Crs McEwen, Newton, Harding, Newton and Hutchinson-Brooks.**

**Against: Crs Brunt, Davies and Kennedy.**

**MOVED: Cr McEwen**

**SECONDED: Cr Hill**

- 6. IDENTIFY OUTCOMES TO SOUTH GIPPSLAND DUE TO LOSS OF DEVELOPMENT ACTIVITY, EFFECT ON POPULATION GROWTH AND LOSS OF RATE INCOME (ASSUMING LOTS WOULD THEN BE RE-RATED).**

**Cr Davies left the Meeting at 4.09pm.**

**CARRIED**

**For: Crs McEwen, Newton, Kennedy, Hutchinson-Brooks, Hill and Brunt.**

**Against: Cr Harding**

**MOVED: Cr Hill**

**SECONDED: Cr McEwen**

- 7. IDENTIFY THE EARLIEST DATE THAT CAN BE FOUND TO REQUEST MEETINGS WITH THE FOLLOWING TO LOBBY FOR A WORKABLE SOLUTION TO THIS PROBLEM THAT WILL ALLOW USE AND DEVELOPMENT IN ACCORDANCE WITH OUR PLANNING SCHEME AND THAT ANY FUTURE RESTRICTION CAUSED BY POTABLE WATER SUPPLY BE BASED UPON SCIENTIFIC AND EVIDENCE BASED RESEARCH:**

- a. MINISTER FOR WATER, HON. PETER WALSH;**
- b. MEMBER FOR GIPPSLAND SOUTH, HON. PETER RYAN;**
- c. MINISTER FOR PLANNING THE HON. MATTHEW GUY;**
- d. BOARD OF SOUTH GIPPSLAND WATER;**
- e. MELBOURNE WATER**

**Cr Davies returned to the Meeting at 4.14pm.**

**UNANIMOUSLY LOST**



**MOVED: Cr Hill**

**SECONDED: Cr McEwen**

- 8. IDENTIFY THE ISSUE OF EXISTING RIGHTS USE CLAUSE IN THE PLANNING SCHEME AND THE IMPLICATION FOR DWELLING IN AN AREA OF GREATER THAN 8 DWELLINGS PER 40 HA AND THE INABILITY TO REBUILD IN THE EVENT OF DISASTER OR OTHERWISE OCCURRING TO THAT DWELLING.**

**CARRIED**

**For: Crs McEwen, Newton, Kennedy, Hutchinson-Brooks and Hill.**

**Against: Crs Brunt, Davies and Harding.**

**MOVED: Cr McEwen**

**SECONDED: Cr Hill**

**THAT COUNCIL IDENTIFY THE EARLIEST DATE THAT CAN BE FOUND WHEN REPORTS ARE AVAILABLE FROM SHIRE OFFICERS TO REQUEST MEETINGS WITH THE FOLLOWING TO LOBBY FOR A WORKABLE SOLUTION TO THIS PROBLEM THAT WILL ALLOW USE AND DEVELOPMENT IN ACCORDANCE WITH OUR PLANNING SCHEME AND THAT ANY FUTURE RESTRICTION CAUSED BY POTABLE WATER SUPPLY BE BASED UPON SCIENTIFIC AND EVIDENCE BASED RESEARCH:**

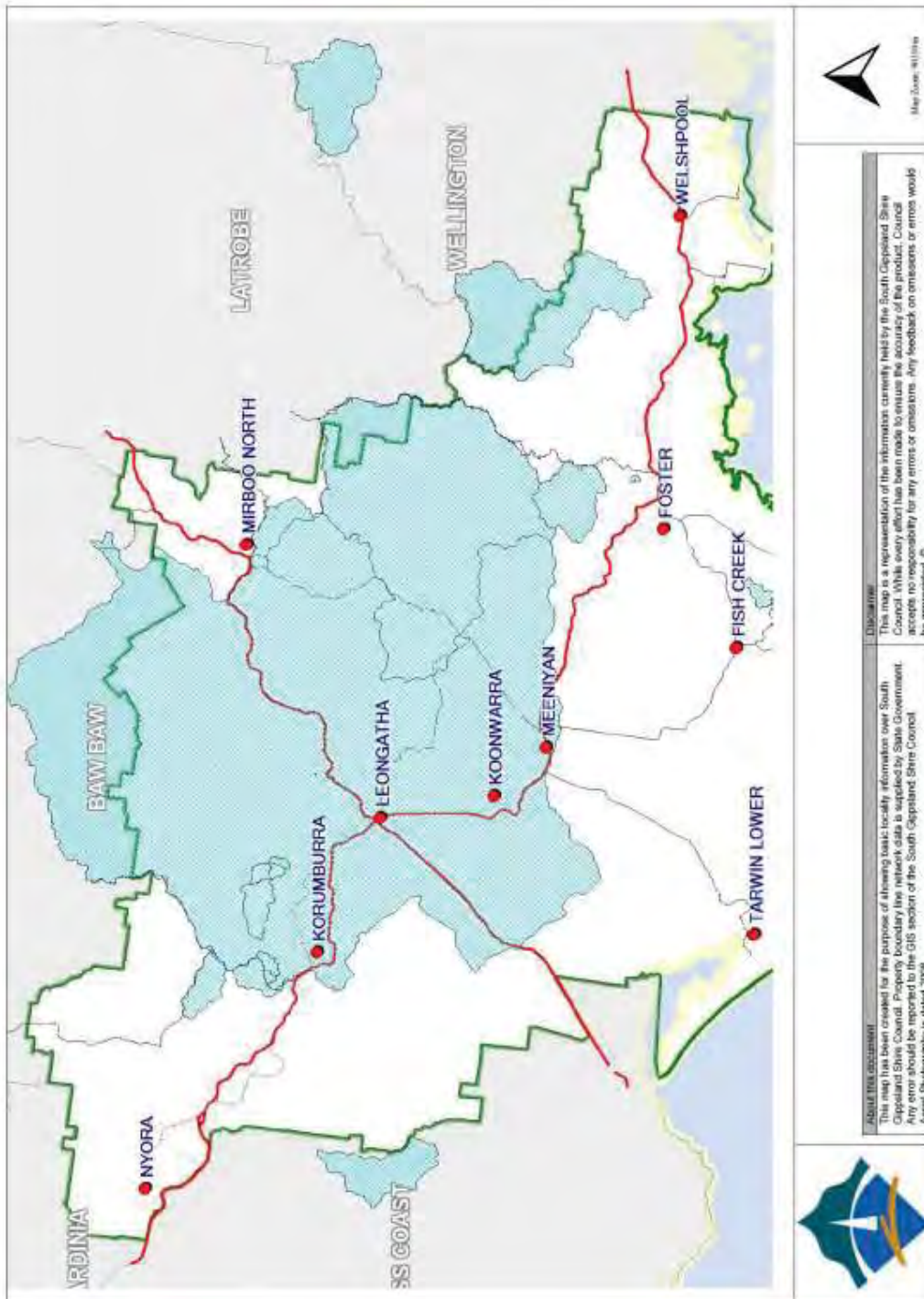
- a. MINISTER FOR WATER, HON. PETER WALSH;**
- b. MEMBER FOR GIPPSLAND SOUTH, HON. PETER RYAN;**
- c. MINISTER FOR PLANNING THE HON. MATTHEW GUY;**
- d. BOARD OF SOUTH GIPPSLAND WATER;**
- e. MELBOURNE WATER**

**CARRIED**

**For: Crs McEwen, Newton, Kennedy, Hill and Hutchinson-Brooks.**

**Against: Crs Harding, Davies and Brunt.**

### Attachment 1 Tarwin River Water Supply Catchment Proclaimed Area



## Attachment 2 SGSC Fact Sheet on Planning Permit Applications in Open Potable Water Supply Catchments



*Come for the beauty... Stay for the lifestyle*

### Planning Permits & Potable Water Supply Catchments

**L**ooking to use or develop land within an open potable<sup>a</sup> water supply catchment area?

If your property is within one of these areas, then new guidelines may affect you!  
(<sup>a</sup>drinkable)

#### BACKGROUND

A potable water supply catchment provides water resources to a reservoir (or water storage) used for domestic water supply purposes. An 'open' potable water supply catchment is a catchment where all or part of it is in private ownership and access to the catchment is unrestricted.

Open, potable water supply catchments are declared to be special water supply catchments under the *Catchment and Land Protection Act 1994*. There are currently nine such catchments (in full or in part) in South Gippsland Shire. Most of these are covered by a specific overlay within the Planning Scheme, known as the ESO2 (Environmental Significance Overlay – Schedule 2).

However, the Tarwin River (Meeniyah) Water Supply Catchment, which has an area of approximately 1053 km<sup>2</sup>, is the largest in the Shire and is not currently covered by such an Overlay.

The State Government has developed guidelines to protect the quality of potable water supplies, using a risk based approach. One of the mechanisms used to protect the quality of water in these catchments is to control the density of dwellings and their on-site waste water (effluent) systems.

Council and the relevant water authority must consider these new guidelines, *Planning permit applications in open, potable water supply catchment areas* (DSE, November 2012) when assessing Planning Permit applications for:

- using land for a dwelling,
- subdividing land, or
- situations where a planning permit to develop land is required due to the Environmental Significance Overlay.



#### DWELLING DENSITY

Guideline 1 refers to the density of dwellings and it requires dwelling density to be no greater than one dwelling per 40 hectares (1.40 ha) within the catchment.

The Victorian Civil and Administrative Tribunal (VCAT) and the Victorian Supreme Court have both stated that when considering applications in open, potable water supply Catchment areas, risk to human health is highly relevant, and, because of its serious nature, must be given priority over other planning objectives.

There are currently four categories of exemptions from Guideline 1, although these are not currently available in this Shire for the Tarwin River (Meeniyah) Catchment.

The Victorian Water Association (VicWater) has also released a guideline (February 2013) which assists in calculating dwelling density using a 1km radius method. This method has been generally acknowledged by VCAT and adopted by some water authorities.

#### PTO for frequently asked questions

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Last updated 22/05/2013



**AGENDA APPENDIX**

**Council Meeting**

**Wednesday 22 May 2013**

AGENDA ITEM FOR SEPARATE DISTRIBUTION TO COUNCILLORS AND EXECUTIVE LEADERSHIP TEAM DUE TO DOCUMENT SIZE.

THE ITEM IS ACCESSIBLE VIA THE COUNCIL WEBSITE OR BY CONTACTING COUNCIL ON 03 5662 9200.

**E.5 PLANNING PERMITS APPLICATIONS WITHIN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS**

Appendix 1 - 'Planning permit applications in open, potable water supply catchment areas' - DSE publication November 2012.

# Planning permit applications in open, potable water supply catchment areas

November 2012

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# Planning permit applications in open, potable water supply catchment areas

As Minister administering the *Water Act 1989*, I issue the following Guidelines to assist water corporations and other referral and responsible authorities in their assessment of planning permit applications for use and development of land within all open, potable water supply catchments in Victoria. These Guidelines have been adopted for the purposes of s.60(1A)(g) of the *Planning and Environment Act 1987*.



**Peter Walsh MLA**

**Minister for Water**

## **Purpose of the Guidelines**

The purpose of the Guidelines is to protect the quality of potable water supplies, using a risk based approach, whilst facilitating appropriate development within these catchments.

## **Where do these guidelines apply?**

These guidelines apply to all open potable water supply catchments declared to be special water supply catchment areas under Division 2 of Part 4 of the *Catchment and Land Protection Act 1994*. Schedule 5 of the Act lists the special water supply catchment areas declared as at 1994. To find out all current declarations and which special water supply catchment areas are open potable water supply catchments and their location, contact the relevant local water corporation.

## **What is an open, potable water supply catchment?**

A potable water supply catchment provides water resources to a reservoir (or water storage) used for domestic water supply purposes<sup>1</sup>. There are two types of potable water supply catchments. An 'open' catchment is where part or all of the catchment area is in private ownership and access to the catchment is unrestricted. A 'closed' catchment means that the whole of the catchment area is publicly owned and public access is prohibited.

Water corporations may influence development and land use through the strategic and statutory planning process, as they do not have direct control over land in open, potable water supply catchments. However, because of the risks to public health, all use and development should be sited and managed to protect the quality of water collected from the catchment.

Most water supply catchment areas have a long history of regulation aimed to protect public health by maintaining acceptable levels of water quality flowing into, and stored in, the water storage. This has protected communities from waterborne diseases and the need for excessive chemical treatment.

All land users within catchments need to be aware of the potential effect of their activities on water quality. Residential development and agriculture particularly have the potential to impact adversely on water quality through the discharge of contaminated run-off and wastes, nutrient contributions or sediment to waterways. These key sources of pollutants present different levels of risk to catchments and are the focus of these guidelines.

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<sup>1</sup> The catchment and/or reservoir or water storage may also be used for irrigation purposes.



White Swan Reservoir and the surrounding potable water supply catchment area, taken near Ballarat.  
Source: Central Highlands Water

### What State planning and environmental policy applies to open, potable water supply catchment areas?

The importance of water quality and water catchments is specifically addressed in Clause 14.02 in the State Planning Policy Framework in all planning schemes. In this clause it is State planning policy to:

- Protect reservoirs, water mains and local storage facilities from potential contamination.
- Ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and groundwater resources, rivers, streams, wetlands, estuaries and marine environments.
- Discourage incompatible land use activities in areas subject to flooding, severe soil degradation, groundwater salinity or geotechnical hazards where the land cannot be sustainably managed to ensure minimum impact on downstream water quality or flow volumes.

Clause 19.03 of the State Planning Policy Framework adopts the strategy:

- Ensure water quality in water supply catchments is protected from possible contamination by urban, industrial and agricultural land uses.

Section 53M of the *Environment Protection Act 1970* provides that a municipal council must refuse a permit if a proposed onsite waste water/septic tank system is contrary to any State environment protection policy or waste management policy. The State Environment Protection Policy (Waters of Victoria) (**SEPP**) adopts the precautionary principle as a principle that should guide decisions about the protection and management of Victoria's surface waters when considering a permit for a septic tank system. Clause 32 of the SEPP specifies EPA's expectations in relation to on-site domestic wastewater management, and the EPA provides further guidance in relation to onsite treatment systems (EPA Publication 891, Code of Practice – Onsite Waste Water Management, as updated or replaced).

The proper application of the precautionary principle requires consideration of the cumulative risk of the adverse impact of onsite waste water/ septic tank systems on water quality, in open potable water supply catchments, resulting from increased dwelling density.

The importance of water catchments is also reflected in the special area plans prepared by Catchment Management Authorities, under Division 2 of Part 4 of the *Catchment and Land Protection Act 1994*. These plans assess the land and water resources of catchments in a region and identify objectives and strategies for improving the quality of those resources; they are also able to direct land use activities in a catchment. It is State Planning Policy (Clause 14.02-1) that planning authorities must have regard to relevant aspects of:

- any regional catchment strategies approved under the *Catchment and Land Protection Act 1994* and any associated implementation plan or strategy, including any regional river health and wetland strategies;
- any special area plans prepared under the *Heritage Rivers Act 1992* and approved under the *Catchment and Land Protection Act 1994*; and
- these Guidelines.

For information about any special area or catchment management plans that have been prepared for catchments in your region, contact the regional office of the relevant catchment management authority.

Water corporations, in consultation with other stakeholders, may also prepare a water Catchment Policy, water catchment risk assessment or similar project to address land use planning issues and the cumulative impact of onsite waste water/septic tank systems in a catchment area (Catchment Policy).



These policies can assist in:

- guiding appropriate land use and development within a catchment area, including the location of and conditions on particular land use and development: and
- Determining the areas where Domestic Wastewater Management of existing systems requires additional focus due to the existence of onsite wastewater systems.

Through strategic land use planning and with reference to special area plans and Catchment Policies, areas and causes of greatest risk can be identified and risk based management responses determined.

## The guidelines

Each of these guidelines must be addressed where a planning permit is required to use land for a dwelling or to subdivide land.

### Guideline 1: Density of dwellings

Where a planning permit is required to use land for a dwelling or to subdivide land or where a planning permit to develop land is required pursuant to a schedule to the Environmental Significance Overlay that has catchment or water quality protection as an objective:

- the density of dwellings should be no greater than one dwelling per 40 hectares (1:40 ha); and
- each lot created in the subdivision should be at least 40 hectares in area.

This does not apply where:

#### Category 1

A planning permit is not required to use land for a dwelling, to subdivide land or to develop land pursuant to a schedule to the Environmental Significance Overlay that has catchment or water quality protection as an objective.

#### Category 2

A permit is required to use land for a dwelling, to subdivide land or to develop land pursuant to a schedule to the Environmental Significance Overlay that has catchment and water quality protection as an objective but the proposed development will be connected to reticulated sewerage.

#### Category 3

A Catchment Policy has been prepared for the catchment and endorsed by the relevant water corporation following consultation with relevant local governments, government agencies and affected persons. The proposed development must be consistent with the Catchment Policy. Or,

***The water corporation will consider allowing a higher density of development than would otherwise be permitted by Guideline 1 where:***

#### Category 4

All of the following conditions are met:

- the minimum lot size area specified in the zone for subdivision is met in respect of each lot;
- the water corporation is satisfied that the relevant Council has prepared, adopted and is implementing a Domestic Wastewater Management Plan (**DWMP**) in accordance with the DWMP Requirements; and
- the proposal does not present an unacceptable risk to the catchment having regard to:
  - » the proximity and connectivity of the proposal site to a waterway or a potable water supply source (including reservoir);
  - » the existing condition of the catchment and evidence of unacceptable water quality impacts
  - » the quality of the soil;
  - » the slope of the land;
  - » the link between the proposal and the use of the land for a productive agricultural purpose;
  - » the existing lot and dwelling pattern in the vicinity of site;
  - » any site remediation and/or improvement works that form part of the application; and
  - » the intensity or size of the development or use proposed and the amount of run-off that is likely to be generated.

Note: this requires analysis in addition to a land capability assessment required pursuant to Guideline 2.

# Domestic Wastewater Management Plan Requirements

A DWMP will be considered an acceptable basis for a relaxation of Guideline 1 (as set out above) where the following requirements in relation to the DWMP are satisfied.

These requirements incorporate and build upon (but do not displace) Council responsibilities for developing DWMPs as set out in clause 32(2)(e) of the SEPP.

The DWMP must be prepared or reviewed in consultation with all relevant stakeholders including:

- other local governments with which catchment/s are shared;
- EPA; and
- local water corporation/s.

The DWMP must comprise a strategy, including timelines and priorities, to:

- prevent discharge of wastewater beyond property boundaries; and
- prevent individual and cumulative impacts on groundwater and surface water beneficial uses.

The DWMP must provide for:

- the effective monitoring of the condition and management of onsite treatment systems, including but not limited to compliance by permit holders with permit conditions and the Code;
- the results of monitoring being provided to stakeholders as agreed by the relevant stakeholders;
- enforcement action where non-compliance is identified;
- a process of review and updating (if necessary) of the DWMP every 5 years;
- independent audit by an accredited auditor (water corporation approved) of implementation of the DWMP, including of monitoring and enforcement, every 3 years;
- the results of audit being provided to stakeholders as soon as possible after the relevant assessment; and
- councils are required to demonstrate that suitable resourcing for implementation, including monitoring, enforcement, review and audit, is in place.

## Guideline 2: Effluent disposal and septic tank system maintenance

The *Environment Protection Act 1970*, the SEPP, EPA Publication 891, *Code of Practice – Onsite Waste Water Management* (as updated or replaced), and other EPA publications and Australian standards regulate and guide the accreditation, installation and management of onsite treatment systems for the collection, treatment and disposal or reuse of wastewater.

Any application for a planning permit must demonstrate that a proposed use, development or subdivision of land to which these Guidelines apply will comply with all applicable laws and guidelines, including the need to obtain a Council permit under the *Environment Protection Act 1970* for the installation of an onsite wastewater management system and associated systems.

## Guideline 3: Vegetated corridors and buffer zones along waterways

Planning and responsible authorities should encourage the retention of natural drainage corridors with vegetated buffer zones at least 30 metres wide along waterways. This will maintain the natural drainage function, minimise erosion of stream banks and verges and reduce polluted surface run-off from adjacent land uses.

## Guideline 4: Buildings and works

Buildings and works (including such things as land forming and levee bank construction) should not be permitted to be located on effluent disposal areas, to retain full soil absorption and evaporation capabilities, and should be setback at least 30 metres from waterways to minimise erosion and sediment, nutrient and salinity-related impacts.

Appropriate measures should be used to restrict sediment discharges from construction sites in accordance with *Construction Techniques for Sediment Pollution Control*, Environment Protection Authority, 1991 and *Environmental Guidelines for Major Construction Sites*, Environment Protection Authority, 1995.

## Guideline 5: Agricultural activities

To prevent the pollution of waterways and damage to streamside vegetation (which contributes to bed and bank stability and filters overland flows entering the stream), stock access to waterways should be minimised.

Stocking rates should take into account the capabilities of the land to sustain grazing and the potential impact of overstocking on the catchment.

Reductions in agricultural and veterinary chemicals run-off should be encouraged by improved management of rates and frequencies of application.

The inappropriate disposal of fuel and fuel containers, the disposal of dead animals, the treatment and disposal of effluent from intensive agricultural industries, and the delivery and storage of chemicals are some of the other agricultural activities which can pose a risk to water quality. Intensive animal industry is a scheduled (regulated) activity under the Environment Protection (Scheduled Premises and Exemptions) Regulations 2007.

If a property owner proposes to build a farm dam for commercial or irrigation purposes in an open, potable water catchment, an application for a licence must be made under Section 51 of the *Water Act 1989*. The application for a licence must be made to the relevant Rural Water Corporation.

Kind of application	Referral authority
<p>To use or develop land for a cattle feedlot.</p>	<p>Minister for Agriculture.</p> <p>If the site is located within a special water supply catchment area under the <i>Catchment and Land Protection Act 1994</i>, the relevant water corporation under the <i>Water Act 1989</i> and the Secretary to the Department administering the <i>Catchment and Land Protection Act 1994</i>.</p> <p>If the number of cattle is 5,000 or more, the Environment Protection Authority.</p>
<p>To use, subdivide or consolidate land, to construct a building or to construct or carry out works, or to demolish a buildings or works that are within a Special Water Supply Catchment Area listed in Schedule 5 of the <i>Catchment and Land Protection Act 1994</i> and which provides water to a domestic water supply.</p> <p>This does not apply to an application for a sign, fence, roadworks or unenclosed building or works ancillary to a dwelling.</p>	<p>The relevant water board or water supply Authority (referred to as “water corporation” throughout these Guidelines).</p>
<p>To use or develop land for extractive industry in Special Areas declared under s.27 of the <i>Catchment and Land Protection Act 1994</i>.</p>	<p>Secretary to the Department administering the <i>Catchment and Land Protection Act 1994</i>.</p>

Other provisions of the planning scheme may also require referrals for other reasons.

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**E.5 PLANNING PERMITS APPLICATIONS WITHIN OPEN, POTABLE WATER SUPPLY CATCHMENT AREAS**

Appendix 2 - 'Guidance note for determining dwelling density when assessing planning permit applications' - Victorian Water Industry publication December 2012.

VICTORIAN WATER INDUSTRY

# Guidance Note for Determining Dwelling Density when Assessing Planning Permit Applications



DECEMBER 2012  
Developed by the VicWater Open  
Potable Water Supply Catchment  
Management Working Group



**VICTORIAN WATER**  
INDUSTRY ASSOCIATION INC.

*"Innovation, Co-operation and Sustainability"*



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# Purpose

To support landowners, water corporations, planning and referral authorities and other interested stakeholders in the consistent interpretation of the default density requirements in the *Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas*.

# Objectives

- To enable sustainable development whilst protecting the quality of water supplies.
- To achieve a consistent method across Victoria for calculating default dwelling density when assessing planning permit applications within open, potable water supply catchments.
- To provide clear guidance to landowners interested in developing their land within catchments.





# Context

The *Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas* (the Guidelines) released by the Minister for Water in November 2012 specify that:

- where a planning permit is required to use land for a dwelling or to subdivide land; or
- where a planning permit to develop land is required pursuant to a schedule to the Environmental Significance Overlay that has catchment or water quality protection as an objective;

that the default position should be:

- the density of unsewered dwellings should be no greater than one unsewered dwelling per 40 hectares (1:40 ha); and
- each lot created in a subdivision should be at least 40 hectares in area.

As provided for in the Guidelines the density requirement does not apply if:

- a planning permit is not required for the proposed development;
- the dwelling is or will be connected to reticulated sewerage;
- the development is consistent with an endorsed catchment policy; or
- the council has prepared, adopted and is implementing a Domestic Wastewater Management Plan to the satisfaction of the water corporation, and
- the proposal does not represent an unacceptable risk to water quality.

A water corporation will consider allowing a higher density of development when certain conditions are met. The conditions are detailed in the Guidelines (Guideline 1, categories 1- 4). It is recommended that the Guidelines be reviewed prior to considering application of this density calculation guidance note.

The Victorian water industry supports the adoption of a consistent calculation method for determining the density of dwellings in catchment areas. This ensures that clear and consistent guidance is provided to landowners, interested in developing their land, planning referral authorities and other interested stakeholders.

This guidance note outlines a calculation method which should be used by water corporations when assessing planning permit referrals for dwelling density in a particular area. It also identifies several other issues that should be taken into consideration during the assessment.

Whilst there are a number of ways to calculate dwelling density, to achieve a consistent method across Victoria, the 1km radial method is preferred and this approach has been validated in VCAT hearings as an appropriate methodology.

It is also recognised that there may be circumstances when other methods are suitable such as the “average density” or “polygon density” methods. Where other methods are used it is recommended that the reasons for using these methods are recorded with the permit assessment.



## Definitions and abbreviations

Within this document, the following terms have the meanings given:

Term	Meaning
<b>Special Water Supply Catchment Areas</b>	Specified under Schedule 5 - Special Water Supply Catchment Areas of the Catchment and Land Protection Act 1994
<b>Dwelling</b>	As per the Victorian Planning Scheme (Clause 74, Land Use Terms): A building used as a self-contained residence which must include: a sink; food preparation facilities; a bath or shower; and a closet pan and wash basin. It includes outbuildings and works normal to a dwelling. Includes Bed & Breakfast and caretaker's house

## Application of this guidance note

Water corporations should consider the following when calculating dwelling density:

- Unsewered dwelling density is calculated by counting the number of unsewered dwellings within a one-kilometre radius (314 ha) of the site of the proposed dwelling.
- The density applies to unsewered developments.
- Public land should be included when calculating dwelling density unless there are catchment specific requirements relating to the land's vulnerability which present circumstances where it may be appropriate to exclude the public land (such circumstances may include severe slopes, groundwater recharge areas etc.).
- Areas of land and dwellings that are not within the same catchment as the proposed development should not be included when calculating dwelling density.
- Areas of land within the full supply level of a reservoir should not be included when calculating the dwelling density as this land will not be developed.
- Other point sources of wastewater discharge within the one-kilometre radius of the site of the proposed dwelling should also be considered when assessing the application as it increases the cumulative impact of development.

## Calculation method

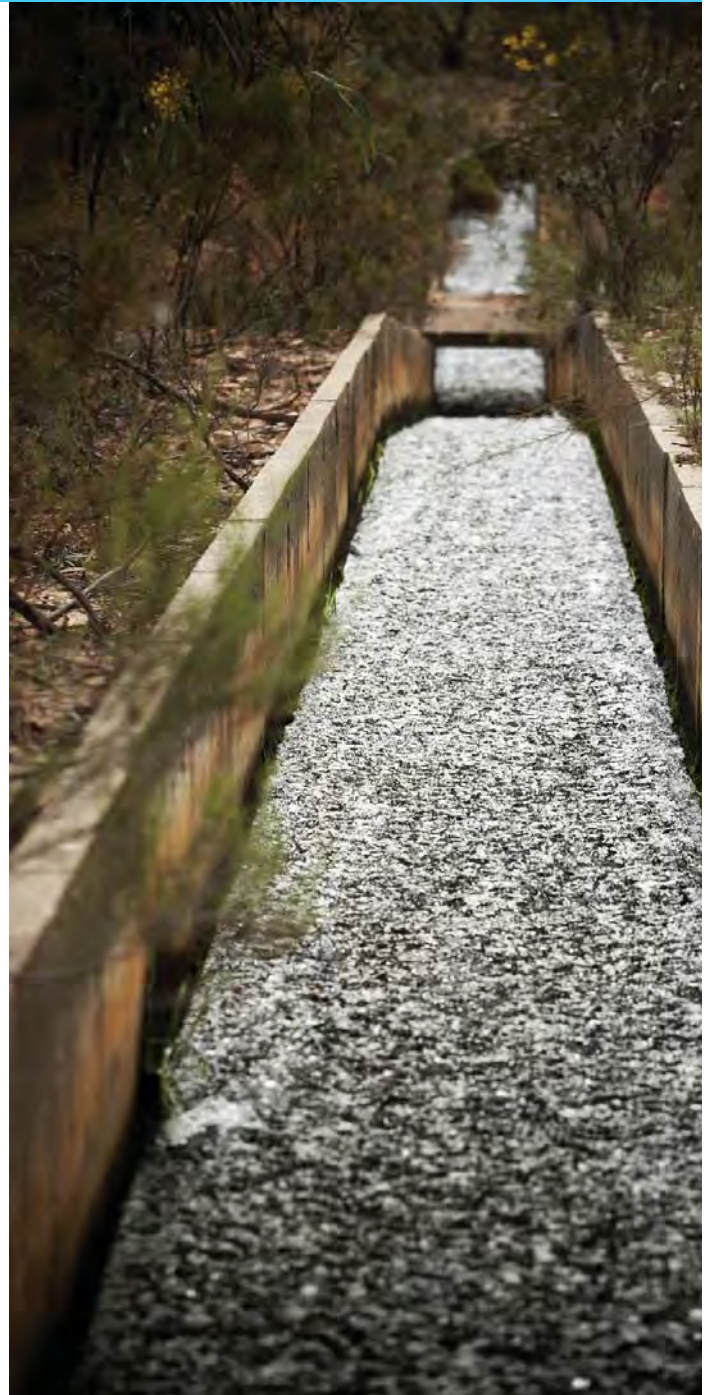
1. Apply a one kilometre radius around the proposed development site. This results in an area of 314 ha.
2. Count the number of existing dwellings within the one kilometre radius
3. If there is public land within a one kilometre radius of the proposed site and there are catchment specific requirements relating to the land's vulnerability it may be appropriate to exclude the area of public land from the equation (such circumstances may include severe slopes, groundwater recharge areas etc.)
4. Divide the area (314 ha) by the number of existing dwellings

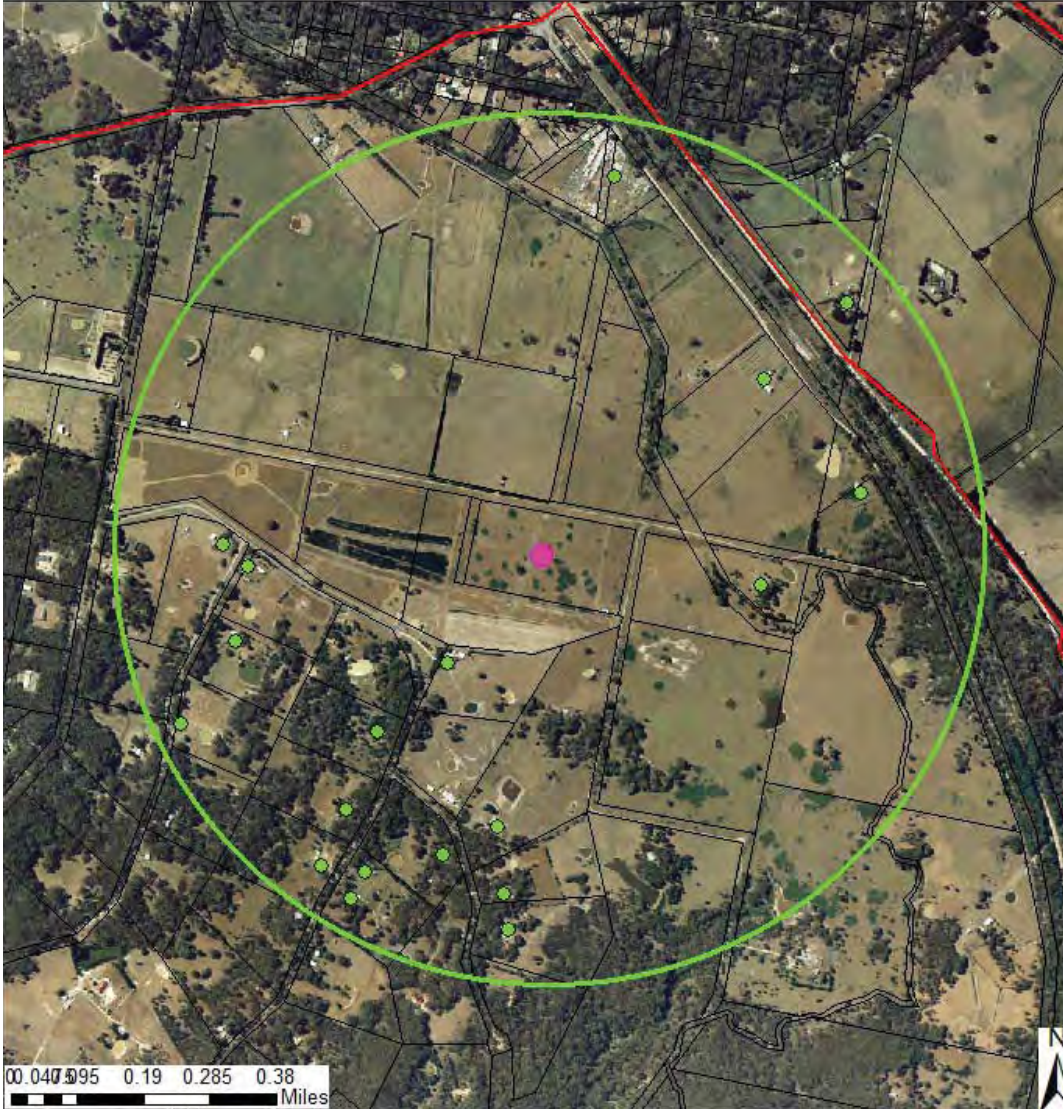
To calculate an acceptable dwelling density in an area of 314 ha:

1: 40 ha =  $314 / 40$  which equals 7.85.

Rounded up there should be no more than 8 unsewered dwellings within a 1 km radius from the proposed development. Any less than 8 and the site density is less than 1:40 ha. In all cases, other matters will still need to be considered regarding the appropriateness of the application.

The examples on pages 5 - 7 illustrate straightforward dwelling density calculations.





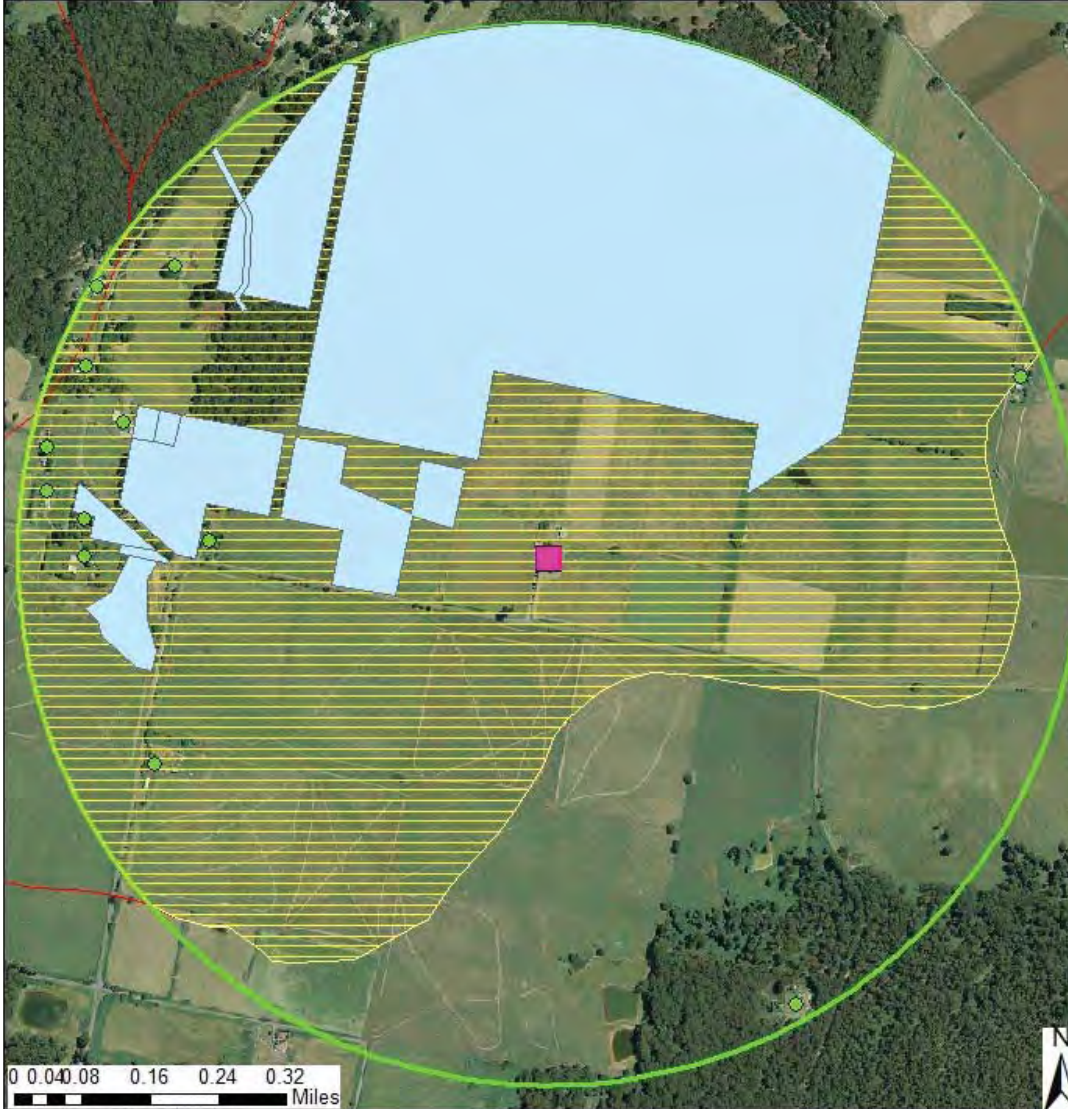
## Example 1

- Subject site
- Existing dwellings with onsite wastewater systems
- 1 km radius circle around the subject site (314 ha)

### Calculation:

1. Apply a one kilometre radius around the proposed development site.
2. Count the number of existing dwellings within the one kilometre radius = **19 dwellings**.
3. Divide the area (314 ha) by the number of dwellings (314 / 19) = **16.5, resulting in a density of 1:16.5**

The density of dwellings in the one-kilometre radius surrounding the subject site is greater than the 1:40ha default density. Therefore the water corporation considering the application would need to consider the application against the categories outlined in the *Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas*.



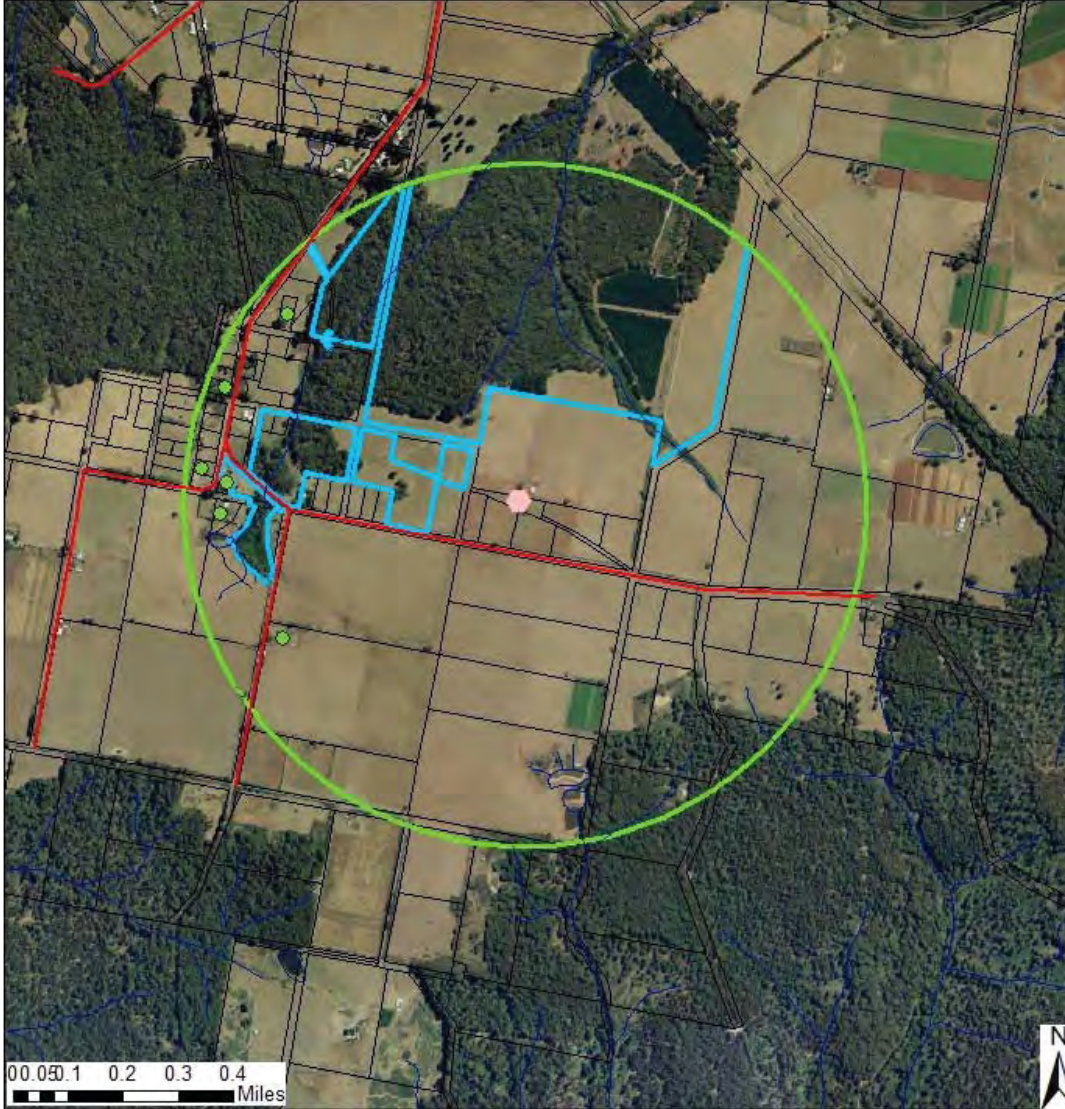
## Example 2

- Subject site
- Public land with vulnerabilities.
- Existing dwellings with onsite wastewater systems.
- 1 km radius circle around the subject site
- Catchment.

### Calculation:

1. Apply a one kilometre radius around the proposed development site.
2. Count the number of existing dwellings within the one kilometre radius = **11 dwellings**.  
NB: The dwelling sitting outside of the shaded yellow area is not included in the calculation as it is in a different catchment.
3. The public land (189ha), in this example, has particular sensitivities which present circumstances where it is appropriate to exclude it from the equation.  
Total area of land involved in this density calculation is **314 ha - 189 ha (public land) - 77 ha (area of land outside the shaded yellow area) = 48 ha**
4. Divide the remaining area (48 ha) by the number of dwellings (48/11) = **4.36, resulting in a density of 1:4.36 ha**

The density of dwellings in the one-kilometre radius surrounding the subject site is greater than the 1:40ha default density and the water corporation would therefore need to consider the categories outlined in the *Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas*.



### Example 3

- Subject site
- Existing dwellings with onsite wastewater systems
- 1 km radius circle around the subject site

#### Calculation:

1. Apply a one kilometre radius around the proposed development site.
2. Count the number of existing dwellings within the one kilometre radius = **6 dwellings**.
3. Divide the area (314 ha) by the number of dwellings (314 / 6) = **52.3, resulting in a density of 1:52.3**

In this example, the density of dwellings in the one-kilometre radius surrounding the subject site is less than the 1:40ha default density. Whilst there may be site specific issues that need further consideration the development meets Guideline 1 in the Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas.



# Associated documents

- Minister for Water *Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas* November 2012 (Department of Sustainability and Environment)
- Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management (EPA, publication 891).
- Australian Standards:
  - AS/NZS 1547:2012, On-site domestic wastewater management:
  - AS/NZS 1546.1:2008, On-site domestic wastewater treatment units – Septic tanks:
  - AS/NZS 1546.2:2008, On-site domestic wastewater treatment units – Waterless composting toilets;
  - AS/NZS 1546.3:2008, On-site domestic wastewater treatment units - Aerated wastewater treatment systems.
- Victorian River Health Strategy (2002) (or as amended)
- State environment protection policy (Waters of Victoria) (No. S107, Gazette 4/6/2003 or as varied)
- State environmental protection policy (Groundwaters of Victoria) (No. S160, Gazette 17/12/1997 or as varied)
- Model MAV Municipal Domestic Wastewater Management Plan 2005
- Model Land Capability Assessment Report 2006





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