



PHILLIP ISLAND CONSERVATION SOCIETY INC
PO BOX 548 COWES 3922
PRESIDENT: Jeff Nottle 0419 158 232
SECRETARY: Christine Grayden 03 5956 8501
M 0400 900 612
E: phillipislandconservation@gmail.com

Website: www.picsvictoria.org.au
Facebook: www.facebook.com/picsvictoria

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EPA Victoria
Attention: Director of Policy and Regulation
GPO Box 4395
Melbourne Victoria 3001
sublegreform@epa.vic.gov.au

Re: New environment protection laws will weaken protection of high conservation waters

The Phillip Island Conservation Society (PICS) is a community group that has worked to protect and enhance Phillip Island's natural assets since 1968. In 2014, PICS formed the Preserve Western Port Action Group. Together, these groups represent communities in the region and have a considerable body of knowledge about the Western Port environment.

PICS is concerned that, under the subordinate instruments proposed to support the new environment protection legislation from 1 July 2020, there will be a weakening of protection for waters of high conservation value—including Western Port—from the impacts of wastewater discharges.

This submission explains these concerns. PICS has also prepared a separate, broader submission dealing with other aspects of the subordinate instruments.

When the new EP legislation takes effect, SEPP (Waters), which currently provides the framework for the protection and management of water quality in Victoria, will be switched off. The SEPP (Waters) content will be rehoused, with changes, in new regulations and non-mandatory environment reference standards.

The Victorian Government states that the new framework seeks to ensure the same or a better level of environment protection. However, we contend that the proposed changes will weaken protection for waters of high conservation value and other areas vulnerable to the impacts of wastewater discharges.

SEPP (Waters) clause 22(3) currently prohibits the EPA from approving applications for new wastewater discharges to surface waters in aquatic reserves, waters of high conservation value, and wetlands and estuary segments. This clause prohibits approval of new wastewater discharges in these locations, except if it can be demonstrated that the discharge will provide water for the environment to protect its beneficial uses. Schedule 5 defines areas of high conservation value as including Ramsar-listed wetlands, and areas of significance to migratory species listed under various international agreements and the *Flora and Fauna Guarantee Act 1988*.

In the new regulations and environment reference standards, waters of high conservation value have been excluded, and discharges into aquatic reserves and wetland and estuary segments appear to be subject only to the general environmental duty.

This is a significant weakening of the protection for these waters. Under the current framework, discharges to these waters are prohibited unless the EPA is satisfied that this would protect beneficial uses. Under the new framework, such a discharge would instead be subject to the general environmental duty.

The EPA has advised us that Part 5.4 of the proposed regulations will make it an infringeable offence to discharge waste from vessels into surface and marine water environments. However, we note that there is an exception when the waste is part of a process of managing aquatic pests on the vessel. In this case, there is a requirement to minimise “so far as reasonably practicable, the risks to human health and the environment posed by the waste” and remove and contain any aquatic pests and antifouling paint. Clearly, this does not pose the same level of protection and certainty as prohibiting discharges unless beneficial uses are protected to the satisfaction of the EPA.

It is vital to retain the protections of clause 22(3) of the current SEPP (Waters) under the new EP legislation. We seek your assurance that the level of protection for waters of high conservation value, including Western Port, will not be lessened.

Yours sincerely

Jeff Nottle
President, Phillip Island Conservation Society