

30 May 2014

The Honourable Jeff Seeney MP
Deputy Premier and Minister for State Development, Infrastructure and
Planning
c/- State Planning Policy Feedback Planning and Property Group
Department of State Development Infrastructure and Planning
PO Box 15009
CITY EAST
QLD 4002

Dear Minister Seeney,

**RE: Stormwater Queensland Submission on the State Planning Policy and
Proposed Draft Amendments**

I write to you on behalf of the members of Stormwater Queensland - the peak industry association for stormwater in Queensland. Stormwater Queensland has reviewed the State Planning Policy (SPP or 'the policy') and the proposed draft amendments to the policy. This letter outlines our submission on both the policy and the proposed draft amendments.

In general, we support the policy and the proposed draft amendments although have provided some discussion and recommendations for improving the policy. The intention of this submission is to support the State in providing strong and workable regulation which contributes to the achievement of the State interests outlined in the policy.

It is noted that Stormwater Queensland recently facilitated the "*State Planning Policy – Water Quality State Interest Forum*", which was the most well-attended event (170 industry representatives) in our organisation's history. Different perspectives on the policy were provided at the forum by speakers representing different interests and backgrounds.

This included representation from the Department of Environment Heritage and Protection (DEHP), local government and leading professionals from a range of disciplines in the private sector including town planning, science and engineering. Our submission takes into account the information presented by the speakers as well as discussions which occurred during the forum.

Integration of Land and Water Planning

The SPP has provided significant gains in consolidating separate State policies. Part D of the policy outlines each of the State interests separately however potentially minimising some of the benefits of the consolidation. For example, although a number of statements in the policy seek to achieve integrated solutions, there is little direction regarding the integration of land and water planning.

We acknowledge that Water Sensitive Urban Design (WSUD), is mentioned in the non-statutory section of the policy under the sub-heading “*why is water quality of interest to the state?*”. As WSUD is the design philosophy which seeks to integrate land and water planning, this would appear the logical place to discuss WSUD.

Some of the strongest messages which came out of the forum however, were that water quality is considered by the industry as an issue for engineers alone and that this part of the policy is being ignored by the other disciplines. Without a multi-disciplinary approach to land and water planning, integration will never be achieved. This is particularly the case if the policy does not provide for integration as part of the regulatory framework of the policy.

Evidence of this already occurring can be seen in numerous local planning schemes which have been updated in response to the now superseded *State Planning Policy 4/10 – Healthy Waters*. These schemes focus on stormwater quality objectives but do not regulate for integration leading to poor development outcomes on the ground. The effect of these poor outcomes has actually been poor water quality, added development and assessment costs and inappropriate use of land.

The integration of land and water planning is about liveable communities as much as it is about stormwater quality (if not more so). It is therefore recommended that both the “*planning for liveable communities and housing*” and “*water quality*” state interests are amended to provide for integration. Recommendations are provided below (see red text) to help facilitate this aim.

Further information on the values of integrating land and water planning and how to achieve integration is also available in *The Framework for the Integration of Flooding and Stormwater Management into Open Space* (Water by Design 2011) (available from <http://waterbydesign.com.au/openspace/>). This document also provides a framework which can easily be integrated directly into local government planning schemes in response to the recommended amendment making planning scheme compliance straightforward.

Section of State Planning Policy/Draft Amendment	Recommended amendment
Page 17, Part D: The state interests and plan making policies, Planning for liveable communities, Liveable communities, State interest— liveable communities	The planning scheme is to appropriately integrate the state interest by: (2) providing attractive and accessible natural environments and public open space by: (a) maintaining or enhancing areas of high scenic amenity, and important views and vistas that contribute to natural and visual amenity, and (b) maintaining or enhancing opportunities for public access and use of natural areas, rivers, dams and creeks, and (c) planning for public open space that: (i) is functional, accessible and connected, and (ii) supports a range of formal and informal sporting, recreational and community activities, and (iii) supports multiple uses and services including by integrating open space and water management, and

Further to above recommendation, it is also noted that WSUD is enshrined in statutory regional policy (the SEQ Regional Plan), but the SPP mentions it in non-statutory narrative only and not in policy or codes. Given the need for multi-disciplinary approach to land and water planning discussed above and the need for regulatory consistency, the above recommended amendment could be better reworded to:

(iii) supports multiple uses and services including by integrating open space and water management through Water Sensitive Urban Design (WSUD), and

Section of State Planning Policy/Draft Amendment	Recommended amendment
Page 31, Part D: The state interests and plan making policies, Planning for the environment and heritage, Water quality, State interest— water quality	The planning scheme is to appropriately integrate the state interest by: <u>For receiving waters:</u> (5) integrating land and water planning to achieve good urban design by: (a) facilitating innovative and locally appropriate solutions for urban stormwater management that achieve the relevant urban stormwater management design objectives, and (b) planning for open spaces which support multiple uses, and (c) applying Water Sensitive Urban Design (WSUD), and

Managing stormwater quality and flow

Section (3)(a)(i) of the draft amendments states that impacts arising from either altered stormwater quality or flow must be avoided or minimised. Although the 1-year ARI event discharge objective listed in Table B (page 74) may not apply to some unlined waterways, there is unlikely to be any scenario where both quality and the other flow objectives should not be managed.

It is recommended that the statement be amended to incorporate both quality and flow.

Section of State Planning Policy/Draft Amendment	Recommended amendment
Page 31, Part D: The state interests and plan making policies, Planning for the environment and heritage, Water quality, State interest— water quality	The planning scheme is to appropriately integrate the state interest by: <u>For receiving waters:</u> (3) including requirements that development for an urban purpose is located, designed, constructed and/ or managed to avoid or minimise: (a) impacts arising from: i. altered stormwater quality or and flow, and
Page 49, Part E: Interim development assessment requirements, State interest— water quality	Development: (1) avoids or otherwise minimises adverse impacts on the environmental values of receiving waters, arising from: (a) altered stormwater quality or and flow, and

Best Practice Environmental Management

The policy currently states that a planning scheme appropriately integrates the water quality state interest by, amongst other items, either, “*adopting the applicable stormwater management design objectives*” or by demonstrating “*current best practice environmental management*”. Precisely what constitutes current best practice environmental management (BPEM), however is widely open for interpretation.

The SPP and the *State Planning Policy Guideline* (DSDIP, 2013) refer to the definition in Environmental Protection Act 1994, section 21. Specifically, the definition states that BPEM includes “*minimisation of the activity’s environmental harm through cost-effective measures assessed against the measures currently used nationally and internationally for the activity*”. How this varies from achieving the water management objectives stated in the SPP remains unclear and the term “minimisation” used in the definition does not provide any regulatory certainty.

This has led to a lot of confusion in the industry as to the intent of this policy statement including between leading practitioners in water management. The use of the term BPEM may therefore be unnecessarily adding complexity when WSUD is well-defined and guidelines exist for its implementation. The WSUD guidelines could therefore provide some level of certainty.

What the WSUD guidelines do not provide however, is any advice on sizing treatment measures where stormwater quality objectives stated in the code cannot be met due to site constraints. This is contrary to the advice in the SPP guidelines which states that, “established minimum standards of performance” can be derived from these guidelines.

These issues can all be resolved through some simple wording requirements in Part D and the SPP code as outlined below.

Section of State Planning Policy/Draft Amendment	Recommended amendment
Page 31, Part D: The state interests and plan making policies, Planning for the environment and heritage, Water quality, State interest—water quality	The planning scheme is to appropriately integrate the state interest by: For receiving waters: (4) adopting Water Sensitive Urban Design to: a) achieve the applicable stormwater management design objectives relevant to the climatic region, outlined in Tables A and B (Appendix 2), or demonstrate current best practice environmental management for development that is for an urban purpose, and b) achieve the applicable stormwater management design objectives relevant to the climatic region, outlined in Tables A and B (Appendix 2), to the greatest extent practicable subject to site constraints.

Code requirements

The effectiveness of the code is compromised by the fact that compliance with stormwater management objectives or what is termed BPEM, is stipulated as an acceptable outcome (AO) rather than a performance outcome (PO). While it is acknowledged that the code should seek flexible solutions, certainty for the development industry is an equally important role of the code.

It is considered that while flexibility and certainty are not achieved by stating these options as AOs, this can be remedied by including the options in the respective PO. The suggested amendments below provide for this alternative approach.

Furthermore, some of the statements could be made clearer to provide greater certainty of the intent of the code. For example, the term “considering” is unlikely to achieve anything other than “consideration” and the term “land use constraints” is used when the code should actually refer to site constraints i.e. land use constraints relate more to planning constraints such as lot size and zoning rather than soils which relate to the site.

The following recommendations are made to address all of these issues including the issue noted above with respect to the term ‘BPEM’.

Section of State Planning Policy/Draft Amendment	Recommended amendment
Page 68, Appendix 2 SPP code: Water quality	<p>PO1</p> <p>The development is planned and designed considering the land use constraints using Water Sensitive Urban Design to: of the site for achieving stormwater design objectives.</p> <p>a) achieve the applicable stormwater management design objectives relevant to the climatic region, outlined in Tables A and B (Appendix 2), or</p> <p>b) achieve the applicable stormwater management design objectives relevant to the climatic region, outlined in Tables A and B (Appendix 2), to the greatest extent practicable subject to site constraints.</p>
Page 68, Appendix 2 SPP code: Water quality	<p>AO1.1</p> <p>A site stormwater quality management plan (SQMP) is prepared, and:</p> <p>b. provides for achievable stormwater quality treatment measures meeting design objectives listed below in Table A (construction phase) and Table B (post construction phase), or current best practice environmental management reflecting site constraints, such as:...</p>
Page 70, Appendix 2 SPP code: Water quality	<p>AO7.1</p> <p>Development incorporates stormwater flow control measures to achieve the design objectives set out below in Table A</p>

	<p>(construction phase) and Table B (post construction phase). Both the construction and operational phases for the development comply with design objectives in Table A (construction phase), and Table B (post construction phase), or current best practice environmental management, including management of frequent flows, peak flows, and construction phase hydrological impacts.</p> <p>Where site constraints limit full compliance with the objectives, development aims to achieve the objectives to the greatest extent practicable.</p>
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Further to the above recommendations, it is recommended that the SPP appropriately refer to the *State Planning Policy Guideline* (DSDIP, 2013): <http://www.dsdip.qld.gov.au/resources/guideline/spp/spp-guideline-water-quality.pdf> and that the guideline be updated to reflect the changes. While the DSDIP guideline does refer to supporting Water Sensitive Urban Design guidelines published by Water by Design, reference to this suite of guidelines in the policy would assist in providing direction for implementation: <http://waterbydesign.com.au/guidelines-factsheets-main/>.

I trust that this submission will assist in providing a more robust and workable policy for the State of Queensland and lead to better planning outcomes.

Should you have any questions or would like to discuss the SPP in general or our submission specifically, please contact Paul Dubowski of the Stormwater Queensland Advocacy and Engagement Sub-Committee (p: 3831 6744 or paul.dubowski@bmtwbm.com.au).

Kind regards



Brad Dalrymple
President
Stormwater Queensland