6 August 2021

Stormwater Australia Board and SQIDEP Governance Panel
Stormwater Australia
c/o Alan Hoban and Andrew Swindells
nationalpresident@stormwater.asn.au, info@makemore.com.au

Attn: Stormwater Australia Board and SQIDEP Governance Panel

Dear Stormwater Australia Board and SQIDEP Governance Panel

RE: STORMWATER QUEENSLAND SECOND SUBMISSION ON THE STORMWATER QUALITY IMPROVEMENT DEVICE EVALUATION PROTOCOL

We refer to your correspondence dated 6 July 2021 (Appendix A) and would like to thank you for responding to Stormwater Queensland's (SQ) submission, dated 12 March 2020, on the Stormwater Quality Improvement Device Evaluation Protocol (SQIDEP).

We acknowledge and are encouraged by the progress which has been made in improving both the governance and technical matters outlined in our submission, however, we feel that several matters addressed in your response remain unresolved. As a result of these matters and the outstanding technical matters, which we understand are being addressed by the Technical Review Panel (TRP), SQ cannot change its current position to support SQIDEP in its current form.

To address the outstanding governance matters, we provide the following recommendations for future improvements of SQIDEP. SQ recommends that:

1. SNat confirms the process which was followed by SNat in managing conflicts of interest of the Stormwater Quality Improvement Device Advisory Committee (SQIDAC) in drafting the current version of SQIDEP. We note your responses provided information which is either not related to SQIDAC (items 1b.(i)-(iv)), or general information (item 1b.(v)), rather than the specific detail requested in our submission.
2. SNat confirms the conflicts of interest of those involved in the selection of the Independent Evaluation Panel (IEP) with specific details of how those conflicts were managed (rather than general statement about the procedure).
3. Any Board members and committee/executive members with a conflict of interest related to SQIDEP exclude themselves/be excluded from any discussion and decision-making related to SQIDEP. This should include but not be limited to considering and deciding upon the recommendations of the Governance Panel, TRP and IEP. This should become part of an appropriate conflict of interest policy governing SQIDEP and the SQIDEP Evaluation Process Chart. At a minimum, it is expected this would apply to those directors who have undertaken work for manufacturers including but not limited to reviewing and/or monitoring of devices on behalf of any manufacturer. This is considered to be the most transparent way that SQIDEP conflicts of interest can be managed with integrity by SNat and reflects the steps SQ has taken to manage its own committee members' conflicts of interest (discussed further below).

We remain confident in the abilities of the Governance Panel, look forward to continuing our good working relationship and seeing the recommendations it makes to the Board. We encourage the Governance Panel to take up our recommendations as recommendations to the Board.

There are also a number of points we would like to clarify in response to your letter as follows:

1. We note your advice that SNat has helped initiate a meeting of SEQ local governments to allow them to confer on the matter of SQIDEP being used in development approvals (point 3 of your correspondence). During the mediation session held in January 2020, SQ expressed concern that SNat was consulting with local governments within its jurisdiction without its involvement. At the time, Alan Hoban agreed to include SQ in any meetings with QLD local governments or its members. We request that SNat involve SQ in all consultation with Queensland local governments and SQ members.

2. We note your request for a copy of the recording of the SQIDEP seminar hosted by SQ (point 3 of your correspondence). As previously advised, permission from presenters and audience members was not sought prior to the event and as such, the SQ committee is not at liberty to provide you with a copy.

3. Regarding your comments about SQ's conflicts of interest (point 3 of your correspondence), we have explicitly made clear the processes SQ uses to manage the conflicts related to SQIDEP and how they have been managed. This has included removing from any related decision making those committee members who have made a conflict of interest declaration in accordance with categories 3.a.to 3.f. of the framework outlined in the SQ SQIDEP submission. We would welcome similar action for SNat and believe such action would resolve much of the concerns we have with the conflicts of interest of some SNat Board members. Additionally, SQ has established a conflicts of interest policy and register further strengthening the integrity of committee decision making, including that related to SQIDEP.

4. With respect to your request for a copy of the SQIDEP survey results, we note that this was also requested previously by SNat. This was discussed by the SQ Committee in February 2020 and a motion was passed that a copy of the results not be distributed beyond those SQ committee members involved with drafting the SQIDEP submission. Reasons for not providing a copy of the survey results to SNat include that survey participants were assured that the survey was confidential and would be used for the purposes of drafting the SQ SQIDEP submission. Sharing it with others for other purposes beyond those stated would be a clear breach of that confidentiality. Further, the statement in your response about the survey results not being provided to the SQ Committee is incorrect. All committee members who did not make a conflict of interest declaration in accordance with categories 3.a.to 3.f. of the framework outlined in the SQ SQIDEP submission were provided a copy of the survey. We believe this is appropriate to protect the integrity of the survey and the aforementioned confidentiality..

Regarding the SQIDEP scientific/technical matters, we acknowledge the hard work being undertaken by the TRP in addressing these matters. We have established a good working relationship with this panel and trust they will develop a sound set of recommendations for the Board's consideration. We welcome a response to the scientific/technical matters raised in our submission once the Board has considered those recommendations.

Should you have any comments or questions, please contact SQ via secretary@stormwaterqueensland.asn.au

Kind regards

David Simpson

Secretary, Stormwater Queensland
On behalf of the Stormwater Queensland Committee

Appendix A: Stormwater National Correspondence

6th July 2021

Stormwater Queensland
admin@stormwaterqueensland.asn.au

CC: Stormwater Australia Governance Panel

Dear Stormwater Queensland Committee,

RE: STORMWATER QUEENSLAND SUBMISSION ON THE STORMWATER QUALITY IMPROVEMENT DEVICE EVALUATION PROTOCOL

I refer to your correspondence dated 12th March 2020. The letter below outlines a response to the key points raised.

SQIDEP Administrative Matters

1. Governance and Managing Conflicts of Interest

a. General Governance Matters

SQ would like to request that SNat advise why SQIDEP is not placed under the WaterVal framework or under the auspices of VicWater or the Australian Water Association.

SQIDEP was developed by Stormwater Australia in response to a request from its membership.

A wide range of organisations, including Melbourne Water and CSIRO, entertained the development of a protocol but desisted. Melbourne Water engaged Swinburne and WaterRA to perform a peer review of the document, which was discussed and incorporated into the current version where the Advisory Committee agreed. The widespread view was that the protocol needed to be national, and led by Stormwater Australia through a collaborative approach. A detailed history of SQIDEP was provided as part of the webinar provided to industry and residing on the Stormwater Australia website (https://www.stormwater.asn.au/publications/webinars).

The WaterVal framework has not had any products successfully complete the process and has no funding to support it.

b. Stormwater Quality Improvement Device Advisory Committee (SQIDAC)

SQ therefore requests confirmation about the process which was followed by SNat in managing conflicts of interest

There are five key processes for managing conflicts of interest with regards to SQIDEP

(i)   An independent, active, experienced Governance Panel to oversee probity and decisions regarding SQIDEP, independent of the Board.
(ii)   Inclusion of provisions relating to conflicts of interest in the Charters of each relevant entity in the process (Governance Panel, Technical Review Panel, Independent Evaluator Panel)
(iii)   A documented process formulated by the Governance Panel for assigning IEP members (assessors) to applications that explicitly manages conflict of interest

(iv) All completed assessments are placed on the Stormwater Australia website so that there is transparency in the process, including who has been involved in the assessment.

(v) As is standard practice in many Boards, the SWA board maintains a register of interest that requires Directors to declare their interests. Where there is an actual or potential conflict of interest, the Board decides on a case by case basis whether the relevant board member is excluded from decisions, excluded from the discussion and decisions, or is excluded from the meeting.

c. SQIDEP Independent Evaluation Panel (IEP)

A copy of the process for appointing evaluators is attached and on the SWA website: (https://www.stormwater.asn.au/sqidep/sqidep-governance).

Evaluators provide a list of entities for which they have actual or perceived conflicts of interest to the Governance Panel. As that list may from time to time include potential commercial matters, it is not a public document.

The Independent Evaluators Joint Report includes a declaration of independence and is evaluated by the Governance Panel for veracity and transparency.

2. The Validation Framework

a) That a copy of the validation framework is provided for comment once developed.

   A: Please see the Evaluation Process Chart on the Stormwater Australia website. https://www.stormwater.asn.au/images/SQIDEP/SQIDEP_Flow_Chart_FINAL.pdf

b) That all documents which make up applications be made publicly available once validation has been achieved.

   A: A detailed verification report documenting the basis for the assessment is provided on the Stormwater Australia website. https://www.stormwater.asn.au/sqidep/sqidep-verified-products

c) That the timeframes for review of applications be clearly documented in the framework.

   A: Initial applications have taken longer than expected, as is normal with any new process. The Evaluation Process outlines the goal timeframes. https://www.stormwater.asn.au/images/SQIDEP/SQIDEP_Flow_Chart_FINAL.pdf

d) That the process for appeals be clearly documented in the framework including guidance to applicants about how to make an appeal and guidance to the Governance Panel for assessing appeals. This should be a written process documented on the SNat website.

   A: Thanks, this is a good suggestion and is presently being improved by the Governance Panel following feedback from a few Lobby groups. In the interim, any appeals can be sent to any of: the Directors, Governance Panel Members, or the National Administration Officer in accordance with the procedure identified in the Terms of Use included at the end of the SQIDEP Submission Forms.

e) A schedule for the review of the validation framework. It is suggested that the framework should be reviewed bi-annually(once every two years), at least for the first decade.

   A: The Governance Panel is presently preparing a schedule to review the various Panels. The Technical Review Panel (TRP) is presently reviewing the Protocol document and is tasked with delivering recommendations this year.

f) That the validation framework documents how certifications between products certified under different versions of SQIDEP will be managed.

A: This issue will be addressed in detail as new versions of SQIDEP become ready for release, as the process will need to have regard to the degree of change between versions, and the need for industry confidence in the process. This is the role of the Technical Review Panel to advise.

g) Confirmation about how consistency will be managed between reviewers of the same product and between reviewers of different products.

A: Assessors prepare a joint report to ensure consistency and agreement between reviewers, as you will note from the completed application on the Stormwater Australia website. It is intended to hold a training session with the IEP members and the evaluators of recent applications to ensure consistency across applications.

h) Confirmation about how SNat plans on managing the issue with SQIDEP being used in development approvals. An industry practice note is recommended to be released.

A: This is a positive and intended use of SQIDEP and is not seen as an issue. Management of development approvals is the prerogative of local governments and other assessing agencies. We have helped initiate a meeting of SEQ Local Governments to allow them to confer on this matter. SQIDEP was created in response to requests from Local Government & State Authorities to streamline the assessment and implementation of stormwater treatment devices in the development approval process. How, and in fact if, Councils choose to apply SQIDEP is entirely up to each Authority.

3. Consultation Process

Meetings and discussions with local governments have been held over an extended period.

Consultation was explicitly addressed by Stormwater Australia Directors Alan Hoban and Darren Drapper as part of the SQIDEP seminar hosted by Stormwater Queensland and detailed on the SWA Webinar hosted on the SWA website (https://www.stormwater.asn.au/publications/webinars). We have repeatedly requested a copy of the recording of the SQ event, and would still appreciate it if that was provided so that there is a clear record of these matters being addressed.

Further, a closed-door consultation session with local governments was hosted by Stormwater Queensland at the Greek Club circa 2015. This session was held in-camera because local governments wanted an opportunity to discuss SQIDEP without being subject to industry lobbying.

The clearest evidence of support for SQIDEP is in the formal adoption of SQIDEP in a growing list of local government planning schemes, policies, and DA conditions (for example, but not limited to, Brisbane City Council, Gold Coast Council, Sunshine Coast Council, Moreton Bay Regional Council, Noosa Council, Mackay Regional Council). We have only encountered support and encouragement and have not encountered any opposition or resistance to SQIDEP from a single local government authority in Queensland. We do, however, note significant concerns raised by local governments about the conflict of interest held by Stormwater Queensland Committee members and the perception that the Committee is not speaking on behalf of all of its members, as detailed in the Rules of Association.

Note we are also waiting on copies of the survey data from the member SQIDEP survey conducted by Stormwater Queensland. Further, we understand the survey data has not been made available to the Stormwater Queensland Committee. We believe sharing that data in a transparent manner will assist all parties better understand our member views with regard to SQIDEP.

SQIDEP Scientific/Technical Matters

The Governance Panel has considered the letter received from Stormwater Queensland dated 12 March 2020 and recognises that under the Governance Panel's Charter the Governance Panel does not carry out any technical functions and is therefore not able to reply to any of the technical questions contained in that document, which form the entirety of section two of the document. The Governance Panel therefore

recommends to the Board that all of those issues be referred to the Technical Review Panel for their response. The Governance Panel submits that the Board is the best entity to determine the best way to respond to Stormwater Queensland's submission once the Board has considered any response from the Technical Review Panel. The Governance Panel also recommends to the Board that consideration be given to measure that will increase communication with various stakeholders.

Technical matters have been referred to the Technical Reference Panel.

If you have any comments or questions, please contact nationaladmin@stormwater.asn.au

Sincerely

Alan Hoban
National President
Stormwater Australia
0400 742 836
nationalpresident@stormwater.asn.au

attachment: SQIDEP Evaluators Selection Procedure.pdf

Resolution

The GP resolves that where an Evaluation Application is received by Stormwater Australia two Evaluators will be appointed to each Application using the following selection procedure:

Selection Procedure

Please Note - When selecting two Evaluators any two evaluators who are selected to evaluate an Application cannot be from the same company regardless of whether they are next in line to be selected in the table headed RECORD OF SELECTIONS MADE FOR EACH ROUND.

Instructions and Explanation

The Governance Panel will nominate a person to be responsible on an ongoing basis for selecting Evaluators using this selection procedure (the selector). Each Evaluator has been assigned a personal alphabetic identifier to provide an order in which they are to be selected and to enable the selector to keep a record of the selections made in the table headed **RECORD OF SELECTIONS MADE FOR EACH ROUND.** The selector must keep a record in that table of which Evaluators have undertaken Evaluations and which Evaluators have been ineligible in each selection round. This will ensure that all Evaluators, as far as possible, undertake an Evaluation in each selection round.

Upon the selector receiving an Application for Evaluation the selector will identify the next two Evaluators in line to be selected according to the table headed **RECORD OF SELECTIONS MADE FOR EACH ROUND.** The selector will then use the table headed **LIST OF APPROVED EVALUATORS** to check the eligibility of both of the selected Evaluators based on whether those Evaluators are from the same company and whether they have a conflict of interest.

The aim of this system is to distribute Evaluation Applications evenly and fairly between Approved Evaluators subject only to conflicts of interest and ensuring that any two evaluators that are selected to conduct a particular evaluation are from different companies.

The selector will work their way down the table headed **RECORD OF SELECTIONS MADE FOR EACH ROUND** in the manner specified in this selection procedure until all Evaluators, as far as possible, have undertaken an evaluation. These are called selection rounds.

Where not all Evaluators have been selected in the current selection round, due to their ineligibility to evaluate some Applications, a new selection round can still be commenced starting from the top of the table headed **RECORD OF SELECTIONS MADE FOR EACH ROUND.** In those circumstances, where possible, any Evaluators not selected in the previous rounds should be selected first, if eligible, in the next selection round.

Selection Procedure Steps

Step One

The selector choses the first two Evaluators from the **RECORD OF SELECTIONS MADE FOR EACH ROUND** ensuring they are each from a different company based on the company they nominated as listed in column 2 of the Approved Evaluators List and that they are not conflicted in relation to the current application based on the declared conflicts of interest listed in column four of the Approved Evaluators List.

Step Two

The selector sends a summary of the current application to each of the selected Evaluators for the purpose of obtaining a signed declaration from each of the selected Evaluators that they do not have

a conflict of interest in relation to the current Application for Evaluation. Once the selector receives that Declaration the Evaluators can then be formally retained to evaluate the Application.

Step Three

Subject to the next paragraph for each subsequent Evaluation Application received the selector chooses the next two eligible Evaluators listed in the table headed **RECORD OF SELECTIONS MADE FOR EACH ROUND.**

Any Evaluator who has been ineligible to evaluate any previous application during that round, when it was their turn to be selected, must be selected first for the next Evaluation Application provided they are eligible for selection in relation to that application.

Step Four

Once the next two eligible Evaluators are selected repeat Step Two.

End of Procedure.