

Environment Protection Act 2017

OBLIGATIONS FOR MANAGERS OF LAND OR INFRASTRUCTURE

ORDER IN COUNCIL

The Governor in Council under section 156 of the **Environment Protection Act 2017** makes the following Order for managers of land and infrastructure for the purposes of minimising risks of harm to human health or the environment from pollution or waste. This Order comes into effect on 1 July 2023.

DRAFT

Dated:

Responsible Minister:

**The Hon Ingrid Stitt MLC
Minister for Environment**

Clerk of the Executive Council

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PART 1 – PRELIMINARY

1. Authorising provision

This Order is made under section 156 of the **Environment Protection Act 2017**.

2. Purpose

The purpose of this Order is to minimise risks of harm to human health or the environment from pollution and waste by requiring a council, public sector body or infrastructure manager to:

- (a) take a specified action in relation to land or infrastructure managed, operated or controlled by that council, public sector body or infrastructure manager;
- (b) take into account a specified matter when managing land, managing or operating infrastructure or planning the management of land or infrastructure; and
- (c) comply with a specified document, code, standard or rule, subject to any modification specified in this Order, when managing land, managing or operating infrastructure or planning the management of land or infrastructure.

3. Commencement

This Order comes into operation on 1 July 2023.

4. Definitions

In this Order –

Act means the **Environment Protection Act 2017**;

allotment means a parcel of land shown on a plan of subdivision;

Authority means the Environment Protection Authority;

Catchment Management Authority has the same meaning as in the **Catchment and Land Protection Act 1994**;

council has the same meaning as in the **Local Government Act 1989**;

environment reference standard has the same meaning as in the Act;

Guidelines for planning permit applications in open, potable water supply catchment areas means the Guidelines for planning permit applications in open, potable water supply catchment areas, published by the Department of Sustainability and Environment in 2012 as amended by the Department of Energy, Environment and Climate Action from time to time;

irrigation district has the same meaning as in the **Water Act 1989**;

Land and Water Management Plan Guidelines means the Land and Water Management Plan Guidelines, published by the Department of Energy, Environment and Climate Action in 2023 as amended from time to time;

Melbourne Water Corporation has the same meaning as in the **Water Act 1989**;

municipal district has the same meaning as in the **Local Government Act 1989**;

on-site wastewater management system has the same meaning as in the Environment Protection Regulations 2021;

sewage has the same meaning as in the Environment Protection Regulations 2021;

special water supply catchment area has the same meaning as in the **Catchment and Land Protection Act 1994**;

stormwater means the surface run-off from rain and storm events;

waste management hierarchy means the principle of waste management hierarchy in section 18 of the Act;

wastewater has the same meaning as in the Environment Protection Regulations 2021;

water corporation has the same meaning as in the **Water Act 1989**.

PART 2 – URBAN STORMWATER MANAGEMENT

5. Management of urban stormwater

- (1) Melbourne Water Corporation and councils must ensure so far as reasonably practicable that stormwater infrastructure under their management or control:
 - (a) does not pose a risk of harm to human health or the environment; and
 - (b) is managed and maintained so that it minimises risk of harm to human health and the environment from urban stormwater.
- (2) If stormwater infrastructure can no longer be managed or maintained in accordance with subclause (1) it must be renewed or replaced so far as reasonably practicable.
- (3) For the purposes of this clause, the term ‘stormwater infrastructure’ means an asset designed to manage stormwater quality or reduce stormwater quantity to minimise risks of harm to human health and the environment from urban stormwater.

Examples of stormwater infrastructure

Constructed sediment ponds, constructed wetlands, biofiltration and infiltration systems, bioretention basins, raingardens, rainwater tanks, vegetated swales, passively irrigated street trees, grass swales and permeable pavements.

6. Stormwater management plan

- (1) Councils must develop and publish on its website a plan that:
 - (a) identifies risks of harm to human health and the environment posed by urban stormwater;
 - (b) identifies actions with implementation timeframes to minimise the risks identified in paragraph (1)(a), including but not limited to actions that:
 - (i) minimise the generation and transport of pollutants in urban stormwater; and
 - (ii) minimise the generation, velocity and volume of urban stormwater flows.
- (2) When developing a plan, councils must consult with relevant stakeholders, including the relevant Catchment Management Authorities, relevant water corporations and the community, about the plan and where relevant, costs, timelines and prioritisation of actions proposed for the plan.
- (3) Councils must, at intervals of no more than 5 years:
 - (a) review and update the plan; and
 - (b) publish a report on implementation of the plan on its website.

PART 3 – ON-SITE WASTEWATER MANAGEMENT

7. Councils to develop an on-site wastewater management plan

- (1) A council in a municipal district with on-site wastewater management systems must develop and publish on its website an on-site wastewater management plan that:
 - (a) identifies risks of harm to human health and the environment from unsewered allotments in its municipal district;
 - (b) identifies and assesses the risks of harm to human health and the environment associated with existing and future on-site wastewater management systems in its municipal district, including but not limited to:
 - (i) the cumulative risks of existing on-site wastewater management systems that are discharging, or may in the future discharge, sewage beyond allotment boundaries; and
 - (ii) the risks of on-site wastewater management systems that are impacting, or may in the future impact, on groundwater or surface water;
 - (c) identifies actions with implementation timeframes to:
 - (i) minimise the risks identified in paragraphs 1(a) and (b); and
 - (ii) prevent discharge of wastewater beyond allotment boundaries; and
 - (d) sets out the council's approach to compliance and enforcement.
- (2) When developing an on-site wastewater management plan, councils must consult with relevant stakeholders, including the relevant water corporation, about the plan and where relevant, costs, timelines and prioritisation of actions proposed for the plan.
- (3) When developing, reviewing and updating an on-site wastewater management plan, councils must take into account the *Guidelines for planning permit applications in open, potable water supply catchment areas* where on-site wastewater management systems are in special water supply catchment areas.
- (4) Councils must, at intervals of no more than 5 years:
 - (a) review and update the on-site wastewater management plan; and
 - (b) publish a report on implementation of the on-site wastewater management plan on its website.

8. Sewerage planning

- (1) Where an on-site wastewater management plan developed under clause 7 identifies an action involving a sewage management solution that is not solely an on-site wastewater management system, the council must notify the relevant water corporation in writing as soon as practicable after publishing the plan.
- (2) The water corporation must provide a written response to the council as soon as practicable that includes the following information:
 - (a) the water corporation's preferred solution to sewage management;
 - (b) how the preferred solution will manage sewage in accordance with the waste management hierarchy;
 - (c) the likely cost of the preferred solution, a strategy for funding and a timeline for its implementation; and
 - (d) the required works to implement the preferred solution in relation to other sewerage connection works within the water corporation's sewerage district.

- (3) The water corporation must provide to the council a written report on implementation of the preferred solution within 5 years of providing its response to the council under subclause (2) and every 5 years thereafter.

PART 4 – SALINITY AND IRRIGATION DRAINAGE MANAGEMENT

9. Land and water management plans

- (1) Catchment Management Authorities with irrigation districts must develop and publish on its website a land and water management plan for its geographic area of operation that:
- (a) identifies risks of harm to human health and the environment from pollution or waste arising from irrigation activities; and
 - (b) identifies actions and implementation timeframes to minimise the risks identified in paragraph 1(a).
- (2) When developing a land and water management plan Catchment Management Authorities must:
- (a) take into account the *Land and Water Management Plan Guidelines*; and
 - (b) take into account the environment reference standard.

ENDNOTES

Table of applied, adopted or incorporated matter

Provision	Applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Clause 7	<i>Guidelines for planning permit applications in open, potable water supply catchment areas</i> published by the Department of Sustainability and Environment in 2012 as amended by the Department of Energy, Environment and Climate Action from time to time	The whole
Clause 9	<i>Land and Water Management Plan Guidelines</i> published by the Department of Energy, Environment and Climate Action in 2023 as amended from time to time	The whole