

29 August 2017

Remake of Regulation Submission
Manager Regulatory Reform
DPI Water
Locked Bag 5123
Parramatta NSW 2124

By email and post: water.regulatoryreform@dpi.nsw.gov.au

Dear Regulation Remake team,

Draft Water Management (General) Regulation 2017

EDO NSW is a community legal centre specialising in public interest environmental law. We provide legal advice to a range of clients on water management laws, including farmers, small irrigators, Aboriginal communities and environment groups.

We welcome the opportunity to provide a brief comment on the Draft *Water Management (General) Regulation 2017 (Regulation)*.

There are a number of ways that the Regulation could be strengthened.ⁱ Our law reform work, arising from the legal advice we provide to regional communities, has highlighted the need for some systemic reforms in water regulation. We are currently developing a range of law reform recommendations in this regard. This is ongoing work that we would be happy to discuss with DPI Water.

For the purposes of this submission we focus on four of the proposed amendments.

Regarding **clause 30(1)(b)** in the proposed Regulation (incorrectly referred to as 30(2)(b) in the Fact Sheet for public consultation), the clause should explicitly specify that the two or more new approvals cannot have any additional environmental impact or confer additional rights than that permitted by the original approval.

Regarding **clause 30(2)(b)**, we recommend that the clause should be strengthened to make it clear that any amendment to correct an error or omission in a description in the relevant approval, can only be made if it is consistent with all other legal requirements and does not lead to any additional environmental impact or confer additional rights on the approval holder.

We do not support amendments to streamline requirements for building private pontoons, jetties or moorings on public land (**clauses 32 and 36**) given that riparian zones are sensitive environmental areas.

Regarding Schedule 4, **clause 3(1) and (2)**, we remain concerned that such activities are exempt from licencing requirements and believe that appropriate licencing should be required for all entities taking water for dust suppression purposes. We are further concerned by the insertion of the term “reasonably satisfied” in regards to the assessment of whether activities are likely to significantly affect the environment. This assessment should remain an objective test.

Please contact us if you would like any further information.

Yours sincerely,
EDO NSW



Rachel Walmsley
Policy & Law Reform Director

ⁱ Our law reform submissions on water management are available at: http://www.edonsw.org.au/water_management_policy. Our previous submission on the *Consultation on the Draft Water Management (General) Regulation 2011* is available at: http://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/363/attachments/original/1380683826/110722water_management_regs.pdf?1380683826.