

Department of Primary Industries, Parks, Water & Environment

AGRICULTURE AND WATER DIVISION

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Mr Daniel Steiner
Treasurer
Seymour Community Action Group Inc.

Email: scagi7215@gmail.com

Dear Mr Steiner,

Review of Decision to approve a Division 3 Permit to Undertake Dam Works, Dam Works Permit Number 2021010041 (on-stream dam of 257.4 ML storage capacity at 19595 Tasman Highway, Seymour)

Thank you for your application of 30 July 2021, to review the decision of the Manager, Water Management and Assessment Branch to approve a Division 3 Permit to Undertake Dam Works, Dam Works Permit Number 2021010041 (on-stream dam of 257.4 ML storage capacity at 19595 Tasman Highway, Seymour).

Under section 10 of the Act, the Minister delegated his power to review decisions made under section 273 of the Act, to the General Manager, Agriculture and Water Division.

As the Minister's delegate, I have completed the review of the decision.

Please find the Notice of Determination of the review attached with this letter.

Yours sincerely

Jo Crisp
Acting General Manager
AGRICULTURE AND WATER DIVISION

9 September 2021

Water Management Act 1999

Section 273(2)

NOTICE OF DETERMINATION

Pursuant to section 273 of the *Water Management Act 1999*, I, Jo Crisp, a delegate of the Minister for Primary Industries and Water, hereby give notice of a determination following a request by Mr Daniel Steiner representing the Seymour Community Action Group Inc, dated 30 July 2021, to review the decision by the Manager, Water Management and Assessment Branch, approving a Division 3 Permit to Undertake Dam Works, Dam Works Permit Number 2021010041 (on-stream dam of 257.4 ML storage capacity at 19595 Tasman Highway, Seymour) under section 156 of the *Water Management Act 1999* (WMA).

Determination:

Pursuant to section 273 of the Act, and in my role as delegate of the Minister for Primary Industries and Water, I have made the following determination: that the decision to approve the Division 3 Permit be revoked and a new decision be made to issue a notice for additional information under section 149 of the WMA.

Findings on material questions of fact:

In making my determination I made the following findings of fact:

Delegation

- Under section 10 of the WMA, the Minister delegated his power, under section 156 of the Act, to make a determination of an application for a permit to undertake dam works, to the Manager, Water Management and Assessment Branch.
- The Minister delegated his power, to review decisions under section 273 of the WMA, to the General Manager, Agriculture and Water Division, under section 10 of the WMA.

Reasons given for review

Mr Steiner stated the following reasons for his application for review:

- A site analysis of Acid Sulphate soils should have been required on the basis that Mr Steiner considers that Templestowe lagoon is at risk;
- The Sediment and Erosion Control Plan is inadequate and not to the detail required by the “Guidelines for Developing a Sediment and Erosion Control Plan for Dam Works Sites”; and
- A “Coastal Zone Impact Assessment” should have been included in the application.

Having made a representation in relation to the application for the Division 3 Permit, Mr Steiner is an interested person for the purposes of Part 14 of the Act. Hence, he is eligible to apply for a review or appeal of the decision to approve the Division 3 Permit.

Mr Steiner applied for a review of the decision under section 272 of the Act, within the statutory timeframe.

Consideration of reasons given for review

In considering the validity of the decision, regard was had to the requirements of the *Water Management Act 1999* and the Department's policies and administrative practices.

1. Acid Sulfate Soils

Section 5.4 of the *Dam Works Assessment Decision Framework* sets out requirements for the provision of information in dam works permit applications in relation to Acid Sulfate Soils. Circumstances where no information on acid sulfate soils is required in the application - the dam works footprint is not located:

- (a) on a site shown on LISTmap as Actual Acid Sulfate Soil or Potential Acid Sulfate Soil.
- (b) in an area shown on LISTmap as subject to a low or high probability of Acid Sulfate Soils.
- (c) at a site otherwise known to contain acid sulfate soil.

In all other circumstances, an acid sulfate soil assessment and management plan prepared in accordance with the Tasmanian Acid Sulfate Soils Management Guidelines is required. ListMap shows a low probability of acid sulfate soils being present at the site. An acid sulphate soil assessment should have been required in support of the application.

2. Sediment and Erosion Control Plan

DPIPWE maintains *Guidelines for Developing a Sediment and Erosion Control Plan for Dam Works Sites*. The Guidelines set out the following information under the heading 'What is a Sediment and Erosion Control Plan':

- A Sediment and Erosion Control Plan (SECP) can be developed by overlaying information on a copy of the engineering drawings.
- The SECP should detail the site development and all the systems intended to minimise erosion and trap sediment.
- The SECP should include 19 elements listed in the Guideline.

Not all requirements of the SECP were met.

3. Coastal Zone Impact Assessment

Under section 156(2)(b)(i) of the WMA, a dam works permit may be approved only if the proposed dam works are consistent with any relevant State policy. The *State Coastal Policy 1996* is a relevant State Policy as the proposed dam works are located within the coastal zone. Under the framework, a coastal zone impact assessment is required for proposed dam works located within the coastal zone. A coastal zone impact assessment was not provided with the application for dam works.

Additionally, the management of Acid Sulfate Soils and sediment erosion and control within the coastal zone are important considerations for avoiding or mitigating any potential adverse environmental effects within the coastal zone. As these have not been properly considered in the application (as outlined above), it was not possible for the review to determine that the dam works would be consistent with the *State Coastal Policy 1996*.

Reasons for the Determination:

The review found that the decision to approve the dam works permit was not made following proper application of the Dam Works Assessment Decision Framework and that the Delegate's decision to approve the application under section 156 of the WMA was not based on sufficient evidence.

Right to appeal to the appeal tribunal

In relation to this determination, the person who made an application for the review of the decision has the right to lodge an appeal to the Resource Management and Planning Appeal Tribunal (RMPAT) under section 276(2) within 14 days after the date on which a notice of the decision of the review is served.



Jo Crisp
Acting General Manager
AGRICULTURE AND WATER DIVISION

9 September 2021