



VICTORIAN WATER
INDUSTRY ASSOCIATION INC.



EPA Inquiry Discussion Paper

VICWATER SUBMISSION

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Introduction

Thank you for the opportunity to respond to the EPA Inquiry discussion paper. The EPA is an important partner to the Victorian water industry with a significant role in investment decisions, infrastructure and operational matters. The water industry's relationship with the EPA is also multi-faceted, at times water corporations are regulated entities, co-regulators, and reliant on the EPA to protect the environment that provides cost-effective, fit-for-purpose water to Victorians.

The focus of this submission is: (1) to make recommendations on how the EPA can evolve to be better-placed to respond to emerging challenges and risks to Victoria's environment, and (2) to provide the water industry's perspectives on how each of these facets can be made more efficient and effective. In order to prepare this water industry submission, VicWater held a facilitated workshop on 1 October 2015 attended by approximately 20 officers from water corporations across Victoria.

Water corporations recognise that their specific issues and challenges are not the impetus for this review. However, reforms in the areas set out within the scope of the Inquiry have the potential to fundamentally change the relationship between the EPA and water corporations, providing a regulatory model that delivers better environmental and community health outcomes at lower cost to communities.

Consistent with the recent industry submission to the Victorian Government's SEPP WoV Review, the Victorian water industry believes better environmental and health outcomes can be achieved at lower overall cost to the community by adhering to the following principles:

- ◆ Clear objectives and targets but flexible structures for implementation
- ◆ A risk-based regulatory approach
- ◆ A mandate and resourcing to tackle more pollution at its source
- ◆ Targeting lowest community cost solutions
- ◆ EPA officers empowered and resourced to contribute to flexible, sophisticated solutions
- ◆ Using the planning scheme to proactively manage diffuse pollution
- ◆ Adequate resourcing commensurate with the public's demand for a strong, active environmental regulator
- ◆ Segregation between the policy/strategy setting role, implementing role and the regulatory role
- ◆ A robust evaluation framework including objectives and targets linked to broad-based outcomes

Acknowledging the EPA's achievements and principles for regulating the water industry in the future

The water industry acknowledges the achievements of the EPA in working with water corporations' to reduce impacts on Victoria's environment. The EPA has driven significant infrastructure and operational improvements by water corporations over many years, helping water corporations' achieve their documented low level of impact on Victoria's environment as population has grown and industry has expanded.

Water corporations have benefited from a succession of EPA Chairs and senior managers with a strong understanding of the water industry and a desire to work with the water industry to achieve good environmental and community outcomes. Working collaboratively with the EPA and gaining their endorsement of activities has significantly enhanced the reputation of water corporations with their customers.

The EPA has begun a journey towards more risk-based, flexible regulation of license holders, including the water industry. The earned autonomy pilot program commenced recently, aiming to enable scaled fee reduction, streamlined approvals, amendments to licence conditions that enable innovation, and fewer inspections for water corporations that meet certain requirements. Water corporations wholeheartedly support initiatives such as the earned autonomy pilot program.

Water corporations recognise that this Inquiry is a first step in a process to reform the EPA's structure and powers to prepare it for future challenges. This will likely involve a range of subsequent changes including to the EP Act and subordinate instruments. This submission does not attempt to answer all the questions, rather set out a series of principles with supporting examples and immediate actions that can be undertaken within the existing structures.

Principles for regulating the water industry in the future

In order for the EPA to remain relevant and for Victoria's environment to be appropriately protected, license reform must be a part of an overall shift to risk-based regulation, including tackling unlicensed (or diffuse) pollution. Licensed water corporation facilities are responsible for a diminishing amount of pollution and environmental impact and unlicensed (or diffuse) sources (such as stormwater, runoff from intensive agriculture and onsite waste water systems) are becoming a greater source of risk in many catchments. Consequently, this Inquiry must set in motion a shift by the EPA to a significantly greater emphasis on risk-based regulation – that is to target the source of pollution responsible for the greatest impact (or damage). The water industry has identified a series of principles for regulating the water industry in the future. These principles aim to achieve three things: (1) respond to evolving risks and threats, (2) leverage the EPA's strengths, AND (3) overcome the EPA's weaknesses.

◆ Clear objectives and targets but flexible structures for implementation.

Water corporations' experience with EPA regulation is characterised by a strong emphasis on licensed discharges with limited consideration of the catchment-wide threats and impacts on the receiving waters, how threats are evolving, and the overall most efficient and effective way of improving catchment condition.

Clear objectives and targets are critical to the success of any policy framework. However, they must be linked to broad-based outcomes rather than system outputs (for example catchment/stream condition rather than treatment plant discharges).

A set of broader-based objectives and targets is a critical ingredient to many of the reforms suggested herein. They will allow water corporations (together with the EPA) to have a more sophisticated discussion with communities about their desired environmental outcomes and the efficacy of investments to reduce impacts, as well as allow more innovative approaches to offsetting impacts.

◆ A risk-based regulatory approach

A risk-based regulatory approach would have three critical elements: (1) a compliance and enforcement regime proportionate to the underlying risk of the activity, (2) a regulatory approval process proportionate to the underlying risk of the activity, and (3) an overall management regime that targets the most significant sources of pollution.

The EPA currently applies a 'risk-based' compliance and enforcement regime, whereby high performing license holders (including water corporations) are subject to fewer inspections and less rigorous oversight of facilities. Water corporations support this approach which is to be enhanced under the earned autonomy pilot program. However, water corporations continue to face stringent, costly and time consuming approval processes for relatively benign activities. In one recent case, an EPA approval has been issued after two years of back-and-forth and delays. Such is the risk of the activity (very low) that it is improbable that the EPA will ever conduct a follow up audit, inspection or review of the permit that has been issued.

A regulatory approval process proportionate to the underlying risk of the activity should consider two issues: (1) whether the activity is a significant source of risk and (2) are the customer service and product quality imperatives sufficient to drive the desired behaviour?

In two areas of EPA regulation of water corporations, biosolids and recycled water, it is doubtful that sensible thresholds for these criteria are met. Yet water corporations continue to be burdened with regulatory structures that offer little value to the environment or community.

Biosolids and recycled water are cases where the EPA has filled a historical regulatory deficit with standards, guidelines and approvals. However, over time the value of EPA's contribution has diminished, and the customer service and product quality imperatives have grown, reinforcing desired behaviours. This 'regulatory maturing' process removes the need for ongoing EPA involvement with regard to approvals. However, there may be value in maintaining a risk-based audit, compliance and enforcement function.

A robust pathway is required to enable the EPA to step back from these areas and allow water corporations to self-regulate within a set of guiding principles and objectives.

Alternatively, water corporation wastewater treatment plants continue to be a source of risk and warrant ongoing regulatory oversight by the EPA. However, when treatment plants represent a declining source of risk relative to other unlicensed or diffuse sources, a reduced regulatory burden and a flexible approach (in terms of approvals, as well as compliance and enforcement) is required.

The regulation of drinking water standards in Victoria is an example where the underlying consequence of failure is extremely high, but the regulatory model operated by the Department of Health and Human Services (DHHS) is nonetheless delivered in a risk-based fashion, efficiently, collegiately and in a way that facilitates innovation. The fundamental aspects of the approach are: a mature regulatory structure, clear standards, a regulator focus on audit of outcomes rather than up front approvals and the regulator's response to any incidents is determined by the materiality of any impact.

In its [Guidance for regulators to implement outcomes and risk-based regulation](#) (2014), the NSW Department of Premier and Cabinet uses a concept called the 'contribution story' which is a statement about how regulatory interventions are associated with outcomes (p29):

Each contribution story should include: (1) why the regulator focused on the particular outcome, (2) the measures used to assess the initiative's success, (3) a description of the intervention(s), (4) a description of the intervention's impact on the outcomes, as recorded

by the designated measures, and (5) steps going forward, such as any longer term monitoring or maintenance plan.

From the water industry's perspective, the EPA is chiefly focused on the link between treatment plant discharges and waterway health. Whereby improving waterway health is a function of enforcing the ever-more stringent concept of 'best practice' and demanding continual upgrades to treatment plants to reduce discharge to waterways and mixing zones. The error of this approach is anticipated by the NSW Guidance and could be corrected by using the 'contribution story' model:

The contribution story's focus is therefore not to demonstrate a singular causal link between initiatives and outcomes. Rather, the focus should be to holistically consider evidence to determine the initiative's degree of contribution to the outcome. (p33)

◆ A mandate and resourcing to tackle more pollution at its source

A priority objective for the Inquiry must be to set in motion a shift by the EPA to a significantly stronger emphasis on diffuse sources of pollution. The current regulatory emphasis on licensed facilities (such as wastewater treatment plants) has a historical basis but is insufficiently sophisticated to manage future threats and risks, how threats evolve, and the overall most efficient and effective way to drive environmental and public health improvements.

Implementing a robust model to tackle diffuse sources of pollution will be a long term transition, requiring substantial community and industry engagement. However, it must be set in motion by this Inquiry and subsequent amendments to the EP Act and subordinate instruments.

A stronger regulatory emphasis on diffuse pollution must be applied in addition to maintaining the license regime in some form (albeit ideally a lower-burden model under the earned autonomy program). As such it represents an expansion of the EPA's role rather than a shift in focus. Although this expanded role will likely require increased resourcing, as the share of pollution originating from unlicensed/diffuse sources increases, that is a price we must pay for protecting and improving our environment and human health.

◆ Targeting lowest community cost solutions

Transitioning to a risk-based regulation is a significant part of the water industry's claim that EPA reforms can yield significant cost savings, by avoiding costly upgrades in favour of offsets and removing stringent, costly and time consuming approval processes for relatively benign activities.

Melbourne Water's Dandenong Creek offsets project is an example where an upgrade to an Emergency Relief Structure (at a potential cost of \$120m) was offset by an approximately \$20m investment in range of projects to improve the stormwater entering Dandenong Creek, under a program called *Enhancing Our Dandenong Creek*. The success of this initiative is a credit to those involved. However, it is notable that Melbourne Water made a significant investment in consultants, staff time and internal processes to support the EPA through the approval of the Dandenong Creek offset project – to overcome a regulatory structure that is well suited to approving large, costly infrastructure upgrades, but poorly suited to exploring more experimental options that have potential to save money and deliver an overall better community and environmental outcome.

Under the current regulatory model, only a small number of offsets projects have not been pursued – despite their potential to save money – because most water corporations do not have the size and resources to explore more innovative options in the absence of a supportive regulatory framework.

- ◆ EPA officers empowered and resourced to contribute to flexible, sophisticated solutions

A theme of this submission and the Inquiry more broadly is how to transition the EPA to be best placed to deal with future challenges of a more populous State, constantly evolving risks and threats to the environment, and industries (including water corporations) with highly complex operations. EPA officers will need to be empowered to make decisions involving trade-offs, and to optimise multiple criteria, for example balancing nutrient discharge with greenhouse gas emissions from licensed facilities. The solution must include building an authorising environment within the EPA that empowers officers to contribute to and authorise sophisticated, collaboratively developed, flexible solutions

Such an authorising environment is currently absent. Water corporations report numerous examples where EPA officers that were asked a simple question with an obvious answer do not feel empowered to provide it, or can provide it 'unofficially' on a "don't quote me" basis. Water corporations can also provide examples of engaging with the EPA to develop a strategic response to minor, business-as-usual incidents (such as a strategy of alerting the public regarding minor sewer spills), where the EPA readily participates in developing the strategy for a significant period of time, but is subsequently unable to 'officially' endorse it.

- ◆ Using the planning scheme to proactively manage diffuse pollution

Providing for the EPA to make greater use of the planning scheme to proactively manage pollution ties together many of water industry's priorities for the review: a risk-based approach, targeting diffuse pollution at its source, lowest community cost solutions, and developing flexible, sophisticated solutions. Many challenging sources of pollution that the EPA must begin to prioritise (including from unlicensed industrial activities, onsite wastewater systems, intensive agriculture and stormwater) can be effectively managed through planning approvals, including by enforcing design standards and buffer zones from sensitive environments and water ways.

Residential setbacks from water industry assets such as treatment plants have been notoriously poorly enforced in the past, resulting in costly upgrades and sometimes forcing major assets to be moved – ultimately at community cost. Although the EPA has developed Guidelines on the topic, including 2013's *Recommended Separation Distances for Industrial Residual Air Emissions*, the EPA generally does not lend their weight to proactively and collaboratively developing solutions to unique challenges when they arise, or to defending buffer distances once they are established.

The EPA also lacks the resources and impetus to contribute more effectively to council planning scheme reviews, yet these could be a highly effective tool to prevent certain types of diffuse pollution. Whereas the EPA currently makes general submissions to council planning scheme reviews, a more sophisticated, proactive approach could over time, embed a more cost-effective set of pollution control measures into the planning scheme rather than relying on clean up and remediation.

Despite having a range of planning and referral powers, the EPA's historical regulatory emphasis (other than for EPA licensed facilities) has focused on the post-harm response and clean up. A goal for the Inquiry should be to re-emphasise prevention tools.

- ◆ Adequate resourcing commensurate with the community's demand for a strong, active environmental regulator

The Inquiry Terms of Reference (ToR) place a high priority on establishing EPA's appropriate role in relation to environmental and public health issues. Recent incidents, that served as part of the

impetus for this Inquiry (such as the Hazelwood Mine fire), could be interpreted to suggest that the public sees a broader role for the EPA than that which is currently set out in its governing Act and regulations.

Water corporations anticipate an outcome of this Inquiry will be to affirm the community's demand for a strong environmental regulator and lead to a better resourced EPA with a potentially expanded remit. However, care should be taken not to duplicate regulation in areas that are already under the remit of other agencies, such as the Department of Health and Human Services (DHHS).

The EPA should be enhanced as Victoria's environmental regulator, with responsibility to minimise threats to the present and future condition of the environment, including aesthetic issues such as odour and noise. The DHHS is Victoria's health regulator, with responsibility to minimise threats to the present and future condition of Victorian's health.

The distinction between human health and environmental issues is a blurred one and splitting roles among regulators will necessarily involve drawing an arbitrary division. Nevertheless it is critical to maintain a division. Water corporations support an expansion in resourcing to support a stronger, more active EPA in line with the risk-based model described herein – not to create overlapping regulatory responsibilities as an insurance policy against leaving a gap or to mollify the public response to an individual incident.

Nevertheless, the EPA can do more to report the human health benefits of its regulatory activities, for example by publicly reporting the impact of various activities in terms of disability adjusted life year (DALY) saved. The recent example of the US EPA investigation into Volkswagen for exceeding vehicle emission standards demonstrated the power of using such human health metrics. The US EPA were able to provide data on the approximate number of early deaths that could be attributed to the unlawful Nitrogen Oxide emissions from Volkswagen vehicles over the period that they were in breach of the standard.

◆ Segregation between the policy/strategy setting role, implementing role and the regulatory role

As a crucial partner with a significant role in investment decisions, infrastructure and operational matters, water corporations look to the EPA to provide guidance, input and endorsement of plans. However, water corporations' engaging with the EPA early to perform this role can bring the EPA into internal conflict between the role of 'regulator' and 'facilitator of optimal solutions'. This can result in a reluctance of some officers to provide the sought after guidance and input.

Water corporations are continually building infrastructure and making operational changes in areas that are of interest to the EPA. Time and money is saved by getting the right input as early on as possible and targeting efforts on the greatest source of risk – there is a benefit to pooling the expertise in one spot and for the 'facilitator' to be close to the regulatory function.

Furthermore, there is community demand for the EPA to provide upfront guidance, input and endorsement of plans. Water corporations' experience with community engagement on major infrastructure projects (that have environmental impacts) is that in addition to the water corporation outlining its preferred option, communities want the EPA to validate or provide an independent review for their consideration.

Water corporations do not support structurally separating the EPA or moving some functions in the Environment Department (DELWP) but do support the policy setting function to be performed by DELWP with EPA input.

◆ A robust evaluation framework including objectives and targets linked to broad-based outcomes

Absent from the Inquiry ToR and Discussion Paper is a rigorous assessment of the EPA's impact and achievements since its creation. Although water corporations are anecdotally very satisfied that the EPA has had an overall positive impact on their operations, there is apparently no broad-based data available to evaluate the outcomes that the EPA has achieved, for example to represent the EPA's impact in terms of DALY saved. The lack of data is an ongoing barrier to a truly rigorous review of EPA.

As the Inquiry will potentially consider an expanded role and greater funding for the EPA, it should also prepare for future evaluation of that role and efficacy of the funding, by recommending the establishment of a robust evaluation framework including objectives and targets linked to broad-based outcomes.

In addition to providing a mechanism to assess the EPA's achievements, a proper evaluation framework would reinforce many of the operational changes that are recommended herein: (1) the transition to more flexible regulatory structures that are outcome focused, (2) the creation of an authorising environment within the EPA that empowers officers to develop more sophisticated, collaborative and flexible solutions, (3) allowing the EPA to respond nimbly to emerging risks and threats, and (4) to increase public awareness of the EPA's functions, their role in tackling pollution and underpin closer community engagement on environmental challenges.

The EPA should regularly be able to review and validate its activities and focus, if it is to remain relevant and for Victoria's environment and community health to be protected.

Key functions and roles for the EPA

Function	Role for the EPA	Comment
Policy setting	No	Have input but don't set policy
Setting acceptable level of environmental performance	Yes	Flexibility, risk-based, catchment-level (for water quality), acknowledge trade-offs
Business decisions	No	Set the level of performance, not the means by which they are achieved
Collaboration	Yes	Work with water corporations and other regulators to achieve outcomes
Regulation	Yes	Risk based, consistent, timely, reflect emerging science
Enforcement	Yes	Appealable, consider other regulators, transparent, evidenced-based
A trusted/expert voice	Yes	Science-based

Opportunities

Whereas the earlier part of the submission focused on principles for reforming the EPA, this section will look at specific opportunities or issues, these are: (1) a partnership to improve the environment, (2) clean up and remediation, (3) community engagement, (4) trade waste management, (5) economic regulation of the water industry, (6) response to emergencies, (7) septage, (8) sharing LORA data, (9) EPA's 1300 number, (10) Land Capability Assessments, and (11) climate change.

A partnership to improve the environment

Victorians expect government agencies to work together to protect the environment and implement a whole-of-government environmental policy agenda. Although, water corporations' and EPA officers generally enjoy cordial and productive relationships, the regulatory framework promotes an adversarial approach. It does not accord consideration to the fact that water corporations are government-owned businesses with a statutory responsibility to be good environmental citizens – and the potential to play a much more constructive role. Instead it forces water corporations to operate under a complex, prescriptive and inefficient regulatory and reporting framework that should be reserved for entities that might otherwise attempt to avoid their environmental obligations. In a recent example, the EPA (as a part of a works approval and license) for an innovative new facility forced a water corporation to hold significant funds in a bank account as a guarantee against insolvency (an outlandish notion for a state government owned corporation).

Clean up and remediation

The EPA will need to maintain its role in cleaning up spills and site remediation, despite transitioning towards a greater emphasis on proactive and preventative regulation. Although this role is usually reactive, there are opportunities to be more strategic and risk-based with regard to events that are likely to be repeated and to ensure costs associated with clean up and remediation are equitably apportioned.

As the catchment management authority, Melbourne Water is a protection agency for asbestos in waterways. When asbestos is discovered in a water way, individual events trigger an immediate clean up notice from the EPA. Since there is likely to be a significant amount of as yet undiscovered asbestos in Melbourne's water ways, if a reactive approach continues to be favoured, there is no end in sight for high-cost localised clean ups. Melbourne Water (and a risk-based model) would favour a strategic approach that analyses the risk, determines if a more proactive response is required, and integrates asbestos into other waterway management activities.

Water corporations report an apparent inadequacy of mechanisms to recover costs or clean ups and remediation when the polluting firm has dissolved. In two recent examples, one associated with trade waste from a service station, and one with a fire next to a waterway, the water corporations have been required to absorb the cost of clean ups and remediation works.

Community engagement

An outcome of this inquiry should be a more community-engaged EPA. A lesson from recent events, which is supported by water corporations' experience, is that the EPA is a trusted voice in the community. That

trust should be leveraged to tackle the challenges we face. There are three main benefits to a more actively community engaged EPA:

- ◆ Communities want the EPA to validate or provide an independent review for their consideration. This will be particularly important as the EPA transitions to a greater focus on diffuse sources of pollution and develops more flexible, sophisticated solutions
- ◆ Recognise that the community is responsible for a significant amount of impact
- ◆ To increase public awareness of EPA's functions, their role in tackling pollution and underpin closer community engagement on environmental challenges.

Trade waste

Liquid trade waste management is an area of significant opportunity for water corporations and the EPA to collaboratively tackle a major pollution threat. Although the Inquiry Discussion Paper focused on solid waste, liquid waste is an equally high risk that is less well understood. Water corporations have numerous trade waste agreements with customers who pay a regulated charge for the management of their trade waste. However, a substantial amount of trade waste is illegally dumped in sewer systems or worse still, into the stormwater network.

The EPA's current regulatory emphasis regarding liquid trade waste is to ensure that water corporation wastewater treatment plants remove any industrial waste artefacts rather than discharge them into receiving waters – regardless of the fact that water corporations self-evidently have no control over the liquid trade waste the plant receives (outside trade waste agreements). Not only does this regulatory approach fail to proactively deal with the problem, it preordains expensive wastewater treatment plant upgrades to manage the waste (the cost of which is unfairly spread over all the water corporation's customers) at the expense of solutions closer to the source that may be at a lower community cost.

There are significant opportunities for the EPA to work alongside water corporations to proactively address these challenges through a source management approach, including by using chemical usage registers to determine what chemicals are being used in the catchment and to ensure they are being disposed of appropriately.

Economic regulation

A strength of the EPA's current regulatory approach to the water industry is the clear line of sight between: (1) environmental performance standards, (2) upgrades of the licensed facility to meet the standards, and (3) the economic regulator's (the Essential Services Commission) approval of spending plans. A transition to a more flexible, risk-based regulatory approach (if mishandled) could undermine this clarity and result in an undesirable scenario whereby the economic regulator takes on a de-facto environmental regulator role to vet spending proposals.

In water corporations' view the best way to overcome this challenge is to collaboratively develop and endorse spending proposals within a clear framework of objectives and targets, as described herein, rather than preferentially fund expensive infrastructure upgrades.

It is also worth noting that the Essential Services Commission is currently conducting a review of the water pricing approach. This review, like the EPA Inquiry, has the potential to fundamentally change the water

industry's regulatory landscape in the future. The EPA should be an active participant in this ESC water pricing review.

Response to emergencies

Recent experiences, that served as part of the impetus for this Inquiry (such as the Hazelwood Mine fire), could be interpreted to suggest that the public sees a broader role for the EPA in relation to responding to certain emergencies. The EPA is currently the control agency for certain types of major emergencies under the State Emergency Management Plan – this should remain unchanged.

This inquiry should clarify and limit the EPA's role in minor, localised spills from water corporation facilities. Confusion can result from the EPA showing up infrequently to minor spills and over-riding standard protocols. If the EPA are required to participate in these events, it should be in line with predetermined thresholds of impact. EPA engagement would also be welcome during the development of emergency response plans by the water corporation in consultation with their community. The EPA should not have a role to instruct water corporations to issue media releases following very minor spills. This does not add value and is contrary to a risk-based approach.

Septage

Coliban Water, with support from VicWater has recently drafted an Issues Paper outlining challenges and issues associated with managing septage (the partially treated sludge stored in a septic tank). The EPA oversees a Code of Practice for onsite wastewater management, including standards for many aspects system performance and desludging. However, it is silent on the subsequent management and safe disposal of the septage generated from desludging. This lack of clear guidance on septage handling and disposal creates a risk to public health and the environment from improper disposal to land and unauthorised (and potentially damaging) discharge to wastewater networks as a slug load. There is prima facie evidence that improper septage management (particularly improper disposal that has the potential to contaminate water courses) is a greater risk to the environment than, for example biosolids.

Although the EPA has acknowledged the risks and agreed to commence a process with the water industry to develop a response, it is difficult to see how the EPA will resource an appropriate response given current constraints and in the absence of a pathway to reallocate resources away from lower risk activities, such as biosolids.

Share the LORA data

The EPA has developed the Licensed Operator Risk Assessment (LORA) tool to evaluate licensed premises. LORA results determine the frequency of facility inspections and are used to determine qualification for the EPA's earned autonomy pilot program. Water corporations support the LORA tool whilst noting that it is not a 'risk assessment' per se, rather it is a method of assessing performance against license conditions.

Water corporations currently do not have access to their LORA results, other than at an aggregate level. Providing water corporations with LORA data and scores for individual facilities would have clear benefits, including: (1) water corporations prioritising investment on the lowest-ranking facilities, (2) a transparent path for water corporations to access the benefits of the earned autonomy program, (3) transparent

engagement with communities about prioritising investment, and (4) over-time, working with the EPA to refine the LORA methodology, for example by applying a risk-weighting to a facility's score that reflects the underlying condition of the receiving waters and other sources of pollution in the catchment.

1300 number

Water corporations have expressed frustration with using the EPA's 1300 number. Whereas water corporations have each previously enjoyed a dedicated liaison officer to handle queries and help navigate the EPA's internal processes, these positions were discontinued in 2013. As a result, water corporation officers must spend significantly more time on the phone, often talking to numerous EPA officers, in order to progress relatively simple queries. The removal of dedicated liaison officers is a cost-cutting measure that results in illusory savings.

Land Capability Assessments for onsite wastewater systems

A Land Capability Assessment (LCA) is an important component of an application for an onsite wastewater system, particularly in an open potable water supply catchment. The EPA Code of Practice Onsite Wastewater Management sets out a 12 step process for conducting a LCA and includes requirements for professional qualifications and public liability insurance for the people carrying out LCAs. However, like other aspects of onsite wastewater management, there is little quality control and enforcement of the LCA standards.

As a referral authority for planning applications in potable water supply catchments with a strong interest in preserving the health of potable water supply catchments, water corporations have become the default enforcer of LCA standards – a time consuming and inefficient model. An EPA accreditation system for LCA practitioners would increase quality standards and prevent many dubious applications from reaching the referral stage.

Climate change

The Discussion Paper describes the EPA's former role in relation to climate change and observes that the regulatory instruments remain in place for the EPA to return to that role in the future. However, any changes of that nature will likely be informed by the concurrent review of the *Climate Change Act* and will not transpire in the short term.

Separate to any role in regulating Victoria's overall climate change emissions, there is an immediate need to clarify how the EPA should have regard to the climate change impacts of other regulatory decisions, for example those pertaining to wastewater treatment plants. From water corporations' perspective, the EPA has had little regard to the significant increase in greenhouse gas emissions (and chemical usage) associated with certain upgrades to wastewater treatment plants (for example UV disinfection) that EPA mandates in order to achieve standards for discharge water quality. The EPA needs to develop a framework for managing the trade-offs between greenhouse gas emissions and other objectives, such as water quality and odour.

Conclusion

In order for the EPA to remain relevant and for Victoria's environment to be appropriately protected, this Inquiry must set in motion a shift by the EPA to become a more risk-based, outcomes-focused, flexible

environmental regulator. The Inquiry is a first step in a process to reform the EPA's structure and powers to prepare it for future challenges. This will likely involve a range of subsequent changes including to the EP Act and subordinate instruments. However, opportunities should be sought to begin this transition as soon as practicable, within the existing regulatory framework, starting with three key actions:

- ◆ Audit existing regulatory activities to establish the 'contribution story'. Identify and cease all regulatory approval processes (such as for biosolids and recycled water) that add little discernible value. Accelerate the implementation of the earned autonomy program
- ◆ Develop a robust evaluation framework for the EPA that includes objectives and targets linked to broad-based outcomes
- ◆ The State Environmental Protection Policy (Waters of Victoria) is a critical regulatory instrument for water corporations that currently embodies a one-size-fits-all, prescriptive, inflexible, innovation-stymying and inefficient regulatory approach. The ten-year review that is currently underway is a rare opportunity to overhaul the policy. It should be grasped.