

GOULBURN VALLEY WATER

EPA Inquiry Submission

28 October 2015

Version (Final 1)

Goulburn Valley Region Water Corporation (**GVW**) is a statutory corporation constituted under the *Water Act 1989* (**Water Act**), which is governed by a Board of Directors responsible to the Minister for Environment, Climate Change and Water. GVW was established in 1994 and is one of the largest Victorian Water Corporations. Its operations include:

- 26 wastewater management facilities
- 37 water treatment plants;
- 1,800 km of water mains and 1,300 km of sewer;
- servicing 53 towns extending from the outskirts of Melbourne in the south to the Murray River in the north with a population of approximately 136,000.

GVW is a determining referral authority in respect of planning permit applications within its water and sewerage districts or within any special water catchment.

GVW has the responsibility for the provision of reticulated water supply (both rural supply and town water supply) and sewerage services (sewerage agreement and trade waste).

Regulation of Victoria's Water Corporations has increased substantially over the past decade or more with the introduction of the Water Industry Regulatory Orders (**WIRO**), which set out a series of obligations and functions imposed on Water Corporations by the Minister for Environment, Climate Change and Water.

Water Corporations are constrained in relation to their ability to charge for the services they provide. They are regulated by the Essential Services Commission (**ESC**). More particularly, each five years a water corporation must prepare a "Water Plan" which, once signed off by the ESC, leads to the approval of a Price Determination for each Water Corporation.

The relevant Water Plan sets out the operational requirements and capital works program, which is "paid for" through charges controlled by the Price Determination. Any adjustment in operational or capital works spend that constitutes a significant variation from the approved Water Plan must go back to the ESC for approval. Such approvals are not regularly sought, nor regularly given.

After the approval of the 2013 Price Determinations (to operate until 2018) by the Water Minister in the former State Government, there was a "Fairer Water Bill" initiated, namely a separate program which directed a range of price / charging reductions for Water Corporations to implement in the provision of water and sewerage services. Broadly, a 5-15% cut in price was imposed, that is, below the pricing approved in the Price Determination.

The Andrews State Government has supported the ongoing application of the Fairer Water Bill outcomes.

This context is important in that Water Corporations, both currently and in the future, will find it very difficult to fund operational cost increases or capital works which are either unexpected or because of some external circumstance are greater than originally anticipated.

Importantly, GVW and the Victorian Water Corporations must deliver environmental outcomes and a community benefit with fewer resources. A critical stakeholder is the entity with responsibility for administering the *Environment Protection Act 1970 (EP Act)*, regardless of whether that is the current Environment Protection Authority (**EPA**), a State Government department, a combination of both or some other restructured entity.

It is on this basis that GVW makes this submission with the intention of improving the whole of Government delivery of essential services and environmental outcomes for the community's benefit.

SCOPE OF INQUIRY

The core objective of the 'Inquiry into the Environment Protection Authority' (**Inquiry**) identified in the 'Terms of Reference' (**Terms**) is to protect the health of Victorians.

The Terms identify the risk to health of Victorians arises from pollution of the environment (land, waters and atmosphere) and from industrial waste, specifically asbestos.

GVW comments are provided in response to the Terms having regard to the broad directions to the Inquiry to consider:

- regulatory efficiency; reducing regulatory burden; employment growth; integration of economic, social and environmental considerations
- consultation of the community, industry, workers, local government and state government

- 1) *The EPA's appropriate role in relation to public health issues, including at least: community concerns such as exposure to asbestos, chemicals and other pollutants; the prevention and management of site contamination, air quality, and water quality in rivers and other waterways;*

Issue	GVW Comment
<p>Role in public health – water pollution</p>	<p>Catchment management and land development within potable water catchments, which subsequently impacts on GVW and Victorian Water Corporations, are costs of delivering essential services (water supply).</p> <p>EPA is not a referral authority for planning permit applications within potable water catchments, unless the proposal requires a works approval or licence under the EP Act (clause 66.02-1). Wastewater treatment plants with a maximum daily design flow rate of less than 5000L do not require a works approval or licence.</p> <p>Further, septic tanks require a permit under Part IXB of the EP Act, although the EPA is not a referral authority where this is part of a proposal. Municipal Councils are responsible for granting and administering permits for septic tanks under the EP Act.</p> <p>Municipal Councils with support (expertise and funding) from Water Corporations and Water Authorities (Goulburn Murray Water / Southern Rural Water) are preparing and implementing Domestic Wastewater Management Plans under the State Environment Protection Policy (Waters of Victoria). State Government funding would facilitate Municipal Council preparation and implementation of Domestic Wastewater Management Plans.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>EPA to consider contributing to a whole of government program to address septic tanks which constitute a diffuse point source of surface water and groundwater pollution.</u> • <u>Landfill Levy funding could be made available to Municipal Councils to fund the preparation and implementation of Domestic Wastewater Management Plans.</u> • <u>EPA to consider facilitating wastewater service solutions for small towns transiting from septic tanks to a sewer and collective wastewater management facility or other alternative. This could include an overview and auditing role to ensure DWMP parties undertake agreed actions over the long term.</u>

<p>Role in public health – land pollution</p>	<p>EPA's function in administering the environmental audit system is similar to its powers and functions in relation to statutory approvals to facilitate development in Victoria. This function properly resides within State Government allowing more effective delivery of whole of government outcomes.</p> <p>This function should be separated from the function of enforcement of the EP Act. EPA's implementation and enforcement can be inconsistent in targeting the occupier or the polluter.</p> <p>EPA requirements for remediation of land pollution should allow the land owner/occupier to determine the scheduling and extent of works where there is no risk to adjoining land owners or the community. In 2014 GVW entered an enforceable undertaking under the EP Act in relation to largely historical land contamination of its facilities. EPA's intervention and onerous timeframes caused difficulties for GVW, in circumstances where there was no risk of harm to the community.</p> <p>EPA's targeting of the occupier unfairly imposes a significant burden on the occupier, who may be an innocent party. Recovery of costs incurred in compliance is expensive, may take a long time and may not be successful.</p> <p>Asbestos contamination of soil from renewal or repair of infrastructure with asbestos containing material is a substantive issue for the water industry. Water Corporation's require flexibility to achieve cost proportionate outcomes in managing land contamination (e.g. decommissioning asbestos containing infrastructure on Crown land) where there is very low risk to human health.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>Separation of administration and auditing functions from the enforcement function of the EP Act.</u> • <u>EPA to consider improvement in targeting polluter rather than the occupier and to facilitate cost proportionate outcomes for rehabilitation and ongoing management.</u>
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<p>Role in public health – air pollution</p>	<p>Odour emissions from GVW wastewater management facilities are a significant aspect of GVW operations with a direct impact on the local community. Odour emissions impact on the amenity enjoyed by the community, but do not directly impact on human health.</p> <p>The control and treatment of odour emissions from wastewater management facilities is a function of infrastructure design and operation and the management practices for residual wastes such as biosolids. Capital and operation costs increase significantly with the increased odour control needed. Siting of wastewater management facilities is of critical importance, including preventing encroachment of incompatible land development and use.</p> <p>This is a significant issue for GVW and the Victorian Water Corporations. In the last couple of years the EPA has also identified this as a priority and has been actively participating in and supporting Water Corporation initiatives to protect wastewater management facilities from encroachment.</p> <p>EPA as a part of State Government needs to consider balancing protection of State Government infrastructure from encroachment with sanction focused enforcement against Water Corporations for amenity impacts. Licence condition LI_A1 which requires no odour offensive to the sense of human being beyond the boundary of the premises should be amended to be consistent with the statutory defence at s 30 of the Act, where a licence holder is not liable for breach of licence in relation to an odour offensive to the senses of human beings unless it is detected in a residential area or public open space adjacent to a residential area. A substantive body of expert evidence and Tribunal decisions has accumulated identifying the criteria of 1 odour unit at the boundary of the premises (State Environment Protection Policy (Air Quality Management)) as unrealistic and too conservative.</p> <p>Remedial notices imposing capital works and operational costs also need to be considered in context of the Water Plan and the balance between amenity protection and utility protection.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>EPA to continue its support of Water Corporation’s initiatives to protect wastewater management facilities from encroachment.</u> • <u>EPA to consider amending licence condition LI A1 to be consistent with the statutory defence at section 30 of the EP Act.</u> • <u>EPA / State Government to review the removal or increasing of the criteria of 1 odour unit at the boundary of a premises under the State Environment Protection Policy (Air Quality Management) in line with expert opinion.</u>
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<p>Role in public health – asbestos exposure</p>	<p>GVW and Victorian Water Corporations together with the Department of Human Services provided information to customers in relation to the risk of reticulated water conveyed by pipelines containing asbestos.</p> <p>GVW and Victorian Water Corporations implement measures and practices to manage employee and third party exposure to asbestos containing material.</p> <p>EPA role and function arises when asbestos containing material is a waste or otherwise causes or contributed to pollution (typically land).</p> <p>Landfill levy and cost of disposal for asbestos containing material needs to be reduced to facilitate disposal.</p> <p>EPA's strong enforcement approach to the storage of pipe repair spoil (containing asbestos cement pipe) on GVW land was fundamentally undermined by subsequent representations to the Water Industry Group by EPA that it was considering issuing a PIW Classification prescribing asbestos waste produced by utilities to be industrial waste where managed at the utility providers premises.</p> <p>Decommissioning and abandonment of utility infrastructure (e.g. pipelines) is a substantial cost exposure for Victorian Water Corporations and the State Government. If removal and disposal is required then these costs need to be factored into infrastructure renewal and Water Plans.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>EPA to consider reducing the cost of disposing of ACM to landfill and to facilitate cost proportionate outcomes for rehabilitation and ongoing management.</u> • <u>EPA / State Government to consider amending legislation allowing Water Corporations to manage prescribed industrial waste and industrial waste generated from operations with limited regulation (e.g. pipe repair spoil).</u> • <u>EPA / State Government to consider amending legislation to facilitate the decommissioning and abandonment of utilities (e.g. pipelines) allowing a cost proportionate outcome.</u>
<p>Role in public health – chemical exposure</p>	<p>No comments.</p>

2) **The Victorian community's and industry's expectations of the EPA as its environmental regulator;**

Issue	GVW Comment
<p>Scope of Regulation</p>	<p>The EP Act is confined to the regulation of discharges of waste to atmosphere and prescribed industrial waste management.</p> <p>Subordinate legislation then identifies scheduled premises for works approval and licensing. No general exemption is applied where the design and operation of the schedule premises results in no discharge of waste to the environment.</p> <p>Further, proposed works necessary to satisfy population growth that achieves a reduction or improvement in the waste discharge to the environment requires a works approval or licence amendment. Proven industry technology is not exempt from the necessity for a works approval or licence amendment.</p> <p>The recommendations of the Victorian Competition and Efficiency Commission's (VCEC) report titled '<i>A Sustainable Future for Victoria: Getting Environmental Regulation Right</i>' (July 2009) address these aspects and call for an amendment to the EP Act and subordinate legislation. EPA has sought to address these recommendations by guidance documents, which do not alter the legal requirements and fundamentally fail to implement the VCEC recommendations.</p> <p>The EPA's complex regulatory requirements and explanatory guidelines are not well understood and it is not evident that the EPA has actively educated stakeholders. There is an apparent expectation that stakeholders will inform themselves of EPA requirements and if they fail to do so will face prosecution.</p> <p>EPA's Approval Pathway process can often delay and increase the time to obtain an EPA decision on a proposal.</p> <p>GVW recently commenced construction of a water treatment plant to improve services to the township of Numurkah. The new treatment would provide a higher level of service and public health protection and would not have any environmental discharge. GVW inadvertently commenced construction without seeking an EPA Works Approval and self-reported this oversight to the EPA. Despite having widely consulted with the community prior to project commencement, the EPA response was to commence enforcement against GVW rather than facilitate an improved community outcome.</p> <p>GVW incurred significant delay and costs in the delivery of the Numurkah Water Treatment Plant arising from the necessity for an approval under the EP Act for a plant with no discharge to the environment. These costs will ultimately be borne by customers. The delivery of the project was delayed as a result of the EPA's intervention. Extensive community consultation had already been completed in the planning approval process.</p>

	<p>EPA's intervention focused on enforcement rather than facilitating an environmental outcome for the community's benefit. This was emphasised by the EPA's decision to issue a fine (\$7.5k), which was overturned on review and withdrawn.</p> <p>GVW and all other Victorian Water Corporations need to plan for infrastructure upgrades to accommodate population growth. The approval process under the EP Act can fail to improve the environmental outcome. The approval process can increase costs, replicate community consultation already undertaken by Water Corporations and delay the delivery of infrastructure necessary to deliver essential services to the community.</p> <p>It is not clear if EPA retains genuine expertise or industry experience to assess a proposal for water or wastewater infrastructure. This expertise does reside with the Victorian Water Corporations (wholly owned by the State Government) and industry consultants.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>Consider amending the EP Act to exempt low risk infrastructure upgrades from the approval process. This already exists within the Victorian Planning Provisions for land within a Public Use Zone and generally for works undertaken by or on behalf of a municipality with a cost less than \$1M or a sewage treatment plant and any associated disposal works, required to serve a neighbourhood.</u> • <u>The Ministerial Advisory Committee is urged to consider the VCEC's recommendations and the method to implement those recommendations. This is highlighted by the 'pathways approval' process instigated by the EPA, which has no legislative force and can lead to a delay in the processing of applications. VCEC's recommendations sought implementation by amendment of legislation.</u>
<p>Function of Regulator</p>	<p>A regulator's function should include facilitating proposals through an efficient and competent assessment confined to the aspects of a proposal regulated under the EP Act.</p> <p>This function is separate to enforcement. There is an apparent conflict between EPA's function in determining approvals and enforcement.</p> <p>There are synergies in the regulator's function in facilitating proposals and determining approvals under the EP Act with other functions within State Government departments allowing a whole of government response to be coordinated.</p> <p>The regulator's function in enforcing the EP Act is focused in imposing sanctions.</p>

Planning by State Government owned enterprises (including Water Corporations) and Local Government can be inhibited by sanction focused enforcement and can be inefficient and undermine the delivery of a whole of government solutions.

The enforcement function under the EP Act in relation to State Government, including State Government owned enterprises – Water Corporations and Local Government, may be more effectively achieved through auditing compliance and public reporting (e.g. annual reports). This approach would help facilitate genuine cooperation and sharing of industry expertise across State and Local Government, allowing more efficient delivery of improved environmental and human health outcomes.

Sanction focused enforcement necessarily results in an adversarial approach with guarded and restricted information sharing. EPA's apparent focus on enforcement has resulted in a diminished level of trust and cooperation between Water Corporations and the EPA.

The Department of Human Services' regulation of Water Corporations by auditing is an illustration of a more effective approach.

The annual performance statement provisions under the EP Act are confined to licences and carry the threat of sanction focused enforcement rather than genuine performance reporting for the public's benefit.

Intervention of the regulator under the EP Act should be risk based where there is a real hazard to the environment or human health.

Weakness in the existing regulation and enforcement framework of the EP Act is illustrated by sewer failures caused by blockages from accumulation of fats.

- EP Act provides EPA may issue an abatement notice to an entity discharging waste to sewer where the discharge may cause the receiving Water Corporation to fail to comply with its licence (wastewater management facility)
- To GWV's knowledge no abatement notice has ever been issued in its region and it is not aware of any other notice anywhere in Victoria
- A sewer failure caused by a blockage of accumulate fats will consistently result in the EPA investigating the Water Corporation for pollution of waters or causing or permitting an environmental hazard
- EPA then can pursue sanction focused enforcement against Water Corporations regardless of the competence of the Water Corporation in creating, operating and maintaining the sewer.

GWV is presently subject to the EPA's investigation into a sewer spill in Kilmore earlier this year. EPA's investigation and response provides an example of the above.

	<p>This approach typically results in the Water Corporation incurring significant legal costs and the cooperation of the Water Corporation and the EPA to deliver a whole of government outcome for the community's benefit is eroded.</p> <p>Ultimately, a questionable benefit to environmental outcome or improvement in human health is achieved.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>The enforcement function under the EP Act may be more effectively achieved through auditing compliance and public reporting (e.g. annual reports) for State Government owned enterprises and Local Government both of which are accountable to the community. This approach would help facilitate genuine cooperation and sharing of industry expertise across State and Local Government allowing more efficient delivery of improved environmental and human health outcomes.</u> • <u>Enforcement remains critical to address offenders that seek a commercial advantage and damage competition and community confidence.</u>
<p>Performance of Regulator</p>	<p>EPA's performance includes assessment on the sanctions imposed and the number of remedial notices issued. Performance of any entity implementing the EP Act should only be effectively assessed on the environmental outcomes achieved. State Government (including wholly owned subsidiaries) and Local Government are critical stakeholders in achieving improved environmental outcomes and human health.</p> <p>Sanction focused enforcement against these entities is counterproductive and wastes limited resources. Frozen or highly regulated charges and rates exacerbate this problem.</p> <p>Sanction focused enforcement is appropriate against entities that blatantly contravene the EP Act for financial benefit.</p>

<p>Outcome of Regulation</p>	<p>Regulation and enforcement of the EP Act should be focused on delivering an environmental outcome and a net community benefit. There is already a requirement to administer the EP Act in consideration of the environment protection principles, which includes the ‘principle of integration of economic, social and environmental considerations’.</p> <p>“1B Principle of integration of economic, social and environmental considerations</p> <ol style="list-style-type: none"> (1) Sound environmental practices and procedures should be adopted as a basis for ecologically sustainable development for the benefit of all human beings and the environment. (2) This requires the effective integration of economic, social and environmental considerations in decision making processes with the need to improve community well-being and the benefit of future generations. (3) The measures adopted should be cost-effective and in proportion to the significance of the environmental problems being addressed.” <p>EPA’s regulation and sanction focused enforcement can fail to properly consider this principle and result in a net community detriment.</p> <p>Victorian industry, including Water Corporations, would be assisted by a facilitative interaction with the EPA which seeks to foster innovation based on the above principles in the delivery of essential services.</p> <p>For example, flexibility allowing environmental offsets would achieve a high net community benefit rather than prescriptive licence/approval criteria with a sanction focused enforcement response when exceedances are recorded.</p> <p>GVW is currently in discussions with the EPA regarding the principles and practical application of the environmental offsets approach.</p> <p>To illustrate the applicability of the concepts to immediate GVW issues, information is included in Appendix 1 of this submission.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>Ensure economic, social and environmental considerations are fully embedded and transparent in EPA decision frameworks</u> • <u>Create a business culture in EPA where innovative solutions to environmental issues are expected and transparently assessed using the above decision frameworks.</u>
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3) *The EPA’s appropriate role in protecting the environment;*

Issue	GVW Comment
	Addressed in the balance of this submission.

4) *The ability of the EPA to ensure that the principle of environmental justice is adhered to, the environment is protected for the benefit of the community, and members of the community can be meaningfully involved in, and access fair treatment through, environmental regulation;*

Issue	GVW Comment
Environmental justice	<p>The Terms identify the criteria of adherence to the ‘Principle of Environmental Justice’ (Principle). The Principle is not defined in Australian legislation. In 1993 the United States government established a federal advisory committee; the ‘National Environmental Justice Advisory Committee’ to provide advice and recommendations across government on broad environmental issues. The United States Environment Protection Agency (US EPA) defines the Principle to mean:</p> <p>“Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color (sic), national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work. (US EPA)</p> <p>Internationally, the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters 1998 (Int) (Aarhus Convention) creates duties to pursue environmental justice and create structures for its promotion and protection in recognition of the link between environmental inequalities and poverty. Australia is not a signatory to the Aarhus Convention.</p> <p>Australia is a signatory to the Rio Declaration on Environment and Development 1992 (Int) (Rio Declaration), which establishes principles including:</p> <p>“Principle 10</p> <p>Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”</p>

This principle has been reaffirmed in subsequent conferences and adopted in the implementation plan – Agenda 21.

In Australia there has been limited judicial authority considering the Principle and its application in Australia. In *Tweed Business and Residents Focus Group Inc v Northern Region Joint Regional Planning Panel* [2012] NSWLEC 166 at [11] Biscoe held that “[t]he real test of Rio Principle 10’s significance lies in domestic law rather than international law.”. Justice Biscoe then considered the objects of the *Environmental Planning and Assessment Act 1979 (NSW)* in that context.

Restrictions in the EP Act prevent the achievement of environmental justice in Victoria, being community participation in decision making.

The legislation establishing Sustainability Victoria (**SV**) enacts aspects of the Principle. It should be noted that the statutory functions of SV and the EPA are fundamentally different. In any event, many statutory decisions under the EP Act are not reviewable on the merits (e.g. exemptions and minor works pollution abatement notices).

GVW and the Victorian Water Industry deliver environmental justice via extensive community reporting and consultation addressing delivery of essential services and scheduling capital and operational expenditure through successive Water Plans.

OPPORTUNITY

- **Considering amending the EP Act to:**
 - **allow duty holders to apply to the VCAT (Tribunal) for merits review of all EPA decisions;**
 - **allow community participation in merits review of all EPA decisions**
 - **allow a declaration of any matter of interpretation and application of the EP Act, Policies, EPA Guidelines (referenced in a Policy) or instrument issued under the EP Act such as a licence (see ss 149A and 149B(1)(b) of the *Planning and Environment Act 1987*)**

<p>Protect Environment</p>	<p>Protection of the environment is the responsibility of all levels of government, industry and community. Environment protection needs to be an integral component of decision-making. Innovation and community participation is considered critical in achieving environment protection.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>EPA’s ability to effectively contribute to the Government’s protection of the environment is a function of its funding, personnel, decision-making and programs. There may be an opportunity to consolidate resources and functions to better focus on core business.</u>
<p>Community Participation</p>	<p>The EP Act applies the ‘principle of accountability’ (s 1L(2)), which must be considered in the administration of the EP Act. Section 1L provides:</p> <p>“Principle of accountability</p> <p>(1) The aspirations of the people of Victoria for environmental quality should drive environmental improvement.</p> <p>(2) Members of the public should therefore be given-</p> <p>(a) Access to reliable and relevant information in appropriate forms to facilitate a good understanding of environmental issues;</p> <p>(b) Opportunities to participate in policy and program development;”</p> <p>Part IV establishes the review jurisdiction of the Victorian Civil and Administrative Tribunal (Tribunal) and the jurisdiction of the Tribunal to make a declaration (limited to decisions able to be reviewed – <i>Ileowl Pty Ltd v Environment Protection Authority</i> (Includes Summary) (Red Dot) [2015] VCAT 1105).</p> <p>Community participation in the decision-making process under the Act is limited to applications for works approval, licence amendment or a ‘long-route’ licence (requirement of application to give notice to the public). Community participation is not provided under the EP Act for any other approval or decision made by the Authority, including issuing notices and enforcement.</p> <p>Where the applicant/recipient applies for merits review of the EPA decisions listed in s 32(1) before the Tribunal, the community may apply to be joined to the proceeding on ground of interest (s 60 of the <i>Victorian Civil and Administrative Tribunal Act 1998</i>). Where the community is not aware of the applicant’s/recipient’s initiation of the proceeding the opportunity to apply is missed. Awareness is typically created by local media coverage or direction of the Tribunal. No notification is required by the EPA or the applicant/recipient.</p>

	<p>Restrictions in the EP Act can limit proactive community participation and merits and judicial review of EPA decision making. This is against the principles of environmental justice.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>Consider amendment of the EP Act to enable a provision equivalent to ss 149A and 149B(1)(b) of the Planning and Environment Act 1987 (Vic) allowing the VCAT to intervene with a declaration where appropriate.</u>
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5) *The ability of the EPA's current governance structures and funding arrangements to enable it to effectively and efficiently discharge its powers, perform its duties and implement its required functions;*

Issue	GVW Comment
Resourcing	<p>The EPA requires highly skilled staff to enable true and innovative value add to the environment. The EPA should consider appropriate mechanisms to attract, retain and reward qualified staff, particularly in regional Victoria.</p> <p>It is also apparent that some inconsistency of EPA response and advice can occur between Regional Offices and Head Office.</p>

6) *The scope and adequacy of the EPA's statutory powers, and the effectiveness and efficiency of the suite of tools available to and utilised by the EPA, in enabling protection of the Victorian community and the environment, particularly in light of recent, new and emerging risks and issues; and*

Issue	GVW Comment
Statutory Powers	<p>In addition to that already discussed in this paper, excluding determination of applications for works approval or a long-route licence application, there is no right/opportunity for community participation in the EPA processes.</p> <p>In addition, voluntary community consultation completed by Water Corporations in planning infrastructure upgrades is often duplicated by the works approval or long-route licence process requirements, increasing costs and delaying the delivery of improved infrastructure. The community consultation is a component of preparing each Water Plan.</p> <p><u>OPPORTUNITY</u></p> <ul style="list-style-type: none"> • <u>Avoid duplication and delay where an appropriate planning process has already been completed and involved community notification.</u>

7) ***Any other matter reasonably incidental to these above matters.***

Issue	GVW Comment
Consultation	<p>There would be benefit improving the EPA consultative processes to enable more genuine and substantive consultation in development of guidance and policy. For example:</p> <ul style="list-style-type: none"> - Long EPA delivery of guideline then unfeasible (short) industry consultation period (e.g. Discussion Paper for SEPP WoV, 4 week period to comment) - Inconsistent consultation processes - Lack of detailed response forthcoming to industry contribution
Guidelines & Policy	<p>An apparent limited consultation and reluctance/capacity to regularly amend guidelines results in increased cost to industry, inefficient resource allocation and suboptimal environmental outcomes. A risk weighted approach could be adopted to determine period review needs of EPA guidance.</p>
Trade Waste & Sewage	<p>EPA, Water Corporations and the State Government need to facilitate and support industry development, particularly in regional Victoria where it is critical for employment opportunities.</p> <p>Water Corporations need to remain agile to facilitate servicing new trade waste customers. EPA's intervention with sanction focused enforcement against Water Corporations in relation to the wastewater management facility and licence limits exceedances is counterproductive and results in wasted resources and increased costs, which are ultimately borne by customers.</p> <p>EPA programs addressing industry 'cleaner production' initiatives and standards would benefit regional and community environmental outcomes and tackle pollution where it is usually most economical to manage, at the source.</p>
Land use & development planning	<p>In the last couple of years the EPA has identified a key priority to be the protection of utilities from encroachment of incompatible land development and use. EPA has actively supported Water Corporation and Local Council initiatives to protect utilities, including through the implementation of overlay controls into planning schemes.</p> <p>This is a critical issue for Victorian Water Corporations. GVW and other Water Corporations are actively pursuing planning scheme amendments and other initiatives to achieve this outcome. Continued support from EPA is important.</p> <p>This cooperative approach is an example of the effective delivery of a whole of Government solution. This approach should also be implemented for statutory approvals.</p>

	<p>While the above is a good outcome, there remains examples where partnering has not occurred and would have benefitted environmental outcomes. An example is the VicRoads Kilmore Bypass route being located immediately adjacent to GVW's Kilmore Wastewater Management Facility. In the route assessment phase, GVW requested support from the EPA to support our position and help articulate the odour risk to VicRoads. However, no notable support was forthcoming. The recommended route is located 14m from the facility.</p> <p>Another example where partnering would be of benefit is the planning of 'Regional Resource Recovery Precincts'. The Corporation was pursuing the development of such a precinct on Corporation owned wastewater facility land. However, has largely abandoned the idea of such a precinct due to odour risk implications and uncertainty around obligations.</p>
Certainty of regulation and enforcement	<p>Please refer to the previous comments concerning management of pipe repair spoil and decommissioning of pipe infrastructure.</p> <p>Ultimately the Water Industry requires agile and proactive environmental decision making from its regulator in order to provide industry surety.</p>
Emergency Management	<p>Currently confined to incidents at or arising from facilities licenced by or on which the EPA has issued a remedial notice under the EP Act.</p> <p>The EPA needs to evolve into a willing and trusted partner in times of emergency (e.g. critical asset failure, flood, bushfire etc.). The current enforcement function may restrict ability to do this.</p>
Greenhouse Gas Emissions	<p>Regulation of greenhouse gas emissions will be directed from Federal Government. Any function EPA takes must be coordinated with and be derived from an initiative directed by the Federal Government.</p>
Climate Change	<p>Regulation of climate change initiatives will be directed from Federal Government. Any function EPA takes must be coordinated with and be derived from an initiative directed by the Federal Government.</p>

APPENDIX 1

ENVIRONMENTAL OFFSETS CONCEPT

KILMORE — Environmental Offsets Opportunity

Goulburn Valley Water (GVW) provides sewerage services to Kilmore. The Kilmore Wastewater Management Facility (WMF) consists of a lagoon based treatment system followed by recycling of treated effluent to nearby irrigated land. Kilmore is within the Melbourne growth corridor and is set to more than double in size over the next 20 years.

To cater for this growth GVW included a traditional engineering upgrade of the WMF in its 20 year capital program as part of Water Plan 3. The traditional approach is estimated to cost \$50 million and included expansion of the irrigational system where practical and construction of a tertiary treatment plant to treat excess flows that would need to be discharged to stream.

GVW is now proposing an alternative environmental offsets concept which will deliver superior environmental and community outcomes with an estimated cost of less than \$10 million.

TRADITIONAL AUGMENTATION METHOD

Traditionally, irrigation to land is the preferred method for reuse of treated effluent. Augmentation typically involves expanding winter storages and irrigation area.

In the case of Kilmore, a total of around 2000ML of additional winter storage and 200+ Ha of irrigation area would be required to meet the needs of the growing population. Due to the restricted availability of land, high cost, local climate and unfavourable soil types, traditional augmentation is not a sustainable solution.

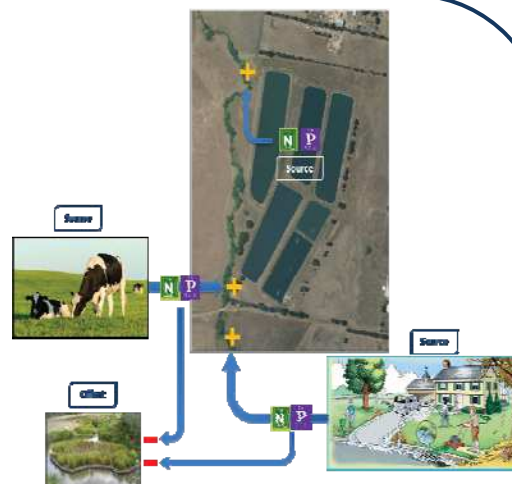


THE PROPOSED ENVIRONMENTAL OFFSETS CONCEPT

The proposed environmental offsets solution will include a combination of riparian zone improvement, stormwater management and low energy treatment improvements.

The low energy treatment improvements will include; aeration, rock filters, chemical nutrient removal and disinfection to improve effluent quality to be suitable for discharge to stream.

The GVW offsets concept considers the impact of this proposal at the catchment level, taking into account all potential sources of contaminant's, as shown in the diagram.



To offset the impact of any additional nutrient and sediment impacts caused by the growth of Kilmore, a “whole of catchment” approach will be adopted to provide an overall net benefit to the environment.

The “offset” projects such as riparian zone improvement and stormwater management, will be delivered through a partnership with the Goulburn Broken CMA. The GBCMA will manage the offset projects and potentially implement them through established relationships with groups such as Land Care and indigenous communities.

This approach will provide long term net benefit to the environment and improved community amenity.



KILMORE — Environmental Offsets Opportunity

SYNERGIES WITH WATER PLAN STRATEGIC DIRECTION

The Environmental Offsets project has direct synergies with the Water Plan Strategic Directions vision of “Improving the health of our waterways and catchments”. The project will implement works with the objective of not only mitigating risks associated with the discharge of treated effluent, but also improving the current condition of the creek system.

The main focus of the works is the identification of strategic opportunities for the improvement of riparian land through fencing, revegetation, and in stream works, reducing nutrient ingress, resulting in a net environmental benefit.

A key question asked within the paper is “what outcomes do we want for our waterways and catchments?” This project provides the Water Industry with both an opportunity to deliver a more cost effective solution to our customers, whilst improving the health of our waterways and improving community values through the implementation of riparian improvement works.



INTERGRATED WATER CYCLE MANAGEMENT

Population growth at Kilmore will result in the need for water resource augmentation. This augmentation will result in the Kilmore water supply being supplemented from the Goulburn River. The proposed treated effluent discharge will be via the Kilmore Creek which is a tributary of the Goulburn River. This proposed solution will effectively result in part, or all of the future water supply for Kilmore being returned to the catchment, demonstrating a true closed loop system.

POTENTIAL COLLABORATIVE OPPORTUNITY

Goulburn Valley Water and the Goulburn Broken Catchment Management Authority are currently entering into a Memorandum of Understanding for the development and implementation of in stream environmental offsets works. These works will primarily revolve around riparian zone improvements. There is an opportunity for DELWP to work closely with GVW and the GBCMA, to showcase the potential for a whole of government innovative and affordable solution, to what is a growing issue for the Victorian Water Industry.

TIMEFRAMES AND ESTIMATE COSTS

GVW has been working closely with the EPA and it is anticipated that a Works Approval for the project will be lodged early in 2016. GVW is currently working towards the commencement of riparian zone improvement works during 2016/17.

At this stage the final cost estimates are being developed, but it is anticipated that the combined cost of the riparian zone improvement works and onsite treatment plant works will be less than \$10 million. Representing an 80% reduction in cost to achieve superior environmental and community outcomes.

