

Water (General) Amendment Regulations 2025

CONSULTATION PAPER



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Photo title: Field officer inspects urban water meters in Mildura

Photo description: A field officer for Lower Murray Water inspects urban meters on residential properties in Mildura in Northern Victoria

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We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

DEECA is committed to genuinely partnering with Victorian Traditional Owners and Victoria's Aboriginal community to progress their aspirations.



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Glossary

The proposed Regulations	proposed Water (General) Amendment Regulations 2025
The current Regulations	Water (General) Regulations 2021 Water (Estimation, Supply and Sewerage) Regulations 2014 Water (Trade Waste) Regulations 2014
The Water Act	<i>Water Act 1989</i>
The department	Department of Energy, Environment and Climate Action
The Minister	Minister for Water
BPD	Backflow prevention device
EPA	Environment Protection Authority
ESC	Essential Services Commission
EWOV	Energy and Water Ombudsman Victoria
GED	General environmental duty under the <i>Environment Protection Act 2017</i>
LSL Act	<i>Long Service Leave Act 2018</i>
MCA	Multi-criteria analysis
RIS	Regulatory Impact Statement
SLA	<i>Subordinate Legislation Act 1994</i>
WIRO	Water Industry Regulatory Order

Executive Summary

Overview

Victoria needs fit for purpose regulations to ensure the state has safe, sustainable and productive water resources. The Water (General) Amendment Regulations 2025 bring together different sets of existing regulations to provide updated and improved provisions under the *Water Act 1989*.

The government is proposing to make regulations that will remake the following two sets of regulations and incorporate the remade provisions into the current Water (General) Regulations 2021:

- the Water (Estimation, Supply and Sewerage) Regulations 2014 (which sunset on 22 June 2025)
- the Water (Trade Waste) Regulations 2014 (which sunset on 22 June 2025).

The proposed Regulations would continue the current arrangements, which:

- place an obligation on property occupiers to notify water corporations if they become aware of loss or damage to water meters, and an obligation on property owners to have backflow prevention devices installed when requested by the water corporation
- place an obligation on plumbers to take reasonable steps to ensure water meters are not lost, damaged, or destroyed, to submit sanitary drainage plans to water corporations, and to submit backflow prevention device test results to water corporations
- clarify the responsibility on property owners to maintain and keep in good working order all parts of the private water supply works, all pipes and fittings of a private fire service, and all sanitary works
- clarify the types of waste that require agreement of water corporations in order to be disposed of as trade waste into the sewerage system
- ensure that water corporations can act to disconnect trade waste connections under certain circumstances.

Other elements of the remade Regulations deal with water corporations themselves (i.e., procedure for testing meters, maintenance obligations, and methods for estimating water use).

In remaking these Regulations, the remade Regulations would include a number of changes, including:

regulating the use of private data loggers or other equipment that may interfere with the proper function of water meters

- clarifying that disconnecting a trade waste connection can include a direction to disconnect, and that disconnection includes cease or suspend
- clarifying that a situation where a water corporation may disconnect a trade waste connection is where the connection would result in the water corporation not complying with the General Environmental Duty on the water corporation under section 25 of the *Environment Protection Act 2017*
- making some other minor drafting changes, such as including a definition of water meter to reflect current practice, update the estimation methodology to reference a new section of the *Water Act 1989*, and update the reference to licences held under the Environment Protection Act to reflect the new Act that commenced in 2017.

In addition to the above, the proposed Regulations would also amend the current provisions relating to the long service leave entitlements of employees of water corporations. The changes would ensure that periods of absence due to a person taking parental leave, or other types of unpaid leave up to 52 weeks, count towards the period of service when calculating long service leave entitlements. This would bring the treatment of parental leave and unpaid leave for water corporation employees in line with the equivalent treatment in the *Long Service Leave Act 2018*.

Problem and objectives

The specific problems to be addressed and objectives of the proposed Regulations are:

	Problem to be addressed	Objective to be achieved
Water meters	Water meters not working properly	Ensure that water meters function as intended, and that any non-functioning meter is repaired/replaced in a timely manner
Backflow prevention devices	Risk of backflow events occurring with no ability for water corporations to prevent the risk by requiring backflow prevention devices	Reduce the incidence of backflow events
Sanitary drains	Plumbers not providing plans to water corporations	Ensure that water corporations are informed in a timely manner of all new and altered sanitary drainage
Maintenance obligations	Lack of clarity and consistency about obligations to maintain water pipes leads to leaks and damage not fixed in a timely or efficient manner	Ensure that obligations are clear, and damage is addressed in a timely way
Data loggers	Data loggers or other private devices may interfere with the proper operation of water meters	To ensure that private devices attached to or near water meters do not interfere with the operation or reading of those meters
Trade Waste	Potential risk of compliance due to lack of clarity about what constitutes trade waste (and when a trade waste agreement is needed), and to provide certainty and consistency in trade waste and use of agreements	Improve compliance with the prohibition of discharge under the Act by ensuring that all discharge into the sewerage system that is not sewage is (a) appropriate to be accepted and (b) covered by a trade waste agreement; and prevent damage to sewerage systems and

	Problem to be addressed	Objective to be achieved
		the environment by facilitating ability to quickly and unilaterally disconnect trade waste connections
Long service leave	Treatment of parental leave and other unpaid leave when calculating long service leave is not in line with community standard	Parental leave and unpaid leave treated the same as under the Long Service Leave Act

Options considered

In developing the proposed Regulations, the department considered the following options:

Option 1: remake the current Regulations (with only minor drafting updates)

Option 2: remake with current Regulations with changes to expand the scope of the Regulations to provide a new mechanism for regulating the use of private data loggers and other equipment attached to water meters, and provide further clarification on the operation of the trade waste provisions

Option 3: not remake any Regulations, instead allow individual water corporations to make bylaws addressing these matters.

The department determined that Option 2 was the preferred option.

Non-regulatory approaches (e.g., improved information or education, voluntary codes, better enforcement of other existing legislation, developing market-based mechanisms) are not feasible options to achieve the objectives.

Implementation

It is necessary to make the proposed Regulations before 22 June 2025, when the current Regulations sunset.

The amendments related to long service leave will have effect for parental leave and other unpaid leave taken from 1 July 2025 onwards.

Next Steps

The department is in the process of finalising the drafting of the new Regulations. This consultation paper is designed to invite the views of stakeholders to inform the development of the Regulations.

Following consultation, the department will brief the Minister to make a final decision on what changes to include in the new Regulations before they are made by the Governor in Council. Notice of the making of the Regulations will be published in the Victorian Government Gazette, with the changes communicated to industry and other stakeholders (as appropriate).

Consultation

The department engaged with all (18) water corporations, industry associations and relevant Victorian Government departments and agencies to develop the new Regulations.

This includes the Environment Protection Authority Victoria, Industrial Relations Victoria, Wage Inspectorate Victoria, Energy and Water Ombudsman Victoria and the Department of Justice and Community Safety.

Other interested stakeholders are now invited to provide feedback on the proposed Regulations via the Engage Victoria website.

The department will review and consider all comments and feedback to inform the implementation of the proposed regulations as well as future planning for regulatory reform.

List of questions for consultation

Stakeholders are invited to comment on the proposed regulations in the consultation paper. The following questions provide a guide to the topics covered.

Water meters:

1. Do you have any views about maintaining the requirement for a property occupier to notify a water corporation of damaged or lost water meters within two business days?
2. Are the current obligations on plumbers to take reasonable steps to avoid damage or loss of water meters in their custody in line with usual professional conduct?
3. Are the proposed estimation methods reasonable and clearly stated?
4. Are there any further changes to the regulations related to water meters that should be considered?

Backflow prevention devices:

5. Do you have any views about water corporations being able to direct a property owner to install a backflow prevention device, based on an assessment of backflow risk?
6. Are the expected costs of these requirements justified by the likely avoided costs and risks to human health associated with backflow events?
7. Are there any changes to the regulations related to backflow prevention devices that should be considered?

Sanitary drainage:

8. Do you have any views about the current requirement that plumbers should submit sanitary drainage plans for all new and changed sanitary drainage work within five business days?
9. How could this requirement be improved to make implementation easier for plumbers while ensuring water corporations have complete and accurate information about sanitary works?

General obligations to maintain water supply and sanitary works:

10. Is the current allocation of responsibilities in relation to maintaining property water service pipes and sanitary works (see Chapter 6) fair and reasonable? It is appropriate that the current arrangements continue under the new Regulations?

Data loggers:

11. Do you support new regulations aimed at ensuring that the use of private data loggers or other equipment does not interfere with the operation of water meters?
12. Are there better ways that private data loggers could be regulated to ensure their use doesn't interfere with water meters?

Trade waste:

13. Do you agree that prescribing an explicit list of trade waste categories is helpful to ensuring compliance with the Water Act?
14. Do you agree that it is important for trade waste categories to be consistent across all water corporations (as in the proposed Regulations), or is it better to allow each water corporation to determine its own categories of trade waste that can be accepted?
15. Are the proposed categories of trade waste clearly expressed and understood?
16. Is it preferable to include powers of disconnection for trade waste discharge in the proposed Regulations, or should this be left to conditions in individual trade waste agreements with each customer?

Long service leave:

17. Do you think it's appropriate to make the proposed amendments to the long service leave entitlements for employees of water corporations that rely on the current Regulations?

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1 Purpose of this Consultation Paper

1.1 The department is proposing new Regulations

The government is proposing to make new Regulations that will:

- remake the Water (Estimation, Supply and Sewerage) Regulations 2014 (which sunset on 22 June 2025¹), and incorporate the remade provisions into the Water (General) Regulations 2021
- remake the Water (Trade Waste) Regulations 2014 (which sunset on 22 June 2025²), and incorporate the remade provisions into the Water (General) Regulations 2021
- amend Part 5 of the Water (General) Regulations 2021 to make changes to the long service leave arrangements for employees of water corporations.

Before making regulations, the *Subordinate Legislation Act 1994* (SLA) requires the preparation of a Regulatory Impact Statement (RIS).³ However a RIS is not required where the proposed Regulations would not impose a significant economic or social burden on a sector of the public. Based on preliminary analysis of the impacts of the new Regulations, the department believes the proposed Regulations would not impose such a burden.

However, the department has decided to seek feedback from interested parties to inform the development of the proposed Regulations. Stakeholders may wish to comment on the proposals outlined in this paper (including any unintended consequences), how the design of the Regulations could be improved, or whether there are better ways of achieving the same objectives.

This consultation paper is designed to assist interested persons to understand the rationale and objectives of the proposed Regulations, and focuses on regulatory impacts (economic costs and benefits).

1.2 The Government's approach to regulation

The Victorian Government is committed to delivering better regulation. Better regulation is:

- *effective* in protecting the community from harm and *efficient* in terms of limiting burden on businesses and the community
- *clear* to stakeholders, *consistent* with other regulatory obligations
- *proportionate* to the scale of the problem and *flexible* to changes in technology and society.⁴

The following summary of the principles for regulation in Victoria is taken from the Victorian Guide to Regulation.⁵

¹ See Subordinate Legislation (Water (Estimation, Supply and Sewerage) Regulations 2014) Extension Regulations 2024.

² See Subordinate Legislation (Water (Trade Waste) Regulations 2014) Extension Regulations 2024.

³ SLA s. 7.

⁴ Victorian Guide to Regulation (2024)

⁵ 2024, page i.

Principles for regulation in Victoria

The Government is committed to the following best practice regulatory principles to guide the design, implementation and review of all regulatory proposals and changes to existing regulations in Victoria.

The Government requires regulation to be:

- effective in addressing the underlying causes of harm
- cost effective
- proportionate to the harm or risk to the community
- flexible to accommodate changes in technology, markets, risks and community views
- consistent with the Government's priorities to enhance Victoria's liveability and inclusive economic growth
- consistent and streamlined across government to avoid unnecessary overlap and duplication
- clear and easily understood by businesses and the community
- appropriately administered and implemented
- regularly reviewed to understand changes in harms.

The Government has committed to reduce the regulatory burden for Victorian businesses by \$500 million by 2030. This includes reducing regulatory duplication, speeding up and digitising application processes, removing unnecessary permits, and updating regulations to be smarter and simpler—all of which saves businesses time and money.⁶ By removing unnecessary red tape and simplifying government processes, the Government will enable businesses to focus on what they do best: creating jobs, fostering innovation, and driving economic growth.

1.3 Outline of this consultation paper

Chapter 2 (page 13) provides background on the water sector in Victoria and specific legislative mechanisms relevant to the proposed Regulations.

Chapter 3 (page 17) discusses the proposed Regulations related to water meters.

Chapter 4 (page 20) discusses the proposed Regulations related to backflow prevention devices.

Chapter 5 (page 22) discusses the proposed Regulations related to sanitary drainage.

Chapter 6 (page 24) discusses the proposed Regulations related to maintenance obligations of property owners and water corporations in relation to water supply pipes and sanitary works.

Chapter 7 (page 28) discusses the proposed Regulations related to private data loggers and other devices attached to water meters.

Chapter 8 (page 30) discusses the proposed Regulations related to trade waste.

Chapter 9 (page 6) discusses the proposed Regulations related to long service leave entitlements for employees of water corporations.

⁶ *Victoria: Open for Business*, Economic Growth Statement, December 2024.

2 Background

2.1 Water in Victoria

Water has many uses in Victoria.

Water is supplied to its various uses from the sources of water available in Victoria, such as catchments/storage, recycled water, and desalinated water.

In urban areas, around 630,000 ML of water is supplied each year to around 2.8 million residential customers (around 400,000 ML) and approximately 250,000 non-residential customers (around 225,000 ML).⁷ Over 1 TL is supplied to rural systems, mainly for irrigation.⁸

Waterborne waste, such as that flushed down the toilet or drainage from bathroom, laundry and kitchen sinks, is discharged from residential and commercial properties via the sewerage system. The sewerage system is a network of underground pipes that are used to transfer liquid waste to treatment plants throughout Victoria.

Treatment plants remove solids, organic matter, nutrients and disease-causing organisms, leaving treated wastewater that is suitable and safe for recycling or release back into the environment. There are two main treatment plants in the metropolitan area, operated by water and sewerage services wholesaler Melbourne Water. There are also a number of smaller treatment plants across regional areas.

Treated wastewater can be recycled for a wide range of non-drinking uses. Once treated, the recycled water is suitable for uses including for:

- agriculture for irrigating crops and for stock drinking water
- irrigating sports fields and open spaces such as golf courses and parks
- residential and commercial uses or industrial processes
- supporting biodiversity (for example, through wetlands)
- wastewater treatment processes.

Of the 573,968 ML of wastewater produced in 2022-23, 72,791 ML (or 13 per cent) was recycled.

Treated water that is not recycled is discharged onto outflows including land, oceans and inland waters. Importantly, discharged water must meet Environment Protection Authority (EPA) standards.

Commercial activities usually involve the use of a range of chemicals, in large quantities and of high concentration, and this makes treatment more difficult. In order to treat such waste, treatment plants' management need to understand the types of waste that will be entering the treatment plant and when the plant will receive that waste. Smaller treatment plants are more limited in the range of chemicals and substances they can treat and therefore must restrict the substances that can be disposed of into the sewerage system in those relevant areas.

2.2 Legislative framework

The *Water Act 1989* (the Act) is the primary legislation governing water in Victoria. It provides the legal framework for water management and use across the state, which includes:

- protecting public and private rights to water

⁷ Water volumes from Victorian Water Accounts, 2022-23. Customer data from Essential Services Commission Water Performance Report 2022-23.

⁸ 1 teralitre (TL) = 1 million megalitres (MG).

- providing for the integrated management of all elements of the water cycle
- regulating the sustainable use of water resources
- fostering responsible and efficient water services
- providing for the protection of catchment conditions.

Victoria's state-owned water sector is made up of water corporations. The Water Act sets out the core functions of water corporations. The Act establishes Victoria's 18 water corporations that provide a range of essential services including the provision of water supply and sewerage services.⁹

Table 1: Water corporations in Victoria

Type of water corporation	Retailer of water supply and sewerage services	Wholesaler of water supply and sewerage treatment
Urban (Metropolitan)	Greater Western Water South East Water Yarra Valley Water	Melbourne Water
Urban (regional)	Barwon Water Central Highlands Water Coliban Water East Gippsland Water Gippsland Water Goulburn Valley Water North East Water South Gippsland Water Wannon Water Westernport Water	
Hybrid regional urban and rural	Grampians Wimmera Mallee Water Lower Murray Water	
Rural¹⁰	Goulbourn-Murray Water Southern Rural Water	

The *Water Industry Act 1994* provides the framework for the economic regulation of the water sector. It establishes the Essential Services Commission (ESC) as the independent economic regulator of pricing and service standards for Victoria's water sector, including water supply and sewerage services. The Water Industry Regulatory Order 2014 (WIRO) is an order made under the Water Industry Act, which sets out the regulatory approach that the Essential Services Commission is required to adopt in assessing the prices, revenues and service standards proposed by the water corporations. In addition to assessing and approving prices for water and sewerage services, the ESC develops water codes and guidelines that specify service standards for water corporations, monitors the performance of water corporations through sector performance reports, and conducts inquiries, studies and reviews on the water industry.

Under section 41 of the Water Industry Act, the Minister for Water may make and issue statements of obligations to water corporations. These statements specify the obligations of

⁹ Water Act, s. 85.

¹⁰ Rural water corporations provide rural water services, including water supply, drainage, and salinity mitigation services for irrigation and domestic and stock purposes. This does not include sewerage or treatment services.

Victoria's water corporations in relation to the performance of their functions and the exercise of their powers.¹¹

Under the *Safe Drinking Water Act 2003*, water corporations are required to prepare risk management plans for the supply of safe drinking water. The Safe Drinking Water Act makes water corporations responsible for the implementation, compliance and monitoring of these plans.

Water corporations must hold operating licences under the *Environment Protection Act 2017* for the reprocessing, treatment, storage, containment, disposal or handling of waste; and water corporations must comply with conditions under these licences when accepting trade waste into the sewerage system.¹²

As entities that engage in activities that may give rise to risks of harm to human health or the environment from pollution or waste (for example by reprocessing, treatment, storage, containment, disposal or handling of waste), water corporations also have a general environmental duty under section 25 of the Environment Protection Act to minimise those risks, so far as reasonably practicable.

2.3 Water supply and sewerage systems

Properties are connected to the water main by water supply pipes that connect the serviced property to the water main called property service pipes.

Some properties may also have a private fire service, which is a separate service designed to supply water to the property for the principal purpose of combating an outbreak of fire on the property (whether or not that part of the works is also connected to another outlet used for purposes other than combating an outbreak of fire).

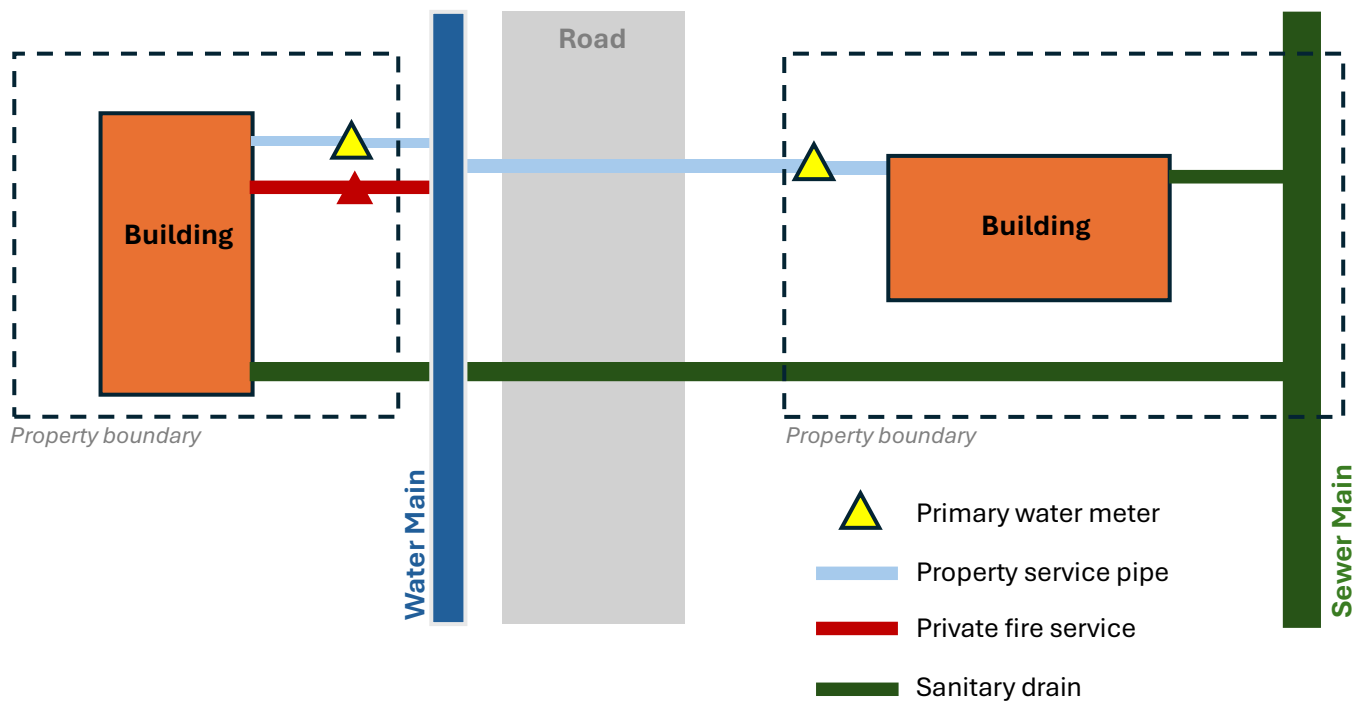
Sanitary drainage refers to all pipes and fittings conveying or intended to convey sewage or trade waste from a building or structure on a serviced property to the sewer main. Most sanitary drains are gravity sewer systems— a system that conveys sewage via sloping pipelines to allow the sewage to flow naturally downhill, away from the serviced property to a nominated discharge point or sewer main. A small (but increasing) number of properties use a pressure sewer system—a system that conveys sewage under pressure by pumping units contained on a serviced property, and including tanks, pumps, control boxes, and electrical and hydraulic components as part of the system.

The following diagram shows the basic water assets that allow water corporations to supply water to serviced properties and to receive wastewater.

¹¹ The purpose of the Statement of Obligations is to specify the obligations of a water corporation in relation to the performance of its functions and the exercise of its powers. It provides a means for the Victorian Government to give force to government policy in a publicly transparent way and to ensure that actions taken by the water corporation are included in the price review process.

¹² An EPA licence is required for all sewage treatment plants that treat more than 5,000 litres per day. Licences have standard conditions that aim to control the operation of the premise so there is no adverse effect on the environment. Conditions may also address waste acceptance and treatment, air and water discharges, and noise and odour.

Figure 1: Water supply and wastewater assets



3 Water meters

3.1 Context

Water meters are devices used to measure the volume of water flowing through a particular point. They are used by water corporations to measure the amount of water supplied to a premises¹³, water taken or used from a particular source, or (in some case) can be used to measure waste discharged into the sewerage system.¹⁴ Water meters can be analogue or digital and may include mechanisms to allow the meter to be read remotely.

A meter provided or installed by a water corporation remains the property of that water corporation.¹⁵

Water meters may sometimes become damaged (or removed). For example, a water meter may be run over by cars and lawn mowers or be tampered with. While the Water Act allows water corporations to estimate water used in situations where a water meter is not functioning accurately, has been interfered with or where there is no water meter in place,¹⁶ it is preferable for any damaged or removed meter to be fixed or replaced as soon as practicable to ensure accurate measure of water.

There is no requirement under the Water Act for an occupier of land to notify the water corporation of a removed or damaged water meter.

The installation or replacement of water meters is often done by third-party plumbers at the direction of a water corporation. From time to time, these water meters might be lost while in the possession of the plumber. Plumbers and property owners may not be taking appropriate care of water meters, leading to costs associated with replacing damaged meters.

In certain situations, water corporations cannot use water meters to determine the amount of water used by a property occupier. This may be because there is no water meter installed (including where water take is not authorised), or where the water corporation believes the meter is not functioning accurately. To ensure an estimate can be made of the water used or taken by a water user in such situations, the Water Act allows a water corporation to estimate the amount of water supplied or taken by having regard to the amount of water supplied to or taken in any previous or subsequent period or periods, or similar land during the same period.¹⁷ While this ability is generally sufficient in most situations, water corporations advise that the method commonly used for estimating water use, to provide a more accurate estimate, is to give consideration to the property or irrigation area, the flow rate and the duration of supply, or (where practical) applying a correction factor if the water meter is found to have a consistent error of registration. These methods are generally within the scope of power given to water corporations to estimate water use under the Act, however, water corporations advise that formalising this method in regulations provides more clarity and avoids disputes with property occupiers about the estimated water use.

3.2 The current Regulations

The current arrangements in relation to water meters are set out in regulations 5 to 10 of the [Water \(Estimation, Supply and Sewerage\) Regulations 2014](#).

¹³ See Water Act s. 142(1). Private fire services, or if water is supplied or delivered for more than one type of service, meters may be installed to measure the amount of water supplied or delivered for each service (s. 142(1B)(c)).

¹⁴ See Water Act s. 177.

¹⁵ Water Act s. 142(3).

¹⁶ Water Act s. 142A.

¹⁷ Water Act s. 142A(2).

The current Regulations require property occupiers to notify water corporations of damaged or removed water meters within two business days, and for plumbers to take reasonable care of water meters in their custody.

Under the current Regulations, there are around 1,300 notifications made each year to water corporations of damaged or lost meters.¹⁸ The actual incremental cost is likely to be even smaller, as many occupiers would inform their water corporation of a damaged water meter in the absence of any regulatory requirement to do so.

In the absence of the Regulations, there would be a high number of damaged meters that water corporations would not be informed about. Voluntary notification would be expected for many damaged meters, particularly where a property occupier is concerned that a damaged meter is leading to water loss.

Plumbers are required to take reasonable steps to avoid damage and loss of water meters in their custody and when removing meters. Plumbers already have obligations of professional conduct as part of their licence or registration, and as the water meter remains the property of the water corporation, there would be general common law duties on plumbers to prevent damage or loss of meters. The Regulations only require the taking of reasonable steps, which would in most cases align with business-as-usual conduct. Therefore, for plumbers who comply with these requirements, there is not expected to be any additional burden.

By including the requirement in the Regulations, it better supports compliance with this requirement, as it allows the imposition of a penalty for non-compliance. In the past ten years, no penalties have been imposed for this offence, suggesting it is working as intended.

The provisions related to estimation methods do not impose a cost burden. The Act already gives a power to water corporations to estimate water usage in certain situations, and outlines a method for doing so. The current Regulations formalise a particular methodology for the purposes of clarity and consistency, which reflects current practice. The estimation methods do not impose a burden on customers or water users, although the choice of estimation method may affect the accuracy of the estimates. However, less accurate estimates, or where the estimation methodology is not formalised, may result in increased disputes about the estimated volume.

Water corporations advise that the current Regulations related to water meters are working effectively and should continue.

3.3 The proposed Regulations

The new Regulations proposed to be made would continue the current arrangements by:

- requiring property occupiers to notify water corporations within two business days of any damage or loss of water meter
- requiring a plumber in custody of a water meter or when removing a water meter to take reasonable steps to ensure the water meter is not damaged or lost or stolen
- providing for the testing of water meters and methods of estimating water consumption.

These would be exactly the same as the current Regulations, except for minor updates to reflect changes since the Regulations were made in 2014:

¹⁸ The regulatory burden imposed is the cost of time to property occupiers to report the meter. With around 1,300 notifications per year, each notification takes around 5 minutes on average, and the value of a person's (non-working) time is taken at \$37 per hour (Office of Impact Assessment Guidance Note "Regulatory Burden Measurement Framework" February 2024). The amounts to around \$4,000 per year in total.

- The method for estimating water consumptions would reference a new section of the Water Act, reflecting amendments made to the Act in 2019.
- Some other minor drafting changes would also be included as part of this option, such as including a definition of water meter to reflect current practice.¹⁹

There are around 1,300 notifications provided each year from occupiers. The benefits of the regulation include prevented water loss from unreported damaged meters, and additional work to estimate water usage where a water meter no longer functions properly.

Overall, the estimation provisions in the Regulations are likely to improve efficiency and reduce costs.

Consultation questions:

1. Do you have any views about maintaining the requirement for a property occupier to notify a water corporation of damaged or lost water meters within two business days?
2. Are the current obligations on plumbers to take reasonable steps to avoid damage or loss of water meters in their custody in line with usual professional conduct?
3. Are the proposed estimation methods reasonable and clearly stated?
4. Are there any further changes to the regulations related to water meters that should be considered?

¹⁹ Water corporations suggested that drafting improvements could be made by including a definition of ‘water meter’ in the regulations, to clarify that the scope of the regulations includes digital meters and remotely-read meters.

4 Backflow prevention devices

4.1 The need for backflow prevention devices

Backflow prevention devices (BPDs) are devices that prevent water that has been supplied to a property from reverse flowing back into the water corporation's reticulated water supply system. They are usually placed in a customer's water service pipe, usually adjacent to the water meter.

Backflow can occur due to cross-connections or loss of water pressure, which may allow contaminated water to flow into the clean water supply at the point of the cross-connection, and contaminate the clean water supply.

Backflow events pose a risk to property and health. Reverse flow of contaminated water into the water supply system can cause numerous problems. While there may not be a high incident rate of backflow related contaminations, the consequences of a backflow contamination incident can be significant, leading to public health issues across nearby communities. Past backflow events in Victoria have included manure and blue green algae to come out of drinking taps, high E. coli levels in local areas, elevated aluminium levels, and toxic cleaning chemicals contaminating the drinking water supply to a property. The risks include both health and environmental impacts, as well as additional costs and inconvenience (e.g., temporary lack of supply) of fixing backflow problems once they occur.

Plumbers have obligations under Plumbing Regulations 2018 and the Plumbing Code of Australia to assess backflow risks and install backflow prevention devices where appropriate.

Water corporations have an obligation under the Safe Drinking Water Act to assess backflow risks and put in place strategies to address the risk. However, a water corporation cannot identify the need for a BPD until after the customer has commenced water consumption at that property. For example, a change in the risk associated with the water use or water supply on a property may lead to a greater risk of backflow occurring – for which the water corporation would normally deem a BPD necessary.

In most situations, a plumber will have already installed a BPD where required under the Plumbing Regulations. However, where a BPD was not installed, and the water corporation subsequently determines there is a risk of backflow occurring, the Safe Drinking Water Act does not compel property owners to install BPDs. Where a plumber is not engaged, water corporations do not have the power to compel the customer to install a BPD under plumbing regulations or any other legislation. As a result, BPDs may not be installed at properties that the water corporations have assessed as requiring a BPD in light of the risk posed by that property, meaning that there is an increased risk of water contamination and associated adverse health impacts.

Therefore, in order to meet the obligations under the Safe Drinking Water Act, and to avoid water contamination and health impacts, there is a need for water corporations to be able to direct a property occupier to install a BPD, and to ensure it remains in working order.

4.2 The current Regulations

The current arrangements in relation to BPDs are set out in regulations 11 and 12 of the [Water \(Estimation, Supply and Sewerage\) Regulations 2014](#).

The current Regulations give a power to water corporations to require property owners to install BPDs and have these tested when requested. Water corporations indicated that the current Regulations in relation to BPDs are working effectively and remain fit for purpose. Under the operation of the current Regulations, there have been around ten or less backflow events reported each year across the state, most of which have been minor, which indicates the current Regulations are contributing to lowering the risk.

Water corporations issue around 500 notices to install a BPD each year.²⁰

Water corporations may also request that a BPD be tested and the results provided to the water corporation. Each water corporation takes a different approach to requiring testing (e.g., annual routine testing vs targeted risk-based tests).²¹

While it is difficult to quantify the benefits of this intervention, given there are many unknown factors that contribute to the likelihood of a backflow event in the absence of a BPD and the extent of harm that may result from a backflow event, the department believes the benefits are likely to outweigh the costs. Even putting aside avoided health impacts, medical expenses and property damage that can result from backflow events, the costs to water corporations and other authorities in responding to backflow events each year is likely to exceed the costs of this regulation.

4.3 The proposed Regulations

The Regulations proposed to be made would continue the current arrangements that impose:

- obligations on property owners to have backflow prevention devices installed and tested when requested by the water corporation
- obligations on plumbers to submit backflow prevention device test results to water corporations.

The number of properties where a water corporation would need to require a BPD (that is not otherwise installed by a plumber) is expected to remain low (around 500 across the state per year), but the risk of harm from any single backflow event could be significant (e.g., death or serious health impacts, or significant damage to water services that are costly to replace).

Consultation questions:

5. Do you have any views about water corporations being able to direct a property owner to install a backflow prevention device, based on an assessment of backflow risk?
6. Are the expected costs of these requirements justified by the likely avoided costs and risks to human health associated with backflow events?
7. Are there any changes to the regulations related to backflow prevention devices that should be considered?

²⁰ The department estimates that the total cost of buying and installing 500 BPDs is around \$282,000 per year: a BPD device costs around \$250 (on average across types), and takes a plumber around 2 hours to install (value of a plumber's time is \$157.50 (\$90 per hour average hourly wage x 1.75 to account for business oncosts and overheads)).

²¹ Across all water corporations, the total additional cost of testing is estimated at around \$126,000 per year. This assumes it takes a plumber around 30 minutes to test each BPD and provide the test results to the water corporation. This value is based on the total number of BPDs in place each year through to 2031 (the period the proposed Regulations will be in effect), converted to a present value using a 7% real discount rate.

5 Sanitary drainage

5.1 Combined sanitary drainage

When sanitary drains are being laid for the first time or replaced, they can often join with other pipes from nearby properties before they are connected to the sewer main. While this is done to save on upfront material and installation costs, it can cause uncertainty regarding the source of any leaks or blockages in cases involving disputes over who is responsible for maintenance required as a result of such leaks and blockages. Such disputes can prevent timely containment of the problem, restricting access to property which can result in a delay in fixing the problem.

Joined drains would occur rarely in the absence of regulation, due to other factors such as current design practice. It is understood to be current design practice to install separate sewage drainage. However, there is no general obligation to do so, and in the absence of any regulations, there is a risk that joined sanitary drainage may occur.

The current arrangements in relation to sanitary drainage are set out in regulation 16 of the [Water \(Estimation, Supply and Sewerage\) Regulations 2014](#). The current Regulations restrict combined sanitary drains, and require sanitary drains to be wholly within the property boundary, unless otherwise approved by the water corporation (there are instances where combined drains are appropriate). Water corporations believe these arrangements are working effectively.

The Regulations proposed to be made would continue this requirement by prohibiting the use of combined sanitary drains, unless otherwise approved by the water corporation.

The requirement to not use combined sanitary drains and ensure sanitary drains are wholly within the property boundary is not considered to impose a cost burden, as these can be achieved when first installing. A cost arises if this is not possible, and the owner needs to request the approval of the relevant water corporation. While such requests are rare, this is both a time as well as a delay. Water corporations advised that the impact is very minor as it is an informal process, suited to the individual circumstances.

5.2 Sanitary drainage plans

It is important that water corporations have access to information about the location of sanitary drains for a number of reasons. Water corporations are generally involved in reviewing planning permit and subdivision applications; it is critical that water corporations know where all water services are on a property. Water corporations may also be planning works in an area that requires accurate information about the location of water assets. As ownership of properties is likely to change over time, it is best to ensure that water corporations are informed of any changes to sanitary drainage works at the time they are done.

Under section 221ZO of the *Building Act 1993* a plumber is required to submit a sanitary drainage plan, each time the drains or plan change, to the relevant water corporation if the water corporation requests it. However, water corporations cannot be aware of all the plumbing work being undertaken by plumbers within their district unless advised of this, so they are not able to know when they should ask each plumber to submit a sanitary drainage plan.

To ensure that submission of plans does not therefore rely on a water corporation's advance knowledge of sanitary drainage works, the current Regulations place an obligation on the plumber who installed or altered sanitary works to submit a sanitary drainage plan to the relevant water corporation within five business days. The current arrangements in relation to sanitary drainage plans are set out in regulation 17 of the [Water \(Estimation, Supply and Sewerage\) Regulations 2014](#).

Around 20,000 sanitary drainage plans are submitted to water corporations each year (for both new and altered sanitary drains). The department expects that many (or most) of these plans

would be provided to water corporations in the absence of any additional regulatory requirement. However, given the importance of water corporations having complete information, there is a need to continue the obligation to submit plans for all sanitary works. Water corporations reported that these regulations remain fit for purpose and are working effectively, but noted that pressure sewer systems are currently excluded from the scope of the current Regulations.

The proposed Regulations would continue the current arrangement, by requiring plumbers to provide sanitary drainage plans to water corporations within five business days of installing or altering sanitary drainage works.

The regulatory burden is the cost of a plumber's time to submit the plan to the relevant water corporations.²² This is estimated to be a cost of around \$13 per plan, and it is expected that this cost is likely to be passed onto the customer. However, the incremental cost attributable to the Regulations would be less, as many plumbers would either voluntarily send plans to the water corporation as part of business-as-usual practice, or water corporations could rely on the provisions in the Building Act to give a general direction to plumbers to submit plans.

The benefits of this requirement are potentially significant. For example, if a water corporation agreed to a subdivision plan or undertakes other water supply works based on inaccurate information about the location of water services, there may be significant additional costs involved if planned work has to be later changed or re-done because of the discovery of water services in the wrong location.

Consultation questions:

8. Do you have any views about the current requirement that plumbers should submit sanitary drainage plans for all new and changed sanitary drainage work within five business days?
9. How could this requirement be improved to make implementation easier for plumbers while ensuring water corporations have complete and accurate information about sanitary works?

²² Plans are submitted to water corporations by plumbers. The value of time for plumbers (for working hours) is taken as \$157.50 per hour on average (\$90 per hour average hourly wage x 1.75 to account for business oncosts and overheads). It is estimated that submitting a plan takes around 5 minutes on average (to email the plans). Therefore, the total cost of the regulation is estimated at \$262,500 per year.

6 General duty to maintain service pipes

6.1 Context

Property service pipes, private fire services and sanitary drainage need to be repaired and/or replaced from time to time due to deterioration of pipes, or various types of damage such as that caused by natural soil movement or tree roots.

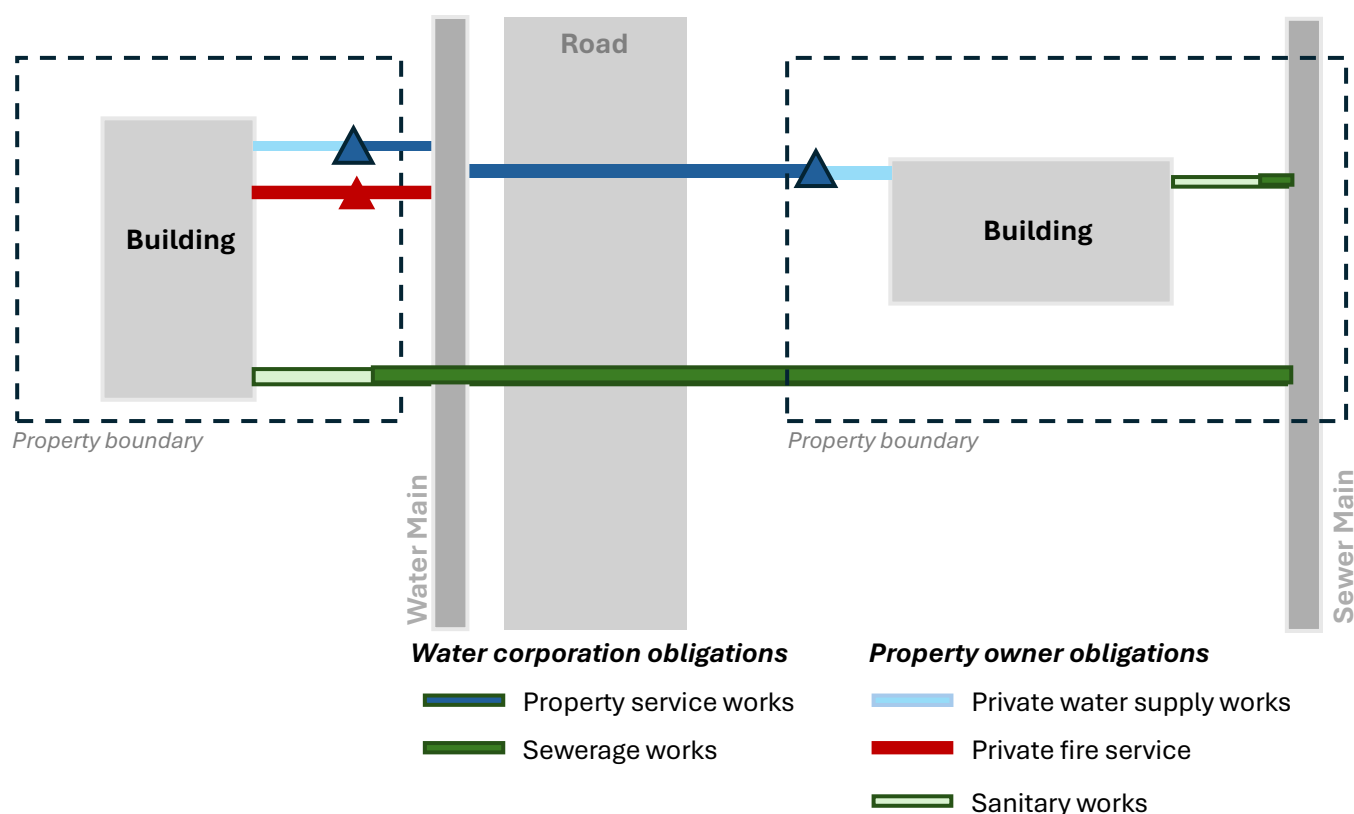
When leakages occur, there is a need (from a water conservation perspective and for more serious problems, public safety) to address the issue and have the pipe replaced or repaired in a timely manner. This, however, requires a clear determination of who is responsible for arranging and paying for such work to be undertaken.

While property owners are the owners of the water pipes on their property, the Water Act does not specifically allocate responsibility for the repair and/or maintenance of these pipes. Where there is no specific legislative allocation of obligations, it would be wholly the responsibility of property owners to maintain and repair all pipes that connect the property to the water or sewer mains, even where the pipes leave the property and may run under other properties of a road. This would be impractical in most situations, and would lead to some pipes not being repaired by property owners.

In the absence of a specific regulation on obligations, there would be uncertainty in the level of responsibility for the repair and/or replacement of property service pipes. Where responsibility for this function is not clearly assigned to one party, it is likely to result in leaks not being repaired in a timely manner. It is also more costly and less efficient for consumers to be responsible for repairs/maintenance, rather than water corporations. On the other hand, for service pipes on the property, lack of certainty about responsibilities may lead to prolonged disputes about payment for repairs (generally a water corporation may undertake urgent works to stop leaks or other ongoing damage, and then seek to recover payment from property owners for their contribution of the costs).

The current Regulations provide a means to ensure consistency across all water users, supporting increased understanding of who is responsible for maintenance. The current arrangements in relation to duties to maintain are set out in regulations 13-15 and 19-20 of the [Water \(Estimation, Supply and Sewerage\) Regulations 2014](#). The allocation of responsibilities is set out in the following figure.

Figure 2: Maintenance obligations of water pipes connecting properties



Prior to the making of the current Regulations in 2014, there was not a consistent practice across all of the urban water corporations regarding who must maintain property service pipes. When these obligations were introduced in the current Regulations, it was noted that this would assist Victorian water customers and water corporations in being clearer about their respective responsibilities regarding water asset maintenance and repair. These provisions would also assist the Energy and Water Ombudsman Victoria (EWOV) with its case work into more complex land and network asset complaints where disputes arise about maintenance, repairs, replacement and associated costs.

Water corporations advise that the current regulations remain fit for purpose and are working effectively.

6.2 The proposed Regulations

The proposed new Regulations would continue the current arrangements in relation to obligations for property service pipes, private fire services, and sanitary drainage for gravity sewer systems. These require the owner of a serviced property to:

- take all reasonable steps to maintain and keep in good working order all parts of the private water supply works and all pipes and fittings of a private fire service
- take all reasonable steps to maintain and keep in good working order all sanitary works.

These largely overlap with responsibilities that would apply in the absence of any regulations. That is, water corporations are responsible for the water services that they own and control (usually all pipes up to the water meter, and sewerage works from just inside the property boundary), while property owners are responsible for any services that are on their property.

However, by stating these responsibilities (and including penalties for non-compliance), there is an efficient mechanism to ensure that urgent and necessary repairs and maintenance can be done on all water services without relying on other mechanisms to determine responsibility. For example, the regulations would allow a water corporation to respond to an emergency water leak and repair it, with the assurance that the responsibility for paying for the repairs is known and will not be disputed.

Explicitly stating the responsibilities in the regulations also supports improving incentives for property owners to take care when doing other activities on their property to not damage water pipes.

Therefore, the regulations related to maintenance obligations impose no additional cost burden on property owners. But it does create a benefit by minimising the scope for disputes over payments for repairs, and improves incentives to avoid damage.

Private fire services

The department is aware of an increasing number of new single residential properties with internal sprinklers plumbed into the property's internal potable plumbing. This may classify the supply to the property as a 'private fire service', the implication is that the property then becomes liable for maintenance of the connection past the meter and into the street. A failure of a supply pipe in the street could be expensive for a household. To avoid future burdens, the proposed Regulations would be amended to specifically exclude Class 1A buildings²³ for this extended responsibility, but still leave them responsible for their internal plumbing.

Consultation questions:

10. Is the current allocation of responsibilities in relation to maintaining property water supply and sanitary works fair and reasonable? Is it appropriate that the current arrangements continue under the new Regulations?

²³ Class 1A buildings are domestic or residential buildings – single, standalone single houses and horizontally attached houses, such as terrace houses, row houses or townhouses.

7 Data loggers

7.1 Background

In undertaking preliminary consultation for the proposed Regulations (with water corporations), the department was made aware of an emerging problem related to the use of private data loggers. Data loggers are any type of equipment that records the readings of a water meter. They are used to track water usage and improve water efficiency, for example, it might track changes in meter readings over specific time periods or in real time.

There are various types of data loggers available commercially, or ones that can be constructed from other pieces of equipment, although it is believed their use in Victoria is not common. However, water corporations have reported an increasing use in recent years.

For the most part, data loggers pose no problem to the operation of the water meter or the supply of water. Indeed, their use can be beneficial to water customers.²⁴ However, there is a risk that some types of private data loggers, or ones that are improperly installed, could interfere with the operation of the water meter, the supply of water, or a water corporation's access to the water meter and service pipes.

The water meter is the property of the water corporation, and there are common law remedies to resolve situations where a data logger is interfering with the water meter. However, the process to resolve any situations can be time consuming. Timely responses are important where a water corporation may have reason to believe that a data logger's interference with a water meter is causing it to not function as intended (e.g., inaccurate record of water use).

The department received a proposal to address this problem by including a mechanism in the Regulations to more efficiently regulate the use of data loggers.

7.2 The proposed Regulations

The proposed Regulations would introduce new requirements for data loggers: persons wishing to install a private data logger on a meter (or other device or equipment fitted to a water meter measuring the volumetric flow of water measured by the water meter it is fitted to), would need to seek the consent of the relevant water corporation to do so, comply with any conditions set by the water corporation, and remove a data logger when directed to do so. A new offence would be created for non-compliance with this requirement with a suitable penalty amount.

The prevalence of private data logger use is not known. The department understands it is relatively uncommon, but may be increasing now, and likely to become more prevalent in the future.

The intention of the new provisions would not be to prevent the use of private data loggers, but to ensure that their use occurs in a way that does not interfere with the water meter. In most cases this will be the case (and approval will be given), however there may be situations where the type of data logger, or the way it is attached to the meter, need to be controlled. Hence the regulations would give water corporations the ability to refuse to allow a data logger, or set conditions for their use.

The direct impact on a property occupier who wants to install a data logger would be:

- The need to obtain approval from the water corporation prior to installation. It is not expected this would be a formal or lengthy process. However, it does represent a time cost

²⁴ The Victorian Government is supporting the installation of data loggers in some situations to improve water use efficiency. See the WaterSmart program <https://www.water.vic.gov.au/our-programs/waterSMART>

to contact the water corporation and for the water corporation staff to make a decision.²⁵ As the regulations do not specify a particular process, it is difficult to estimate the time cost. However, it is noted that the number of requests for approval is likely to remain relatively low for the life of the regulations (until 2031).

- In a small number of cases, a person may have to use a different type of data logger or install it in a different way than they intended in order to comply with the water corporation's approval.
- In only a very small number of cases would use of a data logger be refused on the grounds that any data logger (attached to the water meter) is not compatible with the operation of the water meter (a person is always free to find ways to log data from the water meter without having to attach anything to the meter itself).

This largely replicates what could happen in the absence of regulations (as the water meters are the property of the water corporations), however, by including the framework in regulations, there is the ability to better enforce compliance through the use of penalties.

The new requirements for private data loggers impose a (small) time cost, and in a very small number of cases, may result in slightly higher compliance costs (e.g., choice of type of data logger or installation method to meet water corporation requirements). However, the use of private data loggers is expected to remain low overall.

Consultation questions:

11. Do you support new regulations aimed at ensuring that the use of private data loggers or other equipment does not interfere with the operation of water meters?
12. Are there better ways that private data loggers could be regulated to ensure their use doesn't interfere with water meters?

²⁵ There is also theoretically a 'delay cost', as the opportunity cost of the time spent waiting for approval may delay income earning opportunities. It is unlikely that use of a data logger is on a critical path to any significant investment projects.

8 Trade waste

8.1 Allowing trade waste into the sewerage system

Part 9 of the Water Act deals with the arrangements for the management of sewerage in Victoria.

Water corporations are assigned sewerage districts within the state.²⁶ Within their assigned sewerage district, water corporations have a function to provide, manage and operate systems for the conveyance, treatment and disposal of sewage, and to develop and implement programs for the recycling and reuse of treated waste water.²⁷

Under section 178 of the Water Act, a person must not cause or permit anything to be discharged into the sewerage system of a water corporation other than sewage or trade waste (only if discharged in accordance with a trade waste agreement).²⁸

The reason for controlling what can be discharged into the sewerage system is to protect the sewerage system itself (from potential damage), manage environmental and health risks from certain types of waste, and ensure that the treatment systems are able to process the received wastewater. This is particularly important for wastewater from commercial and industrial premises, which may contain a high concentration of chemicals and other higher-risk components.

There are penalties of up to 200 penalty units (\$39,518) for breaching this section, and an additional penalty of up to 80 penalty units (\$15,807) for each day on which the offence continues after a notice or conviction²⁹ use of infringements ('on the spot' fines) for these offences is not available³⁰.

Sewage is defined as any human excreta or domestic waterborne waste, whether untreated or partially treated, but does not include trade waste.³¹

Under the Water Act, trade waste means³²:

- any waterborne waste (other than sewage) which is suitable, according to the criteria of a water corporation, for discharge into the water corporation's sewerage system; or
- any other matter that is *prescribed by regulations* made under this Act to be trade waste; or
- any other matter which is *declared by a by-law* made under this Act to be trade waste.

Falling within the first broad limb of the definition includes waste from: industrial or agricultural activities; commercial operations (such as food preparation and commercial laundries); construction activities; desalination; cooling systems; or extinguishing fires on non-domestic premises.

The types of waste within the definition of trade waste does not compel a water corporation to accept the waste into the sewerage system.³³ Trade waste may be accepted only upon reaching an agreement with the water corporation, which may contain terms and conditions set by the

²⁶ See Water Act sections 122L and 122G.

²⁷ Water Act s. 173.

²⁸ However, this does not apply to or in relation to a discharge that occurs in circumstances that constitute an offence against the *Environment Protection Act 1970*.

²⁹ Penalty units are determined by the Treasurer in accordance with the *Monetary Units Act 2004*. In 2024-25, the value of one penalty unit is \$197.59. Penalties may be rounded to the nearest dollar.

³⁰ See Water (Infringements) Regulations 2020 for water infringement offences.

³¹ Water Act s. 3. Sewage also does not include stormwater, which is managed under other parts of the Act.

³² Water Act s. 3.

³³ See sections 173(1)(a) and 178(1)(b) of the Act.

water corporation, such as the amount of waste, and steps a person may need to take before discharging the waste. This is to ensure that the trade waste is able to be managed via the sewerage system and appropriately treated, and to ensure each water corporation meets its EPA operating licence conditions (to ensure there is no adverse effect on the environment).

This means a person cannot dispose of anything into a sewerage system other than ordinary sewage unless:

- it falls within the definition of trade waste, and
- the water corporation agrees to receive the trade waste through an agreement with the person.

There are around 31,000 trade waste agreements in place across the state (in total, there are around three million sewerage customers in the state).

The following table sets out the amount of trade waste received by each water corporation, and the total amount of wastewater received.

Table 2: Trade waste and total wastewater by water corporation, 2023-24

Water corporation	Trade waste (ML)	Total waste water (ML)	%
Barwon Region Water Corporation	2715	34529	8%
Central Gippsland Region Water Corporation	12741	27772	46%
Central Highlands Water	1464	12513	12%
Coliban Region Water Corporation	2551	15761	16%
East Gippsland Region Water Corporation	504	3374	15%
Goulburn Valley Region Water Corporation	4452	19410	23%
Grampians Wimmera Mallee Water Corporation	468	3838	12%
Greater Western Water	16571	115466	14%
Lower Murray Urban and Rural Water Corporation	622	6927	9%
North East Region Water Corporation	1140	11082	10%
South East Water Corporation	6975	154886	5%
South Gippsland Region Water Corporation	1060	5307	20%
Wannon Water	2843	13634	21%
Westernport Water Corporation	185	1908	10%
Yarra Valley Water Corporation	8687	161974	5%
TOTAL	62978	588381	11%

Source: Bureau of Meteorology - National performance report 2023-24: urban water utilities

While technically the Water Act requires every person (generally a business or premises) to enter into an agreement to allow them to discharge trade waste into the sewerage system, in practice this would be administratively burdensome.

Instead, for most premises that require an agreement, the water corporation notifies the premises of a 'consent agreement' once it becomes aware of the discharge of waste. These agreements, and the circumstances when they are offered, are regulated through the *Water Industry Standard – Trade Waste Customer Service* standard made by the Essential Services

Commission (ESC).³⁴ Other trade waste premises are granted agreements subject to relevant classification and risk assessment and to inform the type of agreement made.

In regional areas, most of the 4,000 trade waste agreements arise through consent agreements. In metropolitan areas, most of the 26,600 agreements are put in place with the customer (which are usually large industrial or commercial operations), with consent agreements only used where needed for minor discharges.

8.2 The current Regulations

The current arrangements in relation to trade waste are set out in the [Water \(Trade Waste\) Regulations 2014](#).

The current Regulations:

- provide a detailed list of the types of trade waste accepted by water corporations
- prescribe a term for all trade waste agreements that allows disconnection of a trade waste connection in situations of emergency, damage to the sewerage system or damage to the environment.

The definition of trade waste in the Act is already broadly stated, and could be relied on for operation of the offence against unauthorised discharge into the sewerage system. However, because the definition is broadly stated, and expressed as being according to criteria of each water corporation (which may not be the same for all water corporations), it has been past practice to add to the broad definition more specific types of trade waste. Prior to the making of the current Regulations in 2014, these matters were solely regulated by water corporations (i.e., through their respective by-laws). The current Regulations were introduced to provide consistency to stakeholders on these matters.³⁵

The practice of using by-laws and regulations to enumerate types of trade waste stems from the experience of water corporations that many people may not be aware that what they discharge into the sewerage system is not ordinary sewage, and therefore they are at risk of committing an offence.

By providing a clear list of types of trade waste, people would be better informed of the circumstances in which either (a) they need to enter an agreement with the water corporation, or (b) their waste is not able to be accepted into the sewerage system at all.

Water corporations reported that formal non-compliance with the prohibition on discharging trade waste is low. Minor discharges without an agreement can be captured through the consent agreements, and water corporations make use of giving notices to comply which usually resolves any unauthorised discharges. The use of penalties for unauthorised discharge is extremely low.

The Water Act is silent on what a trade waste agreement should contain and on what form it should take. However, the ESC standard sets out several matters to be included in a trade waste agreement, including relevant trade waste limitations, including times, rate, physical and chemical composition, prohibited substances, or reference to the approved acceptance criteria.³⁶ The standard also generally provides that a water corporation “may have different forms of agreement to reflect the differing risks and other factors associated with particular

³⁴ This industry standard is made under section 4F of the *Water Industry Act 1994*, in accordance with clause 1 of the Water Industry Regulatory Order 2014. The purpose of this industry standard is to provide water businesses with a consistent, transparent and timely decision-making approach to trade waste management throughout Victoria.

³⁵ Under s. 324(4A) of the Water Act, regulations prevail over inconsistencies with any by-laws.

³⁶ Trade waste agreements will include the charges for accepted trade waste, however these must be in accordance with the relevant ESC price determination for each water corporation.

trade waste customers and their trade waste [and] ... must prepare or use a form of trade waste agreement which is appropriate given the particular risks and other factors associated with the particular trade waste customer and its trade waste.”³⁷

Each water corporation has a number of different types of agreements they use, varying according to the type of trade waste, risks, and other factors.

The trade waste agreements set out the rights and obligations of each party. This will generally include circumstances in which the agreement may be terminated, or the trade waste connection disconnected. These are determined by each water corporation, and may therefore differ between different types of trade waste agreement by each water corporation.

However, the current Regulations mandate specific conditions to be included in all trade waste agreements, being the ability of the water corporation to disconnect a trade waste connection where: there is an emergency; there is a threat of damage to any system used by the water corporation; or the discharge of trade waste into the water corporation’s sewerage system may cause the water corporation to breach a condition of its operating licences issued under the Environment Protection Act.

The agreement conditions that are currently included in the Regulations are those critical situations where (despite what might otherwise be agreed between the water corporation and the waste generator in individual agreements) the government wants the water corporations to have a clear power to take unilateral action to stop accepting trade waste. Relying on the terms and conditions outlined in separate agreements may cause delay or barriers in responding to situations that are damaging to the environment, sewerage system assets, or other types of emergencies.

Water corporations believe the elements relating to trade waste agreements in the current Regulations remain broadly appropriate. Disconnections of trade waste connections under the current Regulations has been rarely used since 2014. Generally, trade waste customers comply with informal requests to stop discharges when asked. Unilateral disconnections by water corporations have occurred less than five times in the past ten years.

8.3 The proposed Regulations

The proposed Regulations would remake the current Regulations in relation to trade waste, with some proposed changes to:

- clarify that trade waste currently accepted under the category “any superfluous matter derived from, or that is a by-product of, a desalination process or that is discharged from works used in a desalination process” does not include permanent subsurface and/or groundwater extraction systems
- update the reference to licences held under the Environment Protection Act to reflect the new Act that commenced in 2017
- clarify that disconnecting a trade waste connection can include a direction to disconnect, and that disconnection includes cease or suspend
- clarify that a situation where a water corporation may disconnect a trade waste connection is where the connection would result in the water corporation not complying with the general environmental duty (GED) on the water corporation under section 25 of the Environment Protection Act 2017.

The department considered whether the types of trade waste in the current Regulations remains appropriate and fit for purpose. Consultation with water corporations identified

³⁷ Water Industry Standard – Trade Waste Customer Service, clause 4.1.

potential to clarify the item in the current list related to superfluous matter from desalination processes. This would strengthen a water corporation's position of not accepting ongoing groundwater discharge to sewer, including rejecting waste from onsite groundwater desalination systems, by expressly excluding it from matters prescribed as trade waste. This change is required because of reported confusion about the scope of this category.

This change in definition would not change the trade waste that is currently accepted or not accepted, but set a clear point of reference to support the current practices of water corporations in dealing with this type of waste. Some water corporations noted that stormwater and groundwater infiltration are common occurrences, and while there are instances of illegal trucked discharge, the extent is unknown due to traceability limitations.

Water corporations believe there is some uncertainty about what 'disconnect' means in a practical sense. The department considers there is an opportunity to clarify that disconnect includes ceasing or suspending a connection (including temporarily), and the disconnection may be achieved by directing a party to disconnect.

In addition to updating references to the *Environment Protection Act 2017* (which replaced the previous *Environment Protection Act 1970*), it was also proposed that the Regulations should also be updated to allow disconnection in order to meet a water corporation's GED obligations under section 25 of the Environment Protection Act (alongside a risk of breaching a licence condition as a basis for disconnecting a trade waste connection). This is not intended to change or introduce responsibilities for the Environment Protection Authority.

The proposed Regulations related to trade waste do not impose any significant cost burdens, but are likely to reduce costs in managing trade waste arrangements. The scope of trade waste included in the definition in the proposed Regulations does not add or subtract what trade waste would be accepted by water corporations (under the general definition in the Act, and the overriding power for each water corporation to determine whether trade waste will be accepted). However, by articulating the categories of trade waste in the proposed Regulations, managing engagement with trade waste customers will be more efficient (for both water corporations and customers), and there will be less scope for disputes about the categorisation of waste.

The prescribed conditions for trade waste agreements also do not impose a significant regulatory cost, but provide benefit in the form of avoiding damage to sewerage and treatment systems, and the environment. The proposed changes are not expected to impose any additional cost burden. The department understands that disconnections under the current Regulations are extremely rare – it is aware of the power being used directly only once in the past three years. Instead, if needed, water corporations will consult with trade waste customers to reach agreement on situations where discharge may need to be reduced or temporarily stopped. This is consistent with using the prescribed terms only as a last resort, where unilateral action to stop trade waste discharge is required.

The proposed changes expand the situations where water corporation may use the power to disconnect. This means, in theory, disconnection of a particular trade waste customer might be more likely in the future. The department believes this is not the case, as the obligations of water corporations under the GED are generally aligned to their obligations under an operating licence. The change is to provide greater certainty, and to make it easier for a water corporation to inform a customer on the grounds for use of the power. It is noted that the scope of the expanded situations only relates to the duties of the water corporation in relation to waste activities. The power cannot be used for other purposes unrelated to its acceptance of waste.

Consultation questions:

13. Do you agree that prescribing an explicit list of trade waste categories is helpful to ensuring compliance with the Water Act?
14. Do you agree that it is important for trade waste categories to be consistent across all water corporations (as in the proposed Regulations), or is it better to allow each water corporation to determine its own categories of trade waste that can be accepted?
15. Are the proposed categories of trade waste clearly expressed and understood?
16. Is it preferable to include powers of disconnection for trade waste discharge in the proposed Regulations, or should this be left to conditions in individual trade waste agreements with each customer?

9 Amendments to long service leave entitlements for water corporation employees

9.1 Context

The Water Act provides for a water corporation to employ, on terms and conditions determined by the water corporation, such officers and employees as it considers necessary for the carrying out of its functions. The eighteen water corporations employ around 7,500 people (FTE) as permanent employees.

The Water Act sets out an entitlement for water corporation employees for long service leave. Section 119(3) of the Water Act provides that a person who has been employed by a water corporation for ten years is entitled to be granted three months' long service leave with pay in respect of that ten years' service and 1½ months' long service leave with pay in respect of each additional five years of completed service.

The Water Act provides that the granting and taking of long service leave shall be "in accordance with the regulations".

9.2 The current Regulations

Under Part 5 of the current [Water \(General\) Regulations 2021](#), a number of details are spelt out in relation to the calculation of long service leave entitlements and how the entitlements may be taken. Some of these details include:

- Paid parental leave only counts towards the period of service for calculating long service leave if decided by the water corporation.³⁸ Unpaid parental leave is not counted towards the period of service.³⁹
- Other periods during which an employee is absent on leave without pay does not count towards long service leave entitlement, unless it falls within specific categories or is agreed to by the water corporation.⁴⁰

In 2023, Professionals Australia, a union representing the industrial and professional interests of over 20,000 professional employees Australia-wide including some in the water sector, raised a matter where the treatment of some types of leave (absences from work) for the purpose of calculating long service leave entitlements for water corporation employees was not in line with the approach of the *Long Service Leave Act 2017* (LSL Act).

The current LSL Act replaced the previous 1992 Act as part of a review of the operation of the long service leave in the state. Important changes introduced in the new LSL Act included improved pay calculations for casual and part-time employees taking long service leave, and better recognition of parental leave as a normal part of ongoing employment. In particular:

- all parental leave (paid and unpaid) is to be counted towards the period of service for calculating long service leave
- other unpaid leave of up to 52 weeks is to be counted towards the period of service.

These changes reflected what the review found to be community expectations of minimum long service leave arrangements.

The differences in the treatment of parental leave and other unpaid leave between the current Regulations and the LSL Act mean some employees of water corporations that rely on the

³⁸ Regulation 21(1)(b).

³⁹ Regulation 22(1)(d).

⁴⁰ Regulation 22(1)(e).

current Regulations are disadvantaged, compared to other employees of water corporations as well as employees covered by the LSL Act.

This less favourable treatment of parental and other unpaid leave may affect people's choices and incentives for using these types of leave. This may flow through to negative impacts on worker productivity and/or worker retention if these types of leave are not used as intended.

The *Fair Work Act 2009* (Cth) gives employees the right to request up to two years' unpaid parental leave. Treatment of parental leave was changed under the LSL Act to ensure employees exercising rights under other legislation are not adversely affecting their long service leave benefits. As parental leave is predominantly taken by women, the disadvantageous treatment of parental leave is arguably discriminatory towards some women, potentially having a material effect on the ability of women employed by water corporations to accrue and enjoy long service leave. When changes were made to the treatment of parental leave under the LSL Act, there was broad support from unions, workplace advocates and most employer representatives to change the way parental leave is treated in relation to long service leave entitlements, on the basis of fairness and what they consider expectations of modern workplace arrangements.

There are many reasons why a person may need to take other types of unpaid leave, including for prologued illness, to care for others, etc. Requesting unpaid leave can be a right under other legislation. The current LSL Act recognises that a person's choices about taking unpaid leave should not disadvantage their entitlements to long service leave.

9.3 The proposed Regulations

The Regulations proposed to be made would amend the current Regulations so that:

- all paid and unpaid parental leave is counted towards the period of service for long service leave
- all other types of unpaid leave up to 52 weeks counts towards service.

The objective of the proposed amendments is to remove the disadvantageous treatment of parental leave, other unpaid leave, for water corporation employees. The proposed amendments will ensure that water sector employees can take parental leave and other unpaid leave without adversely affecting their long service leave entitlements, in line with the community's expectations (reflected in the LSL Act, following the previous Act's review).

These changes would align the treatment of these particular situations with those in the LSL Act.

The changes would apply to parental and unpaid leave taken from 1 July 2025. It would not apply to leave already taken before that date.

The proposed amendments affect only water corporations and their employees, however, do not impact on all water corporations and their employees. Six of the eighteen water corporations have their own long service leave provisions in Enterprise Agreements, which do not rely on the Water Act and the Regulations. This covers around 63 per cent of water corporation employees, as the largest employers (Melbourne Water, and the three metropolitan businesses all have their own long service leave provisions). The remaining 12 water corporations (covering 37 per cent of water corporation employees) rely on the Water Act and current Regulations to determine long service leave entitlements, despite having Enterprise Agreements (the Agreements reference the Water Act in relation to long service leave⁴¹).

⁴¹ While some of the long service leave provisions in these Enterprise Agreements do include departures from the long service leave provisions of the Regulations, these departures do not cover the treatment of parental leave or

However, in practice, seven of those 12 water corporations that rely on the Regulations to calculate long service leave entitlements already, within their discretion, count parental leave and other types of unpaid leave as service for the purposes of calculating the period of service. This leaves only five water corporations that follow the current Regulations for long service leave calculations, and which do not currently count parental leave and other unpaid leave towards the period of service. This covers only 11.4 percent of water sector employees (around 860).

The cost of the proposed amendments on these water corporations is very small. As only 11.4 percent of water sector employees (around 860 people) are currently subject to the less favourable treatment of these types of leave under the current Regulations, and only 5 per cent of employees take parental leave in any year, the proposed changes would cost water corporations (in total) around (at most) \$10,000 to \$12,000 per year.⁴²

Similarly, the changes to other types of unpaid leave (which are taken by around 10 per cent of employees each year, but for much shorter periods on average), results in a total cost to water corporations of around \$11,000 to \$13,000 per year.

In total, the costs of the proposed amendments to the long service leave provisions are up to \$21,000 to \$25,000 per year across all water corporations.

The benefits of the proposed amendments are that all employees of water corporations are not disadvantaged in relation to long service leave entitlements when they take parental leave or other types of unpaid leave. This is consistent with the policy objectives that underlined the changes in the LSL Act for these types of leave, and ensures employees are not disincentivised from taking those types of leave for which they are entitled. It is also noted that the employees affected by the proposed changes will also be better off by having a higher long service leave entitlement (or accessing it sooner) than under the current arrangements.

Consultation questions:

17. Do you think it's appropriate to make the proposed amendment to the long service leave entitlements for employees of water corporations that rely on the current Regulations?

other unpaid leave, which is the subject of this consultation paper, other than one water corporation which allows a discretion for those types of leave to be counted towards long service.

⁴² This also recognises that only up to 45 per cent of employees will become eligible for long service leave. The actual impact is likely much smaller, as in some situations, the inclusion of parental leave in the period of service will not actually result in a higher long service leave entitlement.