

Appendix 5B: Standalone EPA Step Change

2023-27 Transmission Revenue Reset

PUBLIC

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1. Background

From 1 July 2020, the *Environment Protection Amendment Act 2018* (EPA Act) will commence, repealing the *Environment Protection Act 1970*. A key change introduced by this legislation is to establish a proactive regulatory approach through imposing a general environmental duty on Victorian businesses to undertake reasonably practicable steps to eliminate, or otherwise reduce risks of harm to human health and the environment from pollution and waste.¹ This can arise for example due to historic waste and pollution of sites inherited at privatisation. Under the EPA Act, a breach of this obligation can lead to civil or criminal penalties.

The EPA Act will modernise the current waste management framework including to oblige businesses to implement reasonably practical steps to minimise waste-related hazards. It will also establish a duty on persons managing land to minimise the risks of harm to human health and the environment from contaminated land. This includes to identify and assess contaminated land, manage contamination through minimising associated risks, notify people who may be affected by the contamination (e.g. neighbours) and to notify the Environmental Protection Agency if the contamination may pose a significant risk to human health or the environment.

The EPA Act also enhances existing noise requirements including to establish offences for 'unreasonable noise' and 'aggravated noise' in major urban areas, providing for the appointment by councils of residential noise enforcement officers, imposing a night-time noise limit and mandating the existing non-binding guideline in regional Victoria.

Supporting Environment Protection Regulations (regulations) and an Environment Reference Standard (ERS) are also currently being developed. Public consultation was held between September and October 2019, final regulations and standards are scheduled to be finalised by mid-late 2020, with the legislation scheduled to commence from 1 July 2021.²

This new legislation provides a departure from the prior regime, which focused on managing impacts after an adverse environmental event occurred, and accordingly alters the way we must manage our environmental obligations going forward.

1. Identified Need

Based on our assessment of the requirements of the New EP Act, we will be required to assess and monitor environmental risk during the next regulatory period. To meet these new obligations, we have forecast opex to establish a new testing regime for the following activities:

- annual noise testing to detect noise exceeding acceptable decibel levels and allowable proximity to residential properties;
- soil and groundwater site assessments to determine the level of contamination in land.

Failure to undertake these activities will result in non-compliance with the requirements of the New EP Act, leading to the potential for criminal or civil penalties. This would also negatively impact on our

¹ *Environment Protection Amendment Act 2018* (VIC), s 5(1).

² Environment Protection Authority, Proposed regulations and environment reference standards (accessed September 2020) <engage.vic.gov.au/new-environmental-laws/subordinate-legislation>.

reputation as our customers and the broader community expect us to protect the environment in which we operate. We therefore do not consider that ignoring these obligations is a valid option.

The proposed testing regime and associated expenditure meets the AER’s definition of a forecast opex step change as it is an externally imposed change in the scope or scale of required opex driven by new compliance requirements. This program is not funded through any other element of our opex forecast or deliver productivity benefits to us as it is a compliance-based program.

2. Forecasting

Our cost estimate is based on vendor estimates to conduct this surveillance regime. This does not include expenditure to rectify any issues subsequently identified from the regime which we propose should be recovered instead through cost pass through arrangements. This is discussed further in Chapter 12 of our Revenue Proposal.

In June 2020 we began conducting Environmental Site Assessments, which provide a sample to extrapolate expected outcomes to the wider population. Once all Environmental Site Assessments are completed at terminal stations, switchyards and communications sites, we will prioritise detailed soil and groundwater assessments.

Our approach to screen and complete testing at the prioritised sites will result in the following costs:

Table 2: Summary of costs related to the EPA Act (\$M, real 2020)

| | 2020-21 | 2021-22 | 2022-23 | 2023-24 | 2024-25 | 2025-26 | 2026-27 |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Internal Environment Resource | 0.16 | 0.16 | 0.16 | 0.16 | 0.16 | 0.16 | 0.16 |
| Detailed Risk Assessments | | 0.29 | 0.29 | 0.29 | 0.29 | 0.29 | 0.29 |
| Annual Testing of Groundwater | | | 0.04 | 0.08 | 0.12 | 0.16 | 0.2 |
| Production of Environment Management Plans | | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 |
| Noise testing | | | 0.12 | 0.12 | 0.12 | 0.12 | 0.12 |
| Total opex | 0.16 | 0.55 | 0.71 | 0.75 | 0.79 | 0.83 | 0.87 |

These costs assume the following:

- **Internal environment resource** (1 FTE): Manage and lead all aspects of response to new EP Act including screening risk assessments in FY21.
- **Detailed environmental risk assessments:** Assume 10 sites per annum commencing FY22 (prioritised via screening risk assessments in FY21).
- **Annual testing of groundwater:** \$4k per site where groundwater testing completed (commencing the year after initial groundwater testing).
- **Production of Environment Management Plans:** for each site and asset type as prioritised through initial screening risk assessments (0.5 FTE Consultant based on approximately \$10k per EMP)

As noted above, any sites found to be highly contaminated would most likely require a clean-up of the site; clean-up costs are not factored into the proposed step change.

The table below provides our forecast step change expenditure, which has been adjusted to remove our expected base year expenditure.

Table 3: Proposed Environmental Protection Act step change (\$M, real 2020)

| | 2022-23 | 2023-24 | 2024-25 | 2025-26 | 2026-27 | Total |
|------------------------|------------|------------|------------|------------|------------|------------|
| EPA step change | 0.6 | 0.6 | 0.6 | 0.7 | 0.7 | 3.1 |

Note: numbers may not reconcile due to rounding