



20 December 2012

EPA Victoria
200 Victoria Street
Carlton VIC 3053
approvals.review@epa.vic.gov.au

Dear Sir / Madam

RE: EPA APPROVALS REVIEW – DRAFT REPORT (PUBLICATION NUMBER 1501)

The Australian Industry Group (Ai Group) welcomes the opportunity to make this submission in response to EPA Approvals Review- Draft report.

Ai Group is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other industries. The businesses which we represent employ more than 1 million employees.

Ai Group is committed to helping Australian industry with a focus on building competitive and sustainable industries through global integration, skills development, productive and flexible workplace relations, infrastructure development; innovation; and uptake of resource efficiency. We provide practical information, advice and assistance to help members run their businesses more effectively.

Ai Group members operate small, medium and large businesses across a range of industries. Ai Group is closely affiliated with more than 50 other employer groups in Australia alone and directly manages a number of those organisations.

1. Introduction

Ai Group members welcome this review to improve the Environment Protection Authority (EPA's) approval system and Ai Group supports the *Victorian Competitive and Efficiency Commission (VCEC) 2009* recommended changes to improve the EPA approvals system, including adopting a risk based approach and streamlining EPA's process.

Ai Group also welcomes the Draft Report and we support EPA's initiative in improving the approvals process. However we believe that whilst the Draft Report provides a useful road map, it falls short of the VCEC recommendations and Ai Group member's expectations in general for transparent, consistent, unambiguous statutory approvals process. Ai Group believes that the Draft Report could be strengthened to achieve these outcomes.

1.2 Background

EPA's Vision

Ai Group agrees that EPA's statutory approvals process is a very important process through which the Victorian environment is protected and is a useful preventive tool for new or modified works. From a business perspective the approvals process should therefore provide a level of certainty for major CAPEX investment. However the current approvals process unfortunately does not achieve this due to inconsistent assessments by EPA and lengthy delays in obtaining approvals. This uncertainty has led to businesses delaying or not making major investment decisions in Victoria.

Businesses in Victoria generally understand their environmental obligations and are accountable for the impact their activities have on the environment, however to gain businesses support for the works approval system EPA needs to significantly reduce the red tape involved in obtaining these approvals. An example of this is the delays an EPA approvals applicant faces whilst EPA obtains comments from other stakeholders such as Local Government. Often the local Council involved has a parallel planning process for the development which provides unnecessary approval duplication.

1.3 Scope of Review

It is important that the Review considers all aspects of the approvals process, including assessments, exemptions, amendments, transfers and revocation. But it also informs business throughout the approvals process not just the decision at the end of the approvals process.

In Scope

Ai Group believes there is significant opportunity for EPA to comprehensively review EPA's internal guidance documents including:

- Current operating procedures for approvals
- Associated administrative tools
- Relevant process guidance documents
- Use of EPA appointed auditors in application and assessments

Out of Scope

It is unfortunate this Review does not consider changes to the legislation underpinning the approvals process such as regulations or statutory policy as Ai Group believes there is major opportunity in updating this legislation including the *Environment Protection Scheduled Premises and Exemption Regulations 2007*. See our further comments in Chapter 4.1

1.4 Methodology

Ai Group supports the methodology EPA has used in consulting widely both internally and externally to inform this Review.

Ai Group also welcomes this section of the Draft Report as it clearly demonstrates EPA has consulted widely.

Ai Group through our recent *Separation distance submission* to EPA has argued the importance of harmonisation in relation to environmental regulation and guideline development. It is pleasing the

Draft Report looks at the generic best practice elements in approvals processes across environmental and development regulators (refer to table 3.1).

1.5 This report

Ai Group has found the structure of the Draft Report easy to follow and EPA should be congratulated on the Draft Report's structure.

1.6 Timeframes and next steps

Ai Group acknowledges EPA has undertaken a major consultation process in developing the draft report during 2012 which has produced a detailed 65 page Draft report and EPA should be commended for its preparation.

Ai Group is grateful for the extension of time EPA has provided which has assisted in the preparation of this submission.

2. Approvals at EPA

2.1 Background and context

It is noted the *VCEC inquiry A Sustainable Future for Victoria: Getting the Environmental Regulation Right (2009)*.

In submissions to this Inquiry, businesses were very critical of the works approval process applying to upgrades. The Commission concluded *these costs may deter or delay businesses from investing in new technologies or methods of production that could potentially reduce harmful environmental impacts. Thus, some opportunities of achieving environmental benefits whilst improving business operations may be lost or postponed*

The Commission then made a series of recommendations of making procedural improvements in the works approval process:

- Refining the triggers for works approvals
- Exempting pr- approved standard technologies from the process
- Reducing the statutory timeframes for assessing works approvals
- Public reporting of performance against statutory and target timelines
- Adopting a more strategic approach to assessing works approval applications, coupled with improved guidance and advice to applicants
- Better integration with the environmental effects statement (EES) process

The Victorian Government responded to the VCEC Inquiry, *Victorian Government response to VCEC's Final Report, A Sustainable future for Victoria: Getting Environmental Regulations Right ?*

Ai Group believes that when these reforms are implemented by EPA they will provide a better economic climate for business investment in Victoria.

When does an activity need an EPA approval?

Outlining the relevant section of the *EP Act* as well as the *Environment Protection (Scheduled Premises and Exemptions Regulations 2007)* is helpful in defining which industrial or commercial activities require and EPA works approval is helpful. However in accordance with the *VCEC improved guidance* recommendation above it is timely to condense this statutory information into an easy to read guidance document.

Ai Group recommends EPA refine the triggers into an easy to read guidance document for works approvals outlined in S 19A (1) of the EP Act:

- (a) An increase or alteration in the waste discharged or emitted from, deposited to or produced at the premises
- (b) An increase or alteration in the waste or substance that are a danger to the environment on which are processed, treated stored, contained, disposed of or handled at the premises
- (c) A change in any method or equipment used at the premises for the reprocessing, treatment, storage containment, disposal or handling of waste (or substances that are a danger to the environment
- (d) A significant increase in the emission of noise or a state of potential danger to the quality of the environment
- (e) A state of potential danger to the quality of the environment or any segment of the environment

As VCEC commented “the current triggers provide EPA with significant discretion as to when a works approval is required”.

The challenge for EPA now is to commence these reforms by making procedural improvements in the works approval process. The Draft Report should be strengthened in this regard.

2.2 Current process

Figures 2.2 – 2.4 and Table 2.4 are helpful in gaining an understanding of EPA’s current approvals process. Unfortunately the pre – application and statutory stages are not well understood by EPA approvals applicants. There is no reference to this two staged approach in *EPA’s Works Approval Guidelines Pub 1307*. It is recommended the Publication (1307) be amended to reflect this two stage approach. This would greatly assist applicants.

Also the case studies outlined are useful in assisting applicant’s knowledge of the current process. It is recommended further case studies would be beneficial in sharing this knowledge by the inclusion of a “joined –up” case study.

3. Transforming to a new approvals system

3.1 Drivers for change (external drivers; Victorian Government priorities)

The drivers for change are well known and we have commented on the VECC recommendations for EPA's approvals system (see Section 8 Background and Approvals at EPA).

Ai Group also appreciates the Victorian Governments support for the *VCEC 2010 -11 Inquiry into Victoria's regulatory framework*. We look forward to reviewing the timeline targets for regulatory and approval processes for EPA when it is released.

Ai Group has had longstanding concerns about the environmental red tape burden imposed on businesses in Victoria and we are pleased with the commitment by the Victorian Government through its "Red Tape Reduction Strategy" to cut red tape by 25% by 2014. It is hoped the EPA's approvals review will assist in achieving this reduction.

Drivers for change (internal drivers EPA 5 year plan)

Ai Group welcomes EPA's 5 year plan as a transparent planning strategy by EPA to improve businesses environmental performance in Victoria. We particularly applaud EPA in identifying priority industry sectors targeted for reform. This has enabled Ai Group to work cooperatively with these sectors to assist them in improving their environmental performance.

EPA's vision for approvals

Ai Group supports EPA's new vision of an approval system. The challenge for EPA is to provide a detailed approval process outlining timelines to achieve these outcomes. The Draft Report should be strengthened to include this detail.

3.2 Raising the bar – better practice in the approvals system

Ai Group supports the methodology used by EPA in the alignment of the guiding principles and stakeholder priorities.

Best practice element 1 – variable and proportional levels of assessment based on the appraisal by the regulator of risk of a proposal

In previous submissions made to EPA including EPA's separation guidelines and EPA's best practice guidelines, Ai Group has stated the need for proportional EPA assessment based on risk. Whilst we support this element, we are concerned the risk is based solely on the appraisal by the regulator. In the works approval process the proponent is obliged to carry out an environmental risk assessment as a first step in the process. Ai Group supports the approach of the proponent self assessing their environmental risk. Following the self assessment the appraisal will take place by the regulator. The appraisal needs to be conducted in conjunction with the proponent.

Best practice element 2 – integration with planning approvals processes, including at the application phase or through public consultation processes

Ai Group supports the integration with the planning approvals process. However we continue to have concerns about these two duplicate processes delivering the same outcome (see previous comments Chapter 1.2 Background).

We acknowledge for major projects there is the ability to "join" the planning process. However less than 5 of these joined projects being delivered per year in Victoria. We believe there is considerable scope to expand on this "joined" planning process for many more statutory approvals in Victoria.

We acknowledge EPA is statute bound to refer a copy of the works approval application:

Section 19B Works approval (3) (iii) to any responsible authority under the Planning and Environment Act 1987

However we continue to have concerns about the length of time provided in the *EP Act* (45 days) for responsible authorities to advise whether they support, do not object or object to the application. Whilst this is a statutory process issue outside the terms of reference of this Draft Report; we believe EPA can help streamline the approvals process by running works approvals and planning permits concurrently to help streamline the process.

Ai Group recommends the concurrent works approval and planning permit process is formalized through a Memoranda of Understanding (MoU) between the Department of Planning and Community Development (DPCD), the respective council and EPA, similar to the major projects MoU's outlined in the Draft Report.

Best practice element 4 - Clear consideration in the assessment process of broad and longer term environmental issues and principles, such as intergenerational equity, the precautionary principle, triple bottom line impacts, and indirect and cumulative impacts

Ai Group favours the UK's Environmental Permitting Frameworks, whereby a balance is achieved between protecting the environment and the cost of doing so.

The *EP Act* guiding principle of integration of economic, social and environmental considerations must always be taken into consideration when EPA is dealing with an approval. This requires the measure adopted should be cost-effective and in proportion to the significance of the environmental problem being addressed.

Best practice element 5 – Transparent procedures and templates that provide clarity around the application and assessment process for all stakeholders

Greater transparency around EPA's approval process is a major challenge EPA must meet. As previously stated in this submission the *2009 VCEC report* was critical of EPA in this regard. Ai Group recognises there is opportunity for EPA within the current regulatory framework to provide clarity around the application and assessment processes for EPA approvals (see our further comments in Section 2).

Best practice element 6 – External access to web – based systems and tracking, including online submissions, assessment reports, approvals referrals, compliance reports and community comments.

When making major development business decisions companies in Victoria need to assess their obligations in obtaining works approvals from EPA. Often this is a very confusing process due to the lack of guidance material available from EPA.

Once they have established they have an obligation, they then need to make application to EPA and track the progress of it. Ai Group acknowledges EPA's recently updated web page, however not all the current EPA licences are linked. In the case of works approvals it is incumbent on EPA to have a state of the art tracking system so applicants, stakeholders and the community can track the this important approvals process.

Best practice element 7 – Flexible and accessible approach to community engagement

Ai Group members in general understand the importance of a good relationship with the Victorian community. In the case of works approval applications often businesses deal directly with their

neighbours prior to making an application to EPA. This engagement beyond statutory requirements should be rewarded in EPA's stated risk based approach to approvals. An example of this may be when a proponent's community engagement program results in little interest shown by 3rd parties a streamlined approval is delivered to the proponent. See our further comments in chapter 4.

3.3 Reform principles – guiding the transformation of EPA's approval system

Ai Group supports the reform principles outlined in the Draft Report, however a fundamental issue overlooked by EPA in the Draft Report is clear guidance on when a works approval is required or not required. As previously discussed the *2009 VCEC report* addressed this issue. (See our previous comments Chapter 2 Approvals at EPA, when does an activity need an EPA approval?)

Therefore major scope exists for EPA within the current regulatory framework to provide this necessary guidance.

4. A Risk based system

Ai Group supports a risk based assessment pathway selection tool based on the same principles as the risk based and responsive regulatory model outlined in EPA's Compliance and Enforcement policy. We have used EPA's compliance and enforcement risk based responsive regulatory model in the Ai Group Assessing Compliance and Environmental Risk Training Program (supported by EPA Victoria) we provide to our members and we have found the tool to be useful.

4.1 What do we do now?

See our previous comments in Chapter 2 outlining businesses lack of understanding about the current approvals process.

Ai Group generally supports EPA's recent efforts to improve how it conducts works approvals and licensing. With the centralisation of approvals of approvals assessed by a dedicated team of assessors, we agree EPA has achieved a better consistency with approvals.

However Ai Group has received feedback from our membership that this centralised system has created communication problems, with businesses unsure of who to contact at EPA to discuss their approval. The previous EPA structure of having a dedicated client relationship manager greatly assisted our members in this regard. The current structure of having a compliance and enforcement focussed client manager has created some reluctance by business to engage with EPA.

Ai Group supports the risk based approach for completing applications. However the current *Works Approval Guidelines Pub 1307 November 2009* although useful in identifying best practice, needs to be updated in a similar way EPA's *The Research, Development and demonstration (RD&D) Approval Pub 1369.2 was in July 2012* to address risk from a project.

4.1 Where do we need to improve?

See our previous comments in Chapter 2 Approvals at EPA. Ai Group agrees there is major opportunity for EPA to review the *Environment Protection Schedules Premises and Exemption Regulations 2007*. These regulations were introduced to schedule activities with the highest environmental risk. However they fail in this regard because some activities scheduled pose a low risk. An example is Type I02 (metal melting) non ferrous foundry >2 tonne / hr requiring both an EPA

works approval and Licence. There are many other examples of low risk activities scheduled under these regulations.

Recently Ai Group ran ACERT training courses for members on environmental compliance and risk and a module focussed on taking these businesses through these regulations to determine their works approval and licensing obligations. Appendix 1 in the Draft Report is a useful summary of scheduled premises. However it lacks clarity on which Industry types and threshold triggers requiring works approval or licensing or both. The training showed that there is still a general level of confusion in interpreting these regulations.

4.3 What can we learn from others?

The recent amendment to the Western Australian Environmental Protection Act 1986, the *Environmental Impact Assessment (Part IV Divisions 1 and 3) Administrative Procedures, December 2012* is a useful example of a risk based approach in assessing projects that are likely to have a significant effect on the environment.

This assessment process provides some incentives such as “No Public Review” where the proponent has appropriately and effectively engaged with stakeholders during the preparation of the proposal and further consultation is unlikely to identify any additional stakeholders or raise additional significant environmental issues.

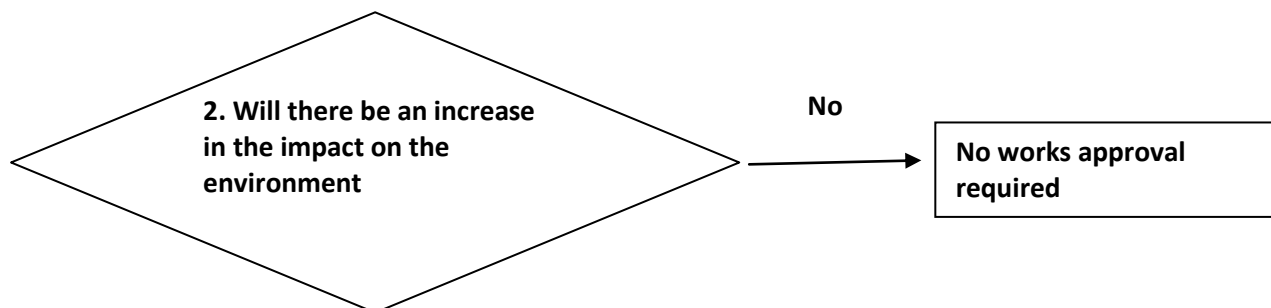
EPA WA then applies a category A or B level assessment:

- Category A assessment
 - The proposal raises a limited number of key environmental factors
 - The proposal is consistent with established environmental policies
 - The proponent can demonstrate that it has conducted appropriate and effective stakeholder consultation
 - There is limited or local concern about the likely effect of the proposal on the environment

- Category B assessment
 - The proposal is inconsistent with established environmental policies or
 - The proposal is likely to have a significant detrimental impact on an environmental value or
 - The proposal raises one or more key environmental factors or issues that do not meet the EPA’s environmental objectives and
 - The proposal could not be easily modified or mitigated so as to ameliorate raised above

4.4 Which new ideas should we introduce and why?

Ai Group recommends the following changes to Figure 4.1 :



This proposed amendment is consistent with S 19A (1) of the EP Act and would help streamline the approval process by removing Authority granted exemptions which are unnecessary and cause delays in the approval process. This would also require the project proposal to pass the WA No Public Review test or likely third party interest test below.

1. Are there likely third party interests in this project?

Ai Group generally supports these triggers, as most can be assessed in the risk assessment undertaken by the proponent. However clarification is required on how “proposal that may be controversial because of broader environmental issues” can be assessed.

It is suggested EPA change the wording be revised.

2. Will there be an increase in the impact on the environment (applies to existing premises only)

As we have reiterated throughout this submission, this is a key issue EPA must consider during this review. Ai Group understands the exemptions provided under the EP Act section 19A (4), (5) and (6). However we are concerned about the red tape process of getting an EPA Authority granted exemption when it is problematic one is not necessary.

As discussed earlier *EP Act Section 19 A (1)* provisions are legally binding i. e. if you trigger any of these criteria you must obtain EPA works approval. If you do not trigger any of the criteria then you are not required to obtain EPA works approval. This should be made clear in the Draft Report.

3. Is the proposal for an RD & D type project?

Ai Group welcomes the publication of the types of RD & D projects EPA has approved. In addition past approvals should also be made publicly available.

4. Is the proposal known and historically -proven technology

Ai Group is concerned about placing the onus on the applicant to inform EPA the technology is widely used and is the best available. Ai Group welcomes the 2009 VCEC’s recommendation 7.2 “That the *Environment Protection Act 1970* be amended, or if sufficient, existing powers under the Act be used, to enable EPA Victoria to develop and maintain a list of pre-approved technologies that are exempt from the works approval process”.

It is recognised legislative change is outside the terms of reference of this Review. However a list would greatly assist business and provide a level of consistency, which is not a feature of the current works approval process.

5. Is the proposal low risk?

As discussed previously in this submission, Ai Group supports applicants carrying out their risk assessment. As this is a critical first step of the approvals process it is important for EPA to develop criteria to assist in determining low risk. Ai Group would welcome the opportunity of reviewing this criteria when it becomes available.

Proposed pathway for assessment

1. Formal exemptions from approval

As previously advised Ai Group is concerned about the red tape delays in EPA Authority initiated exemptions when these exemptions are not necessary. See our comments in Chapter 4 Risk based system.

2. Fast Track applications for approval

Ai Group welcomes fast track approvals. We also accept applicant's responsibilities with these approvals in assisting EPA by engaging with their communities and stakeholders who may have an interest in the proposal.

Given the significant up front work required by the applicant in community engagement and selection of low risk technologies, EPA should provide appropriate incentives e.g. the WA "No Public Review" model. The Draft Report should also be strengthened to provide this incentive for these pro-active businesses.

3. Standard applications for approval

Ai Group generally accepts the process for standard applications for approval, subject to EPA defining the selection tool to help identify elements of the proposal that need detailed assessment.

A selection tool is critical to both applicants and EPA assessors, EPA should as a matter of urgency develop it. Ai Group would welcome the opportunity of reviewing the tool when it is available.

4. Major projects

No comment on major projects as we recognise they are of state significance.

The applicant's proposal

A Group welcomes EPA's online proposal form process, however Ai Group members need to understand the criteria EPA will use to define the assessment path to assess the application.

We welcome the opportunity of reviewing EPA's guidance when it becomes available to support applicants complete their application forms.

4.5 Proposed approach

Ai Group is supportive of a risk based selection tool. However the Draft Report provides a broad outline of what may be included in the tool. Ai Group would welcome further details of the selection tool including:

- Details of the level of assessment pathway model

- Details of the selection criteria proposed
- Details of the standardised proposal form

We believe this information is necessary to enable all EPA stakeholders including the Ai Group to provide an informed response to EPA and we would be pleased to review this criteria when it becomes available.

5. Streamlined and efficient

It is pleasing EPA is proposing to strengthen the pre-application stage of a proposal prior to the statutory stage.

Ai Group members have raised concerns about approval delays caused by government agencies not responding in a timely fashion to approval referrals and we receive regular feedback from members that note EPA's "risk adverse" in the way it engages with stakeholders on approvals.

The EP Act requires EPA to refer works approvals to:

- (i) any protection agency which the Authority considers may be directly affected by the application; and
- (ii) the Secretary to the **Department of Human Services**; and
- (iii) any responsible authority under the **Planning and Environment Act 1987** etc and
- (iv) the Minister administering the **Mineral Resource (Sustainable Development Act 1990)** etc

EPA has discretion in the referrals it makes these protection agencies, however currently does not always exercise this discretion well. The current "shot gun" approach used by EPA in referring works approval applications is counterproductive for the timely delivery of these approvals.

Currently the works approval process is driven by the process rather than the outcome; this must change if EPA is to achieve its stated aim of being a modern regulator.

5.1 Where do we need to improve our proposed approach?

Ai Group welcomes the extensive surveying EPA has carried out with its key stakeholders, Ai Group members have also voiced similar concerns to those outlined in this section of the Draft Report.

5.2 Which new ideas should we introduce and why

Ai Group generally supports the suggested tiered approach recommended by EPA in Fig 5.1. However it is incumbent on EPA to set the criteria similar to the WA EPA example we have outlined for the approval streams assessment:

- Fast Track WA
- Standard works
- Major projects

It is noted EPA will provide the applicant with “appropriate guidelines and supporting resources”. It is suggested EPA update all the relevant guidelines and resource material so they are available to the proponent prior to discussions with EPA. This will help facilitate the approvals process. This is also a *VCEC 2009 recommendation* supported by the Victoria Government.

Authority granted exemptions

Ai Group welcomes the ‘delegations for sign off’ initiative outlined. However we reiterate our concerns about the inordinate delays in obtaining EPA granted exemptions.

Standard works approvals

Ai Group is concerned the proposed process steps for standard works approvals on page 34 of the Draft Report may hinder rather than facilitate the works approval process. The idea of an assessment plan is seen as being potentially helpful in guiding the applicant. However its application may well add another level of bureaucracy in the approvals process, which should be avoided.

Ai Group would welcome further discussion with EPA on the application of an assessment plan.

5.3 Proposed changes relevant to 30A emergency approvals

Ai Group has members in the water industry as well as members with stand alone wastewater treatment plants and storages who have also sought EPA Section 30A emergency discharge approvals in recent times, so we request EPA amend these licences as well.

Members have also raised concerns about the current design basis for wastewater storages and Ai Group welcomes the EPA and DPI providing a long term solution to this issue.

5.4 Improving our alignment with other agencies approval processes

See our previous comments in Chapter 3

5.5 Proposed approach

See our previous comments in Chapter 3

6. Effective at preventing environmental harm

It is pleasing EPA has internally reviewed recent works approvals to help determine the level of improvement in the environmental performance at the works approved site.

6.1 What do we do now?

The Review has identified deficiencies in the current approvals system and opportunities for improvement. Ai Group supports EPA ongoing review program of works approved sites and we would welcome further updates of the results.

6.2 Improving EPA’s guidance material

Ai Group welcomes EPA’s recent endeavours in updating guidance material and we have recently provided submissions to EPA in relation to:

- EPA’s separation guidelines
- EPA’s best practice
- Contaminated environments

We also acknowledge EPA’s licensing guidance material including the renewed focus on environmental risk management. We believe as part of the EPA approvals review there is major opportunity to also update guidance material in accordance with EPA’s online stakeholder survey results and the VCEC 2009 recommendations. It is important that EPA invest adequate resources to the development of guidance materials.

6.3 Improving EPA’s expertise in assessing approvals

Ai Group notes the training and skilling EPA is implementing for the Development Assessment Unit (DEU) approvals assessors. Also the specific areas of expertise across EPA that can be called on to assist this important assessment function at EPA.

In Ai Group’s support for EPA compliance and enforcement policy through our ACERT compliance and risk training, we offered to deliver a “from an Industry perspective” training module to EPA officers. We believe EPA assessors would benefit from a similar “approvals from an industry perspective” training module to better understand the economic challenges and consequences in delays in the approval process. We would be pleased to discuss this opportunity further with EPA.

6.4 Periodic licence reviews

Ai Group supports the periodic five yearly review of the currency of EPA licences as state EPA jurisdictions undertake in NSW, WA and SA.

We also understand EPA Victoria through its environmental risk based licence reform program has recently amended all EPA licences. We see this as an opportune time to also schedule a five year review, based on environmental risk.

6.5 The future of accredited licences

Ai Group also supports the concept of accredited licences based on a demonstration of a high level of environmental performance, with an economic incentive of a reduced licence fee.

6.6 Proposed approach

With the introduction of an environmental risk based approach to licensing, we believe our members would benefit from such an approach by EPA and we would welcome the opportunity of discussing the expansion of the accredited licence program with EPA.

7. Transparent, consistent and accountable

EPA’s *Compliance and Enforcement Policy Pub 1388* is a great example of EPA’s transparency in widely publicising EPA’s renewed focus on its core regulatory role. It also sets out a useful risk based model so EPA stakeholders are in no doubt about the consequences of non compliance.

Ai Group supports EPA's compliance and enforcement policy and we continue to advocate to our membership that environmental compliance is non-negotiable and through programs such as our ACERT program we seek to support businesses in understanding their compliance obligations.

One area we however continue to get negative feedback from our membership is EPA's inconsistent implementation of this policy. EPA is aware of these concerns and it hoped with further in house training of EPA field officers this issue will be addressed by EPA.

7.1 What do we do now?

The challenge for EPA in the approvals area is to develop a program which engages all stakeholders and is transparent which is evidenced by EPA's online survey results and the *VCEC 2009* recommendations.

7.2 Where do we need to improve?

The *VCEC 2009* recommendations are clear and unambiguous:

- Promote the consistency of advice to business
- Review its training procedures
- Review guidance material
- Review information systems and other methods of internal communication

Ai Group notes EPA's proposal to upgrade its information systems into a single integrated business information system (IBIS) with part 1 released in July 2012, whereby statutory documents including works approvals can be viewed online. We look forward to part 2 release of the program in January 2013, whereby an applicant can track the progress of their approval.

7.3 What can we learn from others?

Ai Group notes the better practice elements outlined for transparency and accountability in other jurisdictions both in Australia and overseas and commends EPA for its research into this issue.

7.4 What new ideas should we introduce and why?

Ai Group generally supports EPA using its website to outline:

- Criteria used for the risk based assessment pathway is critical
- A clear decision making framework that assigns roles and responsibilities
- Documentation including applications, exemptions and assessment reports

However applicants commercial sensitive information should not be published on EPA's website. EPA must ensure there is sufficient procedures and policies that protect applicants commercially sensitive information.

7.5 Proposed approach

Ai Group supports the road map EPA has outlined in this section of increasing its transparency and accountability of its approval system.

Ai Group would welcome EPA to provide timelines to implement these measures. The inclusion of timelines would provide confidence to the business community for these important reforms.

8. Inclusive and accessible

Ai Group welcomes the community involvement in the approval process. However our members have expressed concerns that decisions on some statutory applications have been delayed by vexatious third parties.

8.1 What do we do now?

Ai Group is aware the EP Act allows “any interested party may make written comments on the application”. However EPA must use its discretion in determining who is an interested party.

The two grounds on which an appeal may be lodged:

- If the discharge in accordance with the approval will “unreasonably or adversely” affect the interests of the applicant
- If the discharge will be inconsistent with a policy (a SEPP or WMP) or, if there is no applicable policy the discharge would cause pollution

Examples in the past of unreasonable or adverse affect have been commercial competitors appealing against works approval. These applications result in unacceptable delays and unnecessary VCAT costs.

8.2 Where do we need to improve?

Ai Group welcomes EPA’s recent open houses where EPA stakeholders including businesses have been given the opportunity of providing feedback to EPA on the works approval process.

Communication is key element to any process that involves third party interests. Our members experience is that EPA assessment officers although proficient in technical assessments are often engineers and scientists with limited social communication skills. This does provide major challenges for EPA in clearly explaining the technical aspects of a proposal in language easily understood by the broader community. Ai Group recommends the EPA training include community engagement.

8.3 What can we learn from others?

Applicant led engagement

As previously commented on in this submission, business interacts freely with the community in general so community engagement is common.

Also as we have discussed in Chapter 4 there must be incentives for applicant led engagement which delivers environmentally sustainable approvals

8.4 Proposed approach

Ai Group generally supports EPA's recommendations for improved interaction between the community and industry.

In relation to applicant engagement Ai Group has no concerns about a mandatory pre-application meeting with EPA as this could help focus and strengthen statutory applications to EPA.

However Ai Group is concerned about the imposition of an assessment plan for all standard works approvals. See our comments in Chapter 5.

9. Summary of proposed approach

We have provided detailed comments in Chapters 4 – 8 our summary comments are as follows:

A new risk based assessment system (Chapter 4)

A.1 System introduction

Response Support in part
Ai Group supports the introduction of a risk based system. However we continue to have concerns about the exemption process used by EPA

A.2 Development of selection criteria

Response Support in principle
Ai Group welcomes the introduction of selection criteria based on risk, however given the extensive research undertaken by EPA a preferred model must be developed so it can be evaluated by all EPA stakeholders.

A. 3 Introduction of a standard and simple proposal form

Response Support in principle
Ai Group welcomes this initiative as it will help "cut red tape". We would be pleased to review the format of this proposal form when it is available.

A. 4 Assessment pathway to be determined within 2 x weeks

Response Support
Ai Group supports this as it will help streamline the approval process

Streamlined and efficient (Chapter 5)

B. Exemption pathway with a 4 x week turn around

Response Do not support
Ai Group agrees with the *VCEC 2009 report* recommendation which concludes EPA has flexibility in determining exemptions under the EP Act. A 4 x week turnaround is unacceptable and unnecessary.

C New fast track works approval process

Response Support in principle
Ai Group commends EPA for providing a road map outlining the features and bench mark timeframes, however is concerned EPA has provided little detail on this important approvals reform.

- D.1
Response **Pre-application timeline reduction for standard WA & RD&D approvals**
Support in part
Ai Group supports this initiative for RD &D approval, however we do not support the concept of an assessment plan as we believe this may have the unintended consequence of adding another layer to the works approval process and delaying the issue of the approval.
- D.2
Response **Standard works approval benchmarks**
Support in part
Ai Group supports the 2 weeks for draft application to be reviewed before a draft application review meeting.
Ai Group does not support a 3 month decision period on a works approval as in response to the *2009 VCEC report* EPA committed to a 3 month time period for 2009-10 and 2 months for 2010 -11. Please note the Victorian Government supported this commitment by EPA. Ai Group recommends a 2 month decision making period for works approvals.
- D.3
Response **Assessment plan EPA management sign off if changes to WA**
Do not support, see our previous comments on assessment plans
- D.4
Response **Combined EPA application for WA, licence and commissioning approval**
Support
Ai Group supports this initiative as it will help with the Victorian Governments Red Tape Reduction target
- E.
Response **Proposed licence amendments to facilitate 30A emergency**
Support, See our previous comments
- F.
Response **Coordination of approvals with other agencies**
Support in part
See our previous comments regarding a formalised M of U with local government through DPCD.
Do not support
another working party with co-regulators is unnecessary as the MoU is a proven process
- Effective at protecting and enhancing the environment (Chapter 6)**
- G.1
Response **Reviewing works approval performance**
Support, see our previous comments
- G.2
Response **Guidance material development**
Support in principle
Whereas EPA supports this initiative, we are very concerned about the lack of progress EPA has made on the approval guidance material. This was key *VCEC 2009* recommendation. Ai Group recommends EPA commits to timelines for this guidance material development.
- G.3
Response **Improving EPA's expertise**
Support in principle
See our previous comments. Ai Group recommends the training also include "from an Industry perspective"

H. **Periodic review of EPA licences**
Response Support in principle
See our previous comments regarding a 5 year review based on risk. EPA should commit to this review period in line with other environment regulatory bodies in Australia.

I. **Excellence recognition across all EPA licence sites**
Response Support in principle
Ai Group generally supports a recognition program, however strongly advocates the economic incentive benefits for businesses through a faster streamlined approval process.

Transparent, consistent and accountable (Chapter 7)

J
Response Support in principle
Ai Group supports the road map outlined by EPA; however we are concerned about the lack of details and timelines in delivering this important reform.

Inclusive and accessible (Chapter 8)

K.
Response Support in part
Ai Group supports community engagement between the community and business as we believe this helps inform the community on proposals

Ai Group supports the mandatory pre-application meeting with EPA, however we continue to have concerns about the EPA imposed assessment plan and we would welcome further discussions with EPA about the assessment plan concept.

Ai Group hopes this submission will assist EPA in finalising the Approvals Review. If you have any further enquiries please contact Jeff Cummins, Senior Environment and Energy Adviser on 03 54 403901 or jeff.cummins@aigroup.asn.au.

Yours Sincerely



Jason Walker
Manager National Environment Services
Australian Industry Group