

EPA Approvals Review – Draft Report Template for written comments

Your details

Please provide your name and your job title and organisation (if relevant), and indicate if your comments are confidential.

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Confidential:	No

Please send your comments to approvals.review@epa.vic.gov.au by Friday 7 December 2012.

Your comments

Please note – The text below is abridged. Please refer to the Draft Report for the full text of what is proposed (e.g. A.1 – A.4, not just A.).

A new risk-based assessment system (Chapter 4 of Draft Report)

A. EPA will use a risk-based selection tool to determine the level of assessment required for each development proposal.

The risk-based assessment pathway model is only a proposal at this stage, but it will probably need considerably more thought and refinement.

Since a formal application would still be required (even for “fast-tracked” proposals), the submission and evaluation of a proposal form would effectively introduce additional formal steps into the approval process.

However, if EPA’s response to a proposal form is able to clearly indicate the key issues that the formal application must address in more detail, then this initial step can provide a valuable scoping function for the application.

On the other hand, introducing new steps into the process runs the risk of additional delays in the pre-assessment phase. Will it always be possible to respond to a proposal form within two weeks? Won’t there be cases where further information may still be required to determine the correct assessment pathway?

And in some cases, won’t a project proponent have to guess (in advance) the likely assessment pathway before scoping the types and level of detail of the information that will be provided in the proposal form?

It should be examples of successful *projects* (rather than successful approvals) that guide certain applications onto the “fast track”.

The percentage of future works approval applications that can be diverted to the exemption and fast-track pathways is a measure of the gains or benefits of the new approach. Are more exemptions expected than with current practice? The first paragraph of page 36 suggests about 25% of applications could be fast-tracked, but the number of exemptions would not change.

Should a proponent be allowed to challenge EPA’s determination of the assessment pathway? If so, how could

this work?

Streamlined and efficient (Chapter 5 of Draft Report)

B. EPA will consistently, confidently and efficiently apply exemptions where allowed under the EP Act. The exemption pathway will have a four week turn-around, from submission of a proposal to a response in writing from EPA notifying the applicant of the decision.

C. EPA will introduce a new fast track works approval pathway for low-risk proposals.

D. EPA will reduce pre-application timeframes for standard works approvals and RD&D approvals.

E. In response to an excessive number of section 30A emergency approval applications related to increased variability in rainfall patterns, EPA proposes to amend certain licences – relating to sewage treatment (A03) and extractive industry and mining (C01) scheduled premises – to allow discharges under restricted conditions, and to require these discharges to be reported in the licensee’s annual performance statement (APS). Emergency approvals will still be required outside of the restricted conditions, including for major upset conditions and unforeseen events.

F. EPA will seek to improve the coordination of approvals by working with other agencies.

Effective at protecting the environment (Chapter 6)

G. EPA will become more effective at protecting and enhancing the environment.

Approvals and licensing are one of the two central functions of a regulatory agency (the other function being compliance and enforcement). EPA’s effectiveness will largely be judged, and its “brand” and public image will be affected, by how well it does this work.

EPA needs to **recruit, develop and retain** the staff required to carry out these critically important functions. These staff need to have appropriate qualifications, knowledge and experience for this work. This knowledge and skill set has to be comparable with the expertise of the people in business and industry they are dealing with, so that they can “speak the same language” and operate on the basis of mutual respect.

The engineering and scientific components of this knowledge and skill set are quite crucial to the effectiveness undertaking of this function. In the absence of these, the prospects for success are limited, and the approvals processes themselves can become mere “paper exercises”.

What is EPA’s recruitment strategy? What is it doing to recruit the right kind of people, either as “ready-made” assessors, or as staff who can be developed into specialised assessors? How can EPA find people with the right kind of “potentials” that can be developed into effective assessment skills? And what are these potentials?

Also, does EPA have appropriate remuneration and reward packages to attract and retain suitable assessment personnel? The roles and contributions of the Principal Experts are critical to success. Does EPA have the culture and “personality” to attract and retain the loyalty and commitment of experienced specialist personnel, so that they will be prepared to stay with the organization, even when tempted with what they perceive to be “better offers”? A certain level of staff turnover is always to be expected, but special efforts need to be made to retain these experienced people.

H. EPA will introduce a systematic process to periodically review standard conditions and EPA licences.

I. EPA will work with business, community and government stakeholders to develop an alternative program to allow for recognition of excellence in environmental performance across all EPA licensed sites.

Transparent, consistent and accountable (chapter 7)

J. EPA will increase the transparency and accountability of its approvals system.

Inclusive and Accessible (chapter 8)

K. EPA will seek opportunities for improved interaction between the community and industry.

Providing clear statements about decisions is very difficult to do in a meaningful way, and will require careful thought. How much explanation about the rationale should be released? Will this information actually encourage more appeals?

Would there be some value in developing internal guidance and criteria for “tailoring” a community engagement process specifically for each approval application? A key issue is to decide how both the proponent and EPA would contribute to this engagement (e.g. who would lead, respective roles, joint actions, etc).

Further comments and suggestions

Based on the approvals review report, achieving an enhanced approvals system will require the following actions and measures. Implementation will be very complex. Once proposals are finalized, a comprehensive implementation plan with clearly identified **priorities, resourcing, responsibilities and timelines** should be prepared.

Measures Already in Place or under Development

1. Standardised performance-based licence conditions (to be regularly reviewed)
2. Licence assessment and management guidelines
3. EPA “positions” on specific types of issues or situations
4. Roles and responsibilities for the prioritization, gap identification and periodic review/ drafting/ updating of guidance materials (with naming conventions, clear articulation of purpose, and use of plain English)
5. A guideline on best practice (for both applicants and assessors)
6. An Expertise Framework, and designated Principal Experts
7. Implementation of IBIS

New Measures and Proposals

8. A risk-based assessment pathway tool (with appropriate assessment criteria) and an on-line proposal form
9. A single (combined) application for a project
10. A single EPA assessor for each proposal/application
11. Submission of all key approval documents through a web-based EPA portal.
12. Delegation of decision-making on exemptions, and decisions within four weeks

13. A fast-track assessment process (with no draft applications, an optional proposal meeting, a tailored application form, and a decision in six weeks)
14. A standard assessment process (with a proposal meeting, an assessment plan, one draft application, an optional application review meeting, and a decision in three months)
15. Joint advertising with planning applications
16. A proposal meeting involving all approval and referral agencies
17. A review of the performance of a sample of sites one year after works approval
18. A periodic review of licences (review frequency guided by risk considerations)
19. An alternative program to accredited licensing
20. Special conditions in water corporation licences allowing discharges under restricted conditions, with APS reporting requirements
21. Improved guidelines for S 30A applicants
22. More structure in assessor training programs
23. Statements of skill and expertise requirements for assessors
24. Updated materials in EPA's SOPs
25. Provision of statements of the rationale behind approval decisions (e.g. information on how issues were resolved and why decisions were made)
26. Provision of more information on EPA's website (e.g. on decision-making frameworks, assessments and "key decisions", and EPA processes, procedures, standards and "positions")
27. Involving the community earlier in the pre-application phase (where appropriate)
28. Supplementing newspaper advertising with other information measures