# Approvals Review Final Report

ENVIRONMENT PROTECTION AUTHORITY

EPA VICTORIA

State Government Victoria

## Contents



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# Foreword

**I am pleased to present the Approvals Review Final Report.**

In this review, EPA has thoroughly examined how it assesses applications for, and makes decisions on, four key types of approvals – works approvals; licence approvals; research, demonstration and development approvals; and emergency or commissioning approvals.

These approvals are a critically important process through which the Victorian environment is protected. Our approvals processes and decisions have a significant impact on Victorian industry and communities.

It is clear from stakeholder feedback – particularly from industry and the Victorian Competition and Consumer Commission (VCEC) – that we need to improve our delivery of this key EPA function.

Our vision is that EPA will provide a streamlined, transparent, fair and predictable works approval and licensing system. It will support industry operations and innovations that protect and enhance our environment. We will adopt efficient business systems to assess proposals and applications for approvals or exemptions. We will have a team of assessors with sound judgment, excellent communication skills and access to technical expertise, and they will work closely with industry, the community and co-regulators.

This report confirms the reforms that EPA is committed to making to realise this vision. As with EPA's compliance and enforcement reforms, they are a critical part of EPA's transformation plan. They reflect our determination to be a modern regulator and to use a risk-based approach to optimise our work.

The reforms will make EPA's approvals process and decisions significantly more timely, transparent and effective. They will reduce red tape for industry. They will result in a more streamlined and efficient EPA approvals system that maintains the current level of environment protection in Victoria.

I would like to acknowledge the significant contribution that external stakeholders and EPA staff have made to this review. Your input has fundamentally shaped the reforms we are making.

EPA will continue to work closely with stakeholders as these reforms are developed and implemented.

**Cheryl Batagol**
**Chairman**
**EPA Victoria**

**April 2013**

**The reforms will reduce red tape for industry resulting in a more streamlined and efficient EPA approvals system that maintains the current level of environment protection in Victoria.**

# Executive Summary

**This report finalises EPA's operational review of its approvals processes. It sets out the reforms EPA will be making in response to the review findings.**

The review has focused on four types of EPA approvals under the Victorian *Environment Protection Act 1970*:

- works approvals (issued under section 19B of the Act)
- licensing approvals (section 20)
- research, development and demonstration approvals (RD&Ds) (section 19D)
- emergency or commissioning approvals (section 30A).

These approvals have long been, and remain, a key preventative mechanism through which EPA protects and enhances the Victorian environment. By carefully assessing development proposals and by setting approval conditions, EPA seeks to ensure that environmental quality standards will be met and the uses of the environment that Victorians value are protected.

There were several catalysts for this review. It addresses calls by external stakeholders for a more timely, transparent and effective approvals process. It is also part of EPA's response to the Victorian Government's commitment to reduce red tape by 25 per cent by mid-2014. In addition, it builds on EPA's implementation of recommendations made in 2009 by VCEC as part of its inquiry into environmental regulation. The review is also a key part of EPA's plan to transform itself into an effective, modern regulator.

The review has been informed by comparative research; social research; consultant interviews with approvals applicants; meetings, discussions and workshops with industry, government and community stakeholders and with EPA staff; and by submissions in response to the Approvals Review Draft Report.

The review identified a number of guiding principles for EPA's reforms. The key reforms that EPA will be making are summarised on page three and are correlated to these principles.

Chapters 4 to 8 of this report set out these reforms in more detail.

These reforms will provide proponents, assessors and the community with much greater certainty regarding the basis and timeframes for EPA's approvals and exemption decisions. They will result in a significantly more timely process for industry, particularly at the pre-statutory stage.

EPA has established an implementation team to deliver these reforms. EPA will consult with, and regularly update, stakeholders as the reforms are fully scoped and developed through 2013. EPA is committed to having the majority of these reforms in place by early 2014.

**The reforms will provide greater certainty regarding the basis and timeframes for EPA's approvals and exemption decisions and a significantly more timely process for industry.**

| Guiding principles | Key EPA approvals reforms |
|---|---|
| Targeted and proportionate | • a risk-based selection tool to determine the level of assessment required for each development proposal |
| | • distinct assessment pathways for exemptions, RD&Ds, fast track approvals for low risk proposals, standard approvals and major projects |
| | • proponents initially lodging a proposal form (rather than a draft application) |
| | • EPA determining the assessment pathway within two weeks of receiving the proposal form |
| Streamlined and efficient | • defined process steps, with target timeframes, for the exemption pathway, the fast track approvals pathway and the standard approvals pathway |
| | • EPA making exemption decisions within four weeks of receiving a proposal form |
| | • defined process steps to markedly reduce the average time between initial contact and acceptance of an application (the pre-statutory stage) |
| | • for standard approvals, always holding an early proposal meeting, followed by EPA providing the proponent with an assessment plan |
| | • for fast track approvals, making a decision within six weeks of accepting an application for assessment (the statutory stage) |
| | • for standard approvals, making a decision within three months of accepting an application |
| Authoritative and effective | • strong process guidance for proponents and assessors |
| | • improving EPA's guidance on key standards and environment protection principles |
| | • enhancing EPA's expertise, including by updating EPA's training program for assessors |
| | • improving EPA's coordination with referral and other approval agencies |
| | • developing a process so that each EPA licence is reviewed at least every five years |
| | • amending certain licences to reduce unnecessary emergency approvals |
| | • developing an alternative program to recognise excellence across all EPA licensees |
| Transparent, consistent and accountable | • making more use of EPA's website, including by publishing applications, assessment summaries and, prospectively, all EPA approval and exemption decisions |
| Inclusive and accessible | • through the assessment pathway approach, providing an incentive for all applicants to effectively engage with their local community before seeking an EPA approval |

EPA is committed to having the majority of these reforms in place by early 2014.

# Chapter 1

## 1.1 Introduction

In this review, EPA has critically assessed how it can improve its approvals process and decision-making.

This Final Report confirms the reforms that EPA will be making.

These reforms are informed by research and by the invaluable feedback of industry, community and government stakeholders and EPA staff.

## 1.2 Scope

This review has focused on how EPA assesses applications for, and makes decisions on, four types of approvals under the Victorian *Environment Protection Act 1970*:

- works approvals
- licence approvals
- research, development and demonstration (RD&D) approvals (under section 19D)
- emergency or commissioning approvals (under section 30A).

The review has considered how EPA:

- informs business and community about the approvals process and of their roles and responsibilities
- assesses applications for approvals (including use of policies, regulations and guidelines)
- makes and monitors decisions on granting approvals and exemptions
- uses and shares guidance documents
- uses resources throughout the approvals process
- engages with stakeholders throughout the process.

In summary, the scope of the review has included:

- An examination of works approvals and licences, including current operating procedures and process guidance.
- Consideration of research, development and demonstration approvals as well as section 30A emergency and commissioning approvals.
- Engagement with key external stakeholders and EPA staff.
- Identification of best practice approval systems in Australia and overseas.
- Consideration of relevant outcomes and recommendations from other processes and reviews.

It has been an operational review. Accordingly, changes to legislation, Regulations, statutory policy or EPA fees have been out of scope.

## 1.3 Methodology

The review has been informed by research, including a comparative study of other approval agencies' practices, EPA's social research and consultant interviews with approvals applicants.

EPA's review team has engaged extensively with industry, government and community representatives and with EPA staff.

These reforms are informed by research and by the invaluable feedback of industry, community and government stakeholders and EPA staff.

In November 2012, EPA published the Approvals Review Draft Report (publication 1501), specifically seeking comments on the reforms that EPA proposed to make to its approvals process. The Draft Report was published on EPA's website. EPA notified a wide range of stakeholders of its release, including all EPA licensees, environmental auditors and government, industry and community representatives.

19 submissions (3 confidential) were received, with stakeholders generally supportive of the reforms proposed in the Draft Report.

The stakeholders that made non-confidential submissions are listed in Appendix 1 of this report; their submissions have been published on EPA's website.

In late November 2012, EPA held a workshop with representatives of accredited licensees. EPA has also met with individual stakeholders since the release of the Draft Report and the receipt of submissions. These meetings are summarised in Appendix 2.

## 1.4 This report

This Final Report builds on, and should be read in conjunction with, the Draft Report.

The Draft Report includes more detailed information – in particular, on EPA's current approvals processes and regarding EPA's analysis of the better practice elements of modern approvals systems.

The chapter structure of this Final Report is the same as the Draft Report, however, the detailed information in the Draft Report is not repeated.

This Final Report:

- includes a short description of the four types of approvals covered by this review (chapter 2)
- summarises the drivers for this review and the context for change (chapter 3)
- acknowledges the key comments received from stakeholders on the reforms that were proposed in the Draft Report, and sets out EPA's responses to these key stakeholder comments (chapters 4 – 8)
- confirms the reforms that EPA will be making to improve its approvals system and their indicative timing (chapter 9).

# Chapter 2 Approvals at EPA

**This chapter briefly summarises the purpose of EPA approvals, when approvals or exemptions are required and the four types of approvals covered by this review.**

## 2.1 What is the purpose of approvals?

EPA approvals are a key tool for protecting and enhancing the environment in Victoria.

The conditions that EPA attaches to approvals are designed to ensure that environment protection standards are met in a cost-effective manner, and that the uses of the environment that Victorians value are protected.

## 2.2 When are EPA approvals or exemptions required?

The Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 (the Regulations) define which industrial or commercial activities require an EPA works approval before they are built or modified, and which activities require an EPA licence to operate. These are referred to collectively as 'scheduled premises'.

The Draft Report set out details of the types of scheduled premises that have received EPA works approvals in the last two financial years, and the types of sites that most commonly hold an EPA licence.

In summary, a diverse range of industries and sites are subject to EPA works approval and/or licensing requirements. They include sewage treatment plants, landfills, composting facilities, the intensive animal industry, mines, cement works, printing works and power stations.

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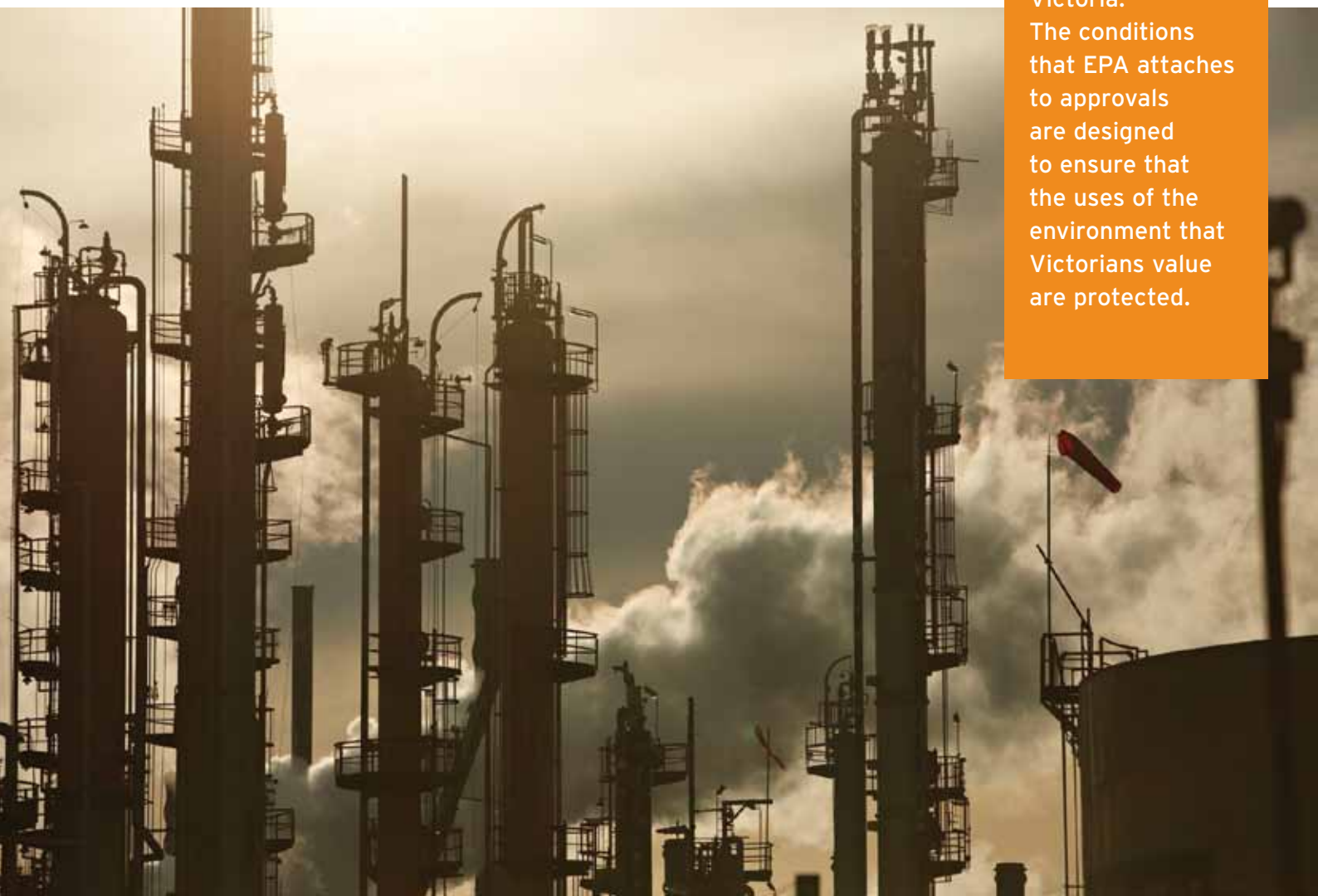
The conditions that EPA attaches to approvals are designed to ensure that the uses of the environment that Victorians value are protected.



Both the EP Act and the Regulations provide for some proposed activities at existing scheduled premises to be exempted from the need to obtain an EPA approval.[1]

In 2011-12, EPA granted 35 works approvals and issued eight exemptions. As at mid-2012, there were 491 EPA licences, including 47 multi-site or corporate licences.

## 2.3 Types of approvals covered by this review

The four types of approvals covered by this review are:

**Works approvals (see section 19B of the Act)**

An EPA works approval permits the construction of an entire plant, the installation of equipment or modification of process. Applicants for a works approval are required to demonstrate compliance with all relevant statutory policies – State Environment Protection Policies (SEPPs) and Waste Management Policies (WMPs) – and regulations.

**Licensing approvals (section 20)**

Licences provide ongoing approval from EPA for managing wastes and discharges to the environment that would otherwise be an offence under the EP Act. EPA licences can include waste discharge limits for air, water and land based on statutory policy requirements and the discharge estimates assessed during the works approval stage.

**Research, Development & Demonstration (RD&D) approvals (section 19D)**

If the proposed works require a works approval for a full-scale commercial operation but the proposal is for a pilot project to undertake research and trials, it may be more appropriate for the occupier to apply for an RD&D approval. In determining if an application is suitable for an RD&D approval, EPA considers the scale, impact and duration of the proposed works.

**Emergency and commissioning approvals (section 30A)**

These are 'short-term approvals' that EPA can grant to:

- meet a temporary emergency (emergency approval) to alleviate an immediate problem;
- provide for the temporary relief of a public nuisance or community hardship (emergency approval); or
- enable the commissioning, repair, decommissioning or dismantling of any item of industrial plant or fuel burning equipment (commissioning approval).

The Draft Report set out in detail EPA's current processes for each of these four types of approvals.[2]

1 These were set out in the Draft Report at Appendix 6

2 Draft Report, Appendices 2 - 5

# Chapter 3 Transforming to a new approvals system

**This chapter summarises the drivers for change behind this approvals review. It also briefly recaps the features of better practice in approvals systems, as identified by EPA's comparative research.**

## 3.1 Drivers for change

There are three key drivers for making changes to EPA's approvals system – stakeholder concerns, the priorities of the Victorian Government and EPA's own transformation plan.

External stakeholders have made it clear that EPA needs to improve the timeliness, consistency, transparency and inclusiveness of its approvals system.

In their 2008–09 inquiry into environmental regulation, VCEC analysed EPA's approvals system in some detail. Taking on board stakeholder feedback, VCEC recommended:

- refining the triggers for works approvals
- exempting pre-approved standard technologies from the process
- reducing the statutory timeframe for assessing works approval applications
- public reporting of performance against statutory and target time limits
- adopting a more strategic approach to assessing works approval applications
- offering improved guidance and advice to applicants
- better integration with the environmental effects statement (EES) process.[3]

VCEC's 2010–11 inquiry into Victoria's regulatory framework further highlighted the contribution of regulation to business competitiveness, productivity growth and liveability, and the importance of timely regulatory decision-making.[4]

The Victorian Government has committed to cutting red tape by 25 per cent by 2014 and has asked regulators to proactively identify areas for reform.[5] The Victorian Government's vision is to have the most responsive and efficient regulatory system in Australia.[6] It has emphasised that this is critical for job creation and investment. The Government has affirmed it will streamline regulatory processes by using a risk-based approach to avoid unnecessary costs or conditions and to focus on outcomes.[7]

The Victorian Government is requiring all regulatory bodies, including EPA, to implement 'best practice' performance standards and ensure timely, efficient, proportionate and appropriately risk-based regulatory enforcement. This is being formalised through Statements of Expectations between Ministers and regulators.[8] The statement for EPA includes timeliness targets for EPA's approval processes. There will be annual public reporting on EPA's performance against these targets.

There are three key drivers for making changes to EPA's approvals system:
- stakeholder concerns
- priorities of the Victorian Government
- EPA's own transformation plan.

3 VCEC, *A Sustainable Future for Victoria: Getting Environmental Regulation Right* (July 2009), Chapter 7, in particular, recommendations 7.1, 7.2, 7.3, 7.4, 7.5 and 7.11

4 VCEC, *Strengthening Foundations for the Next Decade: An Inquiry into Victoria's Regulatory Framework* (April 2011) p. XXI

5 The Hon Kim Wells MP, Treasurer, Government of Victoria, Media Release, *Coalition instructs key regulators to reduce red tape*, 21 January 2013.

6 *Securing Victoria's Economy* (December 2012), p.53

7 *Environmental Partnerships* (2012), p. 32

8 *Securing Victoria's Economy* (December 2012), action 39, p.55

This approvals review is a key part of EPA's transformation plan.[9] As with EPA's Compliance and Enforcement Review, Licence Reform and the Statutory Policy Review, it is foundational to EPA exercising its regulatory powers more effectively. A strong approvals system is needed for EPA to achieve its objective to "support planning and development decisions to prevent impacts" and to help "shape the environmental future".[10]

## 3.2 Better practice in approvals systems

In this review, EPA and an external research provider examined the approval and permit systems used by other regulators in Australia, Canada and Europe.

In summary, this comparative research identified 7 elements of better practice in approvals systems:

1. There are variable and proportionate levels of assessment based on an appraisal by the regulator of the risk of a proposal.
2. There is integration with planning approvals processes, including at the application phase or through public consultation processes.
3. Licences are kept up to date with changing science, environmental conditions and community standards.
4. There is 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.
5. Transparent procedures and templates provide clarity around the application and assessment process for all stakeholders.
6. There is external access to web-based systems and tracking, including online submissions, assessment reports, approvals, referrals, compliance reports and community comments.
7. There is a flexible and accessible approach to community engagement.

The Draft Report contains more detail and illustrative examples in relation to each of these elements.

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

Understanding the drivers for changes and surveying better practice elements has enabled EPA to develop principles to guide its approvals reforms. The reforms that EPA is committed to making – which are set out in the remainder of this report – are built around these principles:

1. Targeted and proportionate (see chapter 4)
2. Streamlined and efficient (chapter 5)
3. Authoritative and effective at preventing environmental harm (chapter 6).
4. Transparent, consistent and accountable (chapter 7).
5. Inclusive and accessible (chapter 8).

9 EPA, *Annual Plan 2011-12* (publication 1410, September 2011), p.13

10 EPA, *5 Year Plan 2011-2016* (publication 1403, September 2011), p.11

# Chapter 4 A risk-based system

## 4.1 Context

Being targeted and proportionate are guiding principles for EPA's work. Our work is targeted at preventing the most serious environmental harm, and our regulatory measures are proportionate to the problems they seek to address.[11]

Using a risk-based and responsive regulatory model allows EPA to focus its resources for the best environmental outcome.

Using a risk-based and responsive regulatory model allows EPA to focus its resources for the best environmental outcome.

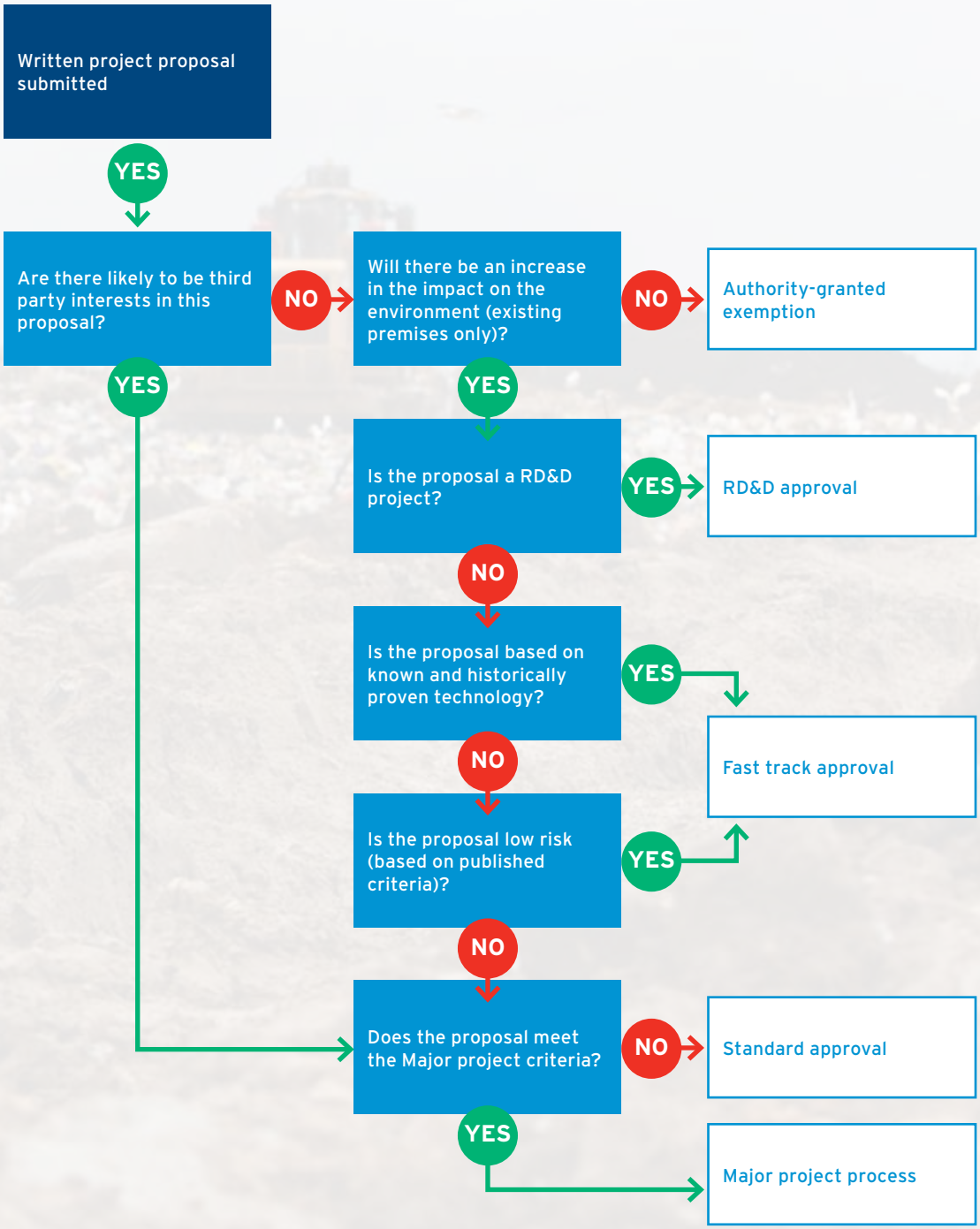
## 4.2 Approach proposed in Draft Report and stakeholder comments

In the Draft Report, EPA proposed using a risk-based selection tool to determine the level of assessment required for each development proposal. EPA further proposed distinct assessment pathways for exemptions, RD&Ds, fast track approvals for low risk proposals, standard approvals and major projects, with EPA determining the assessment pathway within two weeks of receiving a proponent's proposal form.

Figure 4.1 provides an overview of the proposed assessment pathway selection tool.

11 EPA, *5 Year Plan 2011-2016* (publication 1403, September 2011), p.5

Figure 4.1 An overview of the assessment pathway selection tool



There was strong support from stakeholders for this proposed approach. [12]

Several stakeholders noted the need for the criteria behind this approach to be clear, including regarding third party interests.[13] Environment Defenders Office (EDO) similarly emphasised that the criteria underpinning this approach must be robust, reviewed regularly and not weakened over time. [14] Australian Industry Group (AiG) expressed support for a proponent initially self-assessing their proposal's level of risk, with EPA then undertaking a secondary assessment.[15]

Several stakeholders questioned whether EPA's assessment pathway determination would be open to review. [16] That is, will a proponent or a third party be able to challenge it via an internal EPA review process?

EPA does not believe a formalised internal review avenue of its assessment pathway determinations is warranted. The intent is for EPA to use clear guidance to determine the assessment pathway quickly – that is, within two weeks. The determination will be made by an EPA assessing officer in conjunction with their team leader or manager. This will provide a level of quality assurance.

EPA's guidance will make clear that the onus is on the proponent to demonstrate their proposal is low risk to the community and the environment. If this is not demonstrated, then their proposal will, by default, be in the standard approvals pathway rather than the exemptions pathway or the fast track approvals pathway.

An EPA determination to place a proposal on the fast track approvals pathway (rather than the standard approvals pathway) will only affect proponents – in particular, their interaction with EPA during the pre-application (pre-statutory) stage. It will not affect third parties. This is because the statutory process and the standards that proposals are assessed against will remain the same for both pathways. All works approval applications will still be advertised and open to third party comments for 21 days. Affected third parties will still be able to apply to VCAT for a review of EPA's works approval decisions.

The comments received have highlighted the need for EPA's assessment pathway determinations to be transparent. Accordingly, EPA will publish details of its assessment pathway determinations on its website – in particular, which proposals are being, and have been, assessed on the fast track and standard track assessment pathways.

The question of whether EPA's exemption decisions and approval decisions should be subject to an EPA internal review process is addressed in chapter 7 (section 7.2) of this report.

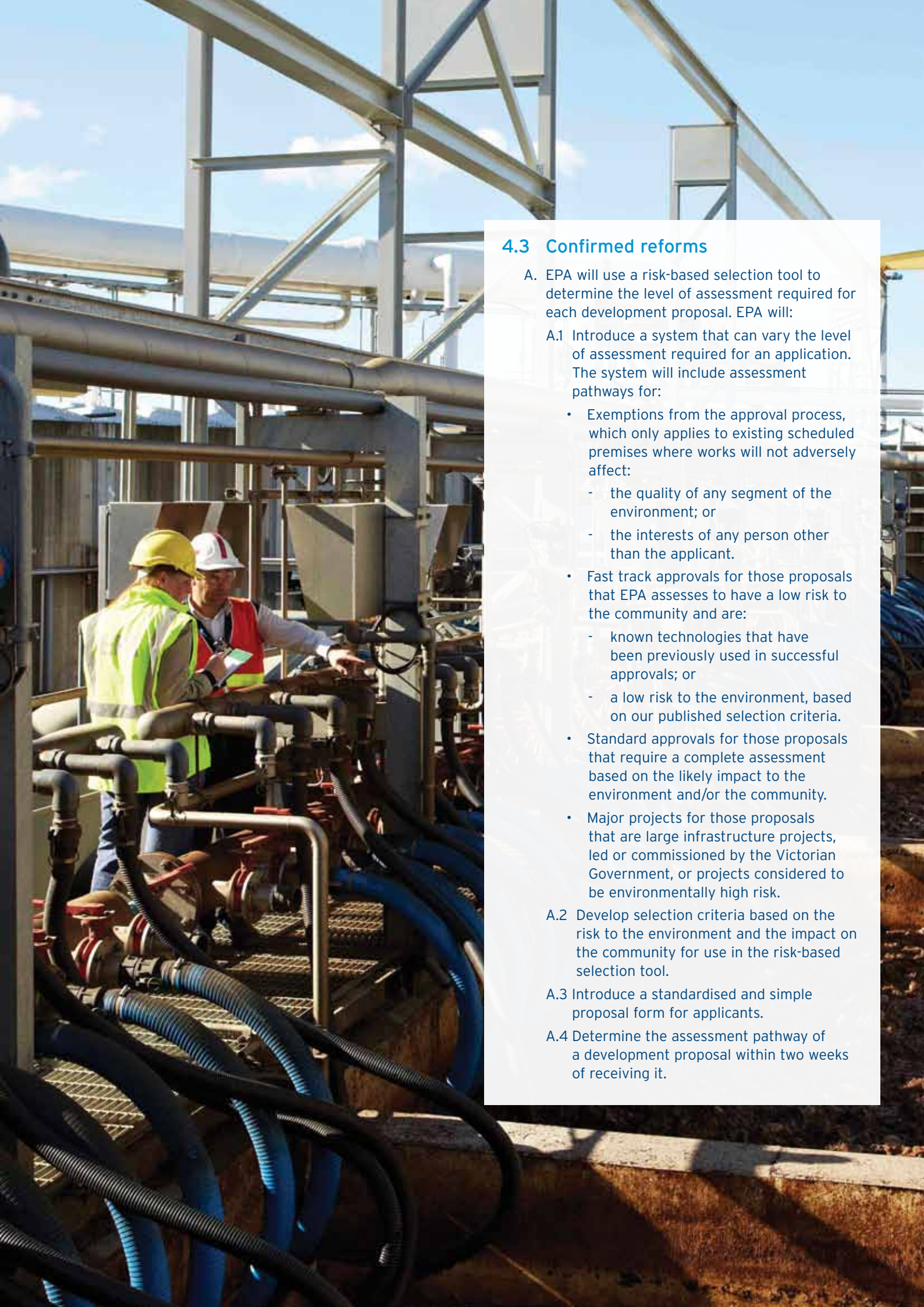
12 Including from Corangamite Shire, SITA, GDF SUEZ Hazelwood, Qenos, Alcoa and PACIA

13 Corangamite Shire, page 1; AiG, pages 9-10; GDF SUEZ Hazelwood, page 1

14 EDO, page 1

15 AiG, page 5

16 Ian Wallis, Bill Farell, EDO



## 4.3 Confirmed reforms

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

A.1 Introduce a system that can vary the level of assessment required for an application. The system will include assessment pathways for:

- Exemptions from the approval process, which only applies to existing scheduled premises where works will not adversely affect:
  - the quality of any segment of the environment; or
  - the interests of any person other than the applicant.
- Fast track approvals for those proposals that EPA assesses to have a low risk to the community and are:
  - known technologies that have been previously used in successful approvals; or
  - a low risk to the environment, based on our published selection criteria.
- Standard approvals for those proposals that require a complete assessment based on the likely impact to the environment and/or the community.
- Major projects for those proposals that are large infrastructure projects, led or commissioned by the Victorian Government, or projects considered to be environmentally high risk.

A.2 Develop selection criteria based on the risk to the environment and the impact on the community for use in the risk-based selection tool.

A.3 Introduce a standardised and simple proposal form for applicants.

A.4 Determine the assessment pathway of a development proposal within two weeks of receiving it.

# Chapter 5
# Streamlined and efficient

## 5.1 Context

EPA recognises that its approvals processes and decision-making need to be timely and efficient. This is required to provide certainty and to avoid unnecessary costs for industry. This includes EPA coordinating its approach with other agencies.

## 5.2 Approach proposed in Draft Report and stakeholder comments

In the Draft Report, EPA proposed a set of process steps, with target timeframes, for each of the exemption pathway, the fast track approvals pathway and the standard approvals pathway.

These proposals, which will make EPA's approvals process more certain and timely, were generally supported by stakeholders.

**Exemptions**

In relation to exemptions, EPA proposed a maximum four-week turn-around, that is, up to two weeks from receipt of a proposal to advising the proponent they are on the exemption pathway, and up to another two weeks for EPA to advise the proponent in writing of EPA's exemption decision.

While several stakeholders welcomed this proposal[17], others questioned whether a four-week turnaround was necessary.[18] EPA maintains that a maximum four-week turnaround is a reasonable timeframe given the analysis, verification, clarification and (delegated) sign-off required for EPA to grant an exemption under the Act. It will be notably less onerous for proponents than EPA's current exemption process. EPA agrees that clear EPA guidance is needed on the 'triggers' under section 19A(1) of the Act so that proponents are clear on when they do *and do not* need to lodge a proposal form and seek an EPA works approval or exemption.[19]

**Fast track assessment pathway**

The process steps proposed for the fast track assessment pathway were generally supported by stakeholders, with the opportunity to improve turn-around times welcomed. [20] EPA agrees with the suggestion that some ancillary changes to a licensee's operations should be accommodated via licence amendment, rather than requiring an EPA works approval.

**Standard track assessment pathway**

EPA's Draft Report proposed that the standard track pathway would include an early proposal meeting (of the proponent, EPA and other approval agencies), followed by EPA providing an Assessment Plan to the proponent.

Alcoa noted that there should be a maximum period for EPA to provide this Assessment Plan to the proponent.[21] EPA agrees with Alcoa's suggestion of a two week period and has amended the process steps accordingly.

EPA approvals processes need to be timely and efficient to provide certainty and avoid unnecessary costs for industry.

17 Ian Wallis, SITA and Alcoa
18 AiG, page 16; Melbourne Water, page 2
19 AiG, page 4
20 SITA, page 3
21 Alcoa, page 2

There was some concern expressed that the Assessment Plan could add another layer of bureaucracy in the approvals process. EPA maintains that the Assessment Plan will provide significant benefits and increase certainty for both proponents and assessors. It will provide parties with an agreement that addresses information requirements and the timeframes for the steps in the approvals process. The inclusion of a maximum two week period for EPA to provide the Assessment Plan following the proposal meeting will enable the assessment phase to be completed more efficiently and will not add time to the total approval process.

AiG did not support EPA's proposal to set a benchmark timeframe for standard works approvals of three months from an application being received for assessment to a decision being made (noting the statutory maximum is four months). [22] EPA believes that the proposed benchmark *maximum* of three months is reasonable given the steps involved – advertising and referral (third parties have 21 days to comment and the responsible authority has up to 45 days), analysis of substantive comments from referral agencies, the planning authority and third parties, peer review and sometimes public conferences. EPA is committed to the *average* timeframe for the statutory stage of standard works approvals being lower than the maximum benchmark of three months. The reforms, including the introduction of the fast track pathway for low risk works approval applications, will deliver significant reductions in the overall time taken for works approvals. EPA will track and annually publicly report on the average statutory timeframe and is committed to continuously improving this result.

There was support for EPA's proposal to introduce combined applications to allow, for example, a proponent to lodge a single application for successive forms of approval – such as a works approval, commissioning approval and then licensing approval.

22 AiG, page 17

### Proposed changes relevant to section 30A emergency approvals

In the Draft Report, EPA proposed reducing the number of section 30A emergency approvals by amending certain licences – 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). The Draft Report made it clear that emergency approvals will still be required outside of the restricted conditions, including for major upset conditions and unforeseen events.

Melbourne Water expressed support for this proposal. [23] Some stakeholders suggested that the proposal should be broadened – to also address licences. relating to stand alone wastewater treatment plants and storages,[24] and to include section 30A applications relating to the commissioning, repair or decommissioning of equipment.[25]

EPA will continue to work with relevant licensees – initially water corporation licensees – on these amendments and will continue to discuss these issues, as they relate to extractive industries and mining, with DPI.

### Improved coordination with other agencies

In the Draft Report, EPA advised it would seek to improve the coordination of approvals by working with other agencies and would establish a working group with relevant co-regulators for this purpose.

Several stakeholders expressed support for this proposal.[26] EPA will hold several meetings of a working group in the first half of 2013 to formalise arrangements for improved coordination. Since the release of the Draft Report, EPA has met with DOH, DBI, Worksafe and DPI and all have expressed support for this approach.

Improving the coordination of EPA's approvals process with other agencies will help to reduce the cumulative impacts of regulation on Victorian industry.[27]

23 Melbourne Water, page 2

24 AiG, page 12

25 Alcoa, page 2

26 Ian Wallis, page 2; Alcoa, page 3; Melbourne Water, page 2

27 The Victorian Government has committed to reviewing the regulatory framework faced by different sectors of the Victorian economy, focusing on addressing cumulative regulatory impacts, including fees and charges: *Securing Victoria's Economy* (2012), Action 41, page 55

### 5.3 Confirmed reforms

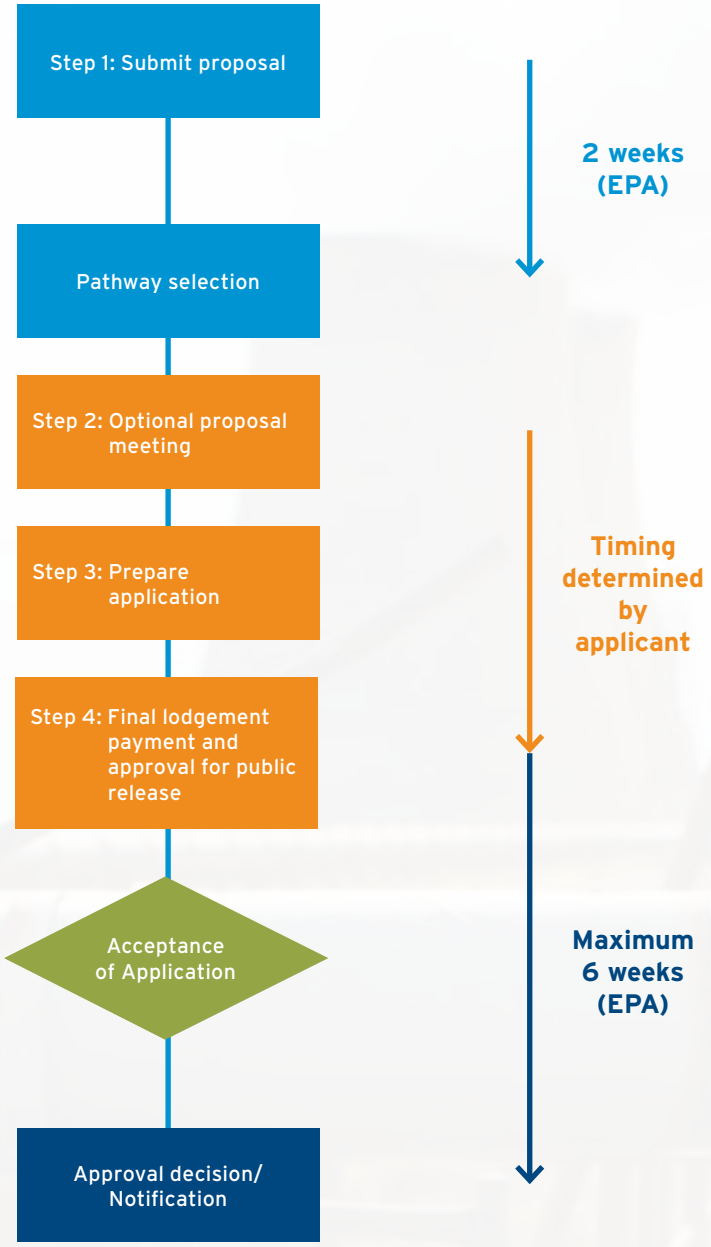
B. EPA will consistently, confidently and efficiently apply exemptions where allowed under the EP Act. The exemption pathway will have a maximum four-week turn-around, from submission of a proposal to a response in writing from EPA notifying the applicant of the decision.

C. EPA will introduce a new fast track works approval pathway for low-risk proposals, with the following features and benchmark timeframes:

- EPA will provide advice on what will be needed in a fast track application
- an applicant will submit a single application form – there will be no 'draft application' stage
- within six weeks of receiving the application, EPA will make its decision on the approval
- EPA will provide fast track status on the basis of information in the proposal, although this may change if:
  - the applicant makes changes to the proposal after the fast track assessment pathway is selected
  - the application includes contradictory information
  - unforseen community or referral agency concerns are raised.

These reforms are illustrated in Figure 5.1 on page 19.

Figure 5.1 – Fast track works approval process



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

D.1 After EPA has advised the applicant the standard assessment pathway is needed and held a proposal meeting with them, we will provide the applicant with an assessment plan within two weeks of the proposal meeting. The assessment plan will detail:

- supporting information required for their application, including the key issues to be covered, the level of detail needed and what methodology is to be used (where relevant)
- target timeframes for the overall application process (for the applicant and EPA)
- where and when in the process further information can be requested by EPA.

D.2 EPA will set the following benchmarks for all standard works approvals:

- only one draft application
- two weeks for the draft application to be reviewed, before a draft application review meeting
- a maximum of three months from an application being received for assessment to a decision being made (with a statutory maximum of four months).

D.3 Management sign-off by EPA will be required to alter the assessment plan if there are:

- significant changes to the level of detail of information required, or methodology used to demonstrate the potential impact of the works
- significant alterations to agreed timeframes
- concerns about the veracity of the information in the application.

D.4 EPA will introduce combined applications to allow, for example, a proponent to lodge a single application for a works approval, commissioning approval and a licence to operate.

These reforms are illustrated in Figure 5.2 on page 21.

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.

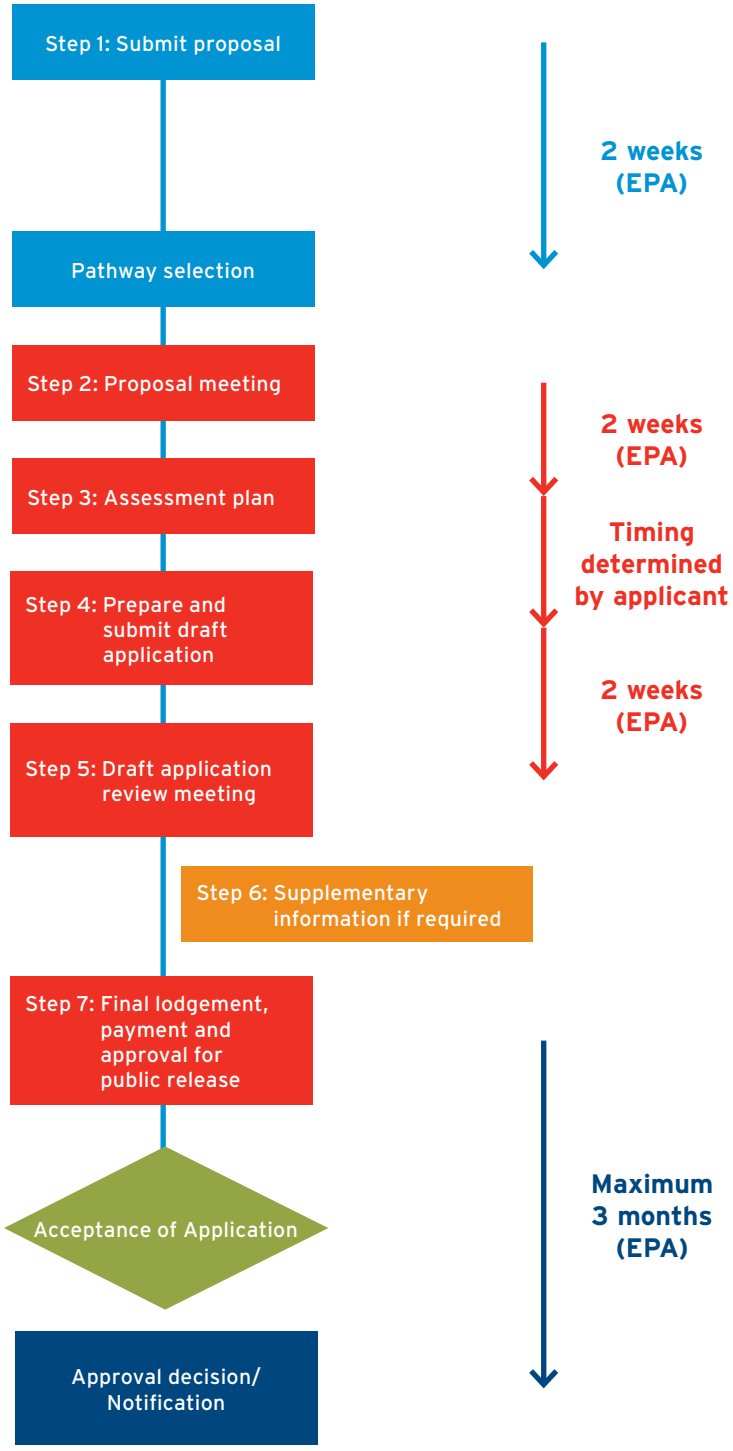
F. EPA will seek to improve the coordination of approvals by working with other agencies, including:

F.1 Where a standard works approval as well as a planning permit is required, developing a standard administrative process to allow parallel processing of applications with:

- a joint pre-application meeting with local government, EPA and any other agency or referral authority likely to be asked for specific advice during the assessment
- joint advertising of the applications
- coordinated community engagement activities and events.

F.2 Establishing a working group with relevant co-regulators to implement this new coordinated approach.

Figure 5.2 - Standard works approval process



## 5.3 Confirmed reforms summarised

B. EPA will consistently, confidently and efficiently apply exemptions where allowed under the EP Act.

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 to allow discharges under restricted conditions, and to require these discharges to be reported in the licensee's annual performance statement. 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.

These reforms are in greater detail on pages 17-20.

# Chapter 6 Effective at preventing environmental harm

## 6.1 Context

A strong approvals system is a prerequisite for EPA to effectively fulfil its responsibility to protect and enhance the environment in Victoria. To be robust, the approvals system has to be underpinned by clear guidance, quality training and periodic checking of approval decisions and conditions.

## 6.2 Approach proposed in Draft Report and stakeholder comments

**Protecting and enhancing the environment**

In the Draft Report, EPA proposed a range of actions to improve the effectiveness of its approvals function in protecting and enhancing the environment. In summary, EPA proposed to:

- continue to review the environmental performance of a proportion of approved works sites 1 year after they begin operation
- improve EPA's guidance materials – both on the approvals process and on key standards and environment protection principles
- enhance EPA's expertise, including by updating its training program for EPA assessors.

Stakeholders expressed support for these proposals.

In relation to EPA's guidance materials, stakeholders noted it is important that EPA regularly reviews its guidance materials and suggested EPA needs to improve its review timeframes.[28] EPA agrees that its guidance material for duty holders requires regular review. As noted in the Draft Report, EPA has now established an internal process that is helping to prioritise and manage reviews of EPA's guidance. Each year, EPA will review the currency of each piece of its guidance material for duty holders. EPA anticipates this will result in at least 10% of EPA's guidance material for duty holders being substantively updated, varied or revoked each year.

Stakeholders also expressed concern about EPA's approvals guidance material and recommended EPA commit to timelines for this guidance material development.[29] EPA is committed to developing the guidance material for the reformed approvals process by no later than the end of 2013 – that is, the selection criteria for the assessment pathways and the application and assessment procedures.

Several stakeholders commented on the importance of EPA providing clear guidance, with relevant examples, of what constitutes 'best practice'.[30] EPA has recently finalised its Guideline on Demonstrating Best Practice (EPA publication 1517), which provides direction to works approval applicants on what is required to demonstrate best practice. In future, the publication of all of EPA's works approval decisions, and the rationale behind them, will make it clearer for applicants to understand what EPA regards as best practice in a particular segment or industry.

A strong approvals system is a prerequisite for EPA to effectively fulfil its responsibility to protect and enhance the environment in Victoria.

28 SITA, page 4

29 AiG, page 17

30 SITA, page 2; PACIA, page 2; Qenos, page 1

In relation to enhancing EPA's expertise, SITA emphasised that 'EPA officers with the necessary technical and regulatory expertise who are consistently available throughout the pre-application and application processes provide applicants with planning and financial security'[31]. Stakeholders recommended that assessors' training include a component 'from an industry perspective'[32], and noted that EPA's guidance and training development will benefit from the active support of those subject to EPA's licensing, works approvals and exemptions processes.[33] EPA agrees and is committed to working with industry as it develops its approvals guidance and updates its training program for assessors.

### A systematic approach to periodic licence reviews

In the Draft Report, EPA proposed to introduce a systematic process to periodically review standard conditions and EPA licences. EPA proposed to use its risk-based and responsive regulatory model to determine how often licences are reviewed, and to establish a maximum period between reviews comparable with other Australian jurisdictions.

Stakeholders expressed support for EPA establishing a systematic process to periodically review licences. SITA noted that it would '...provide greater planning surety for the operator and increased surety for the community that the facility is being operated to "Best Practice" standards'.[34]

There were slightly different views about the appropriate frequency for EPA licence reviews. AiG stated that EPA should commit to a review period in line with other environment regulatory bodies in Australia.[35] As noted in the Draft Report, in NSW licences are required to be reviewed at least every five years. By comparison, Alcoa stated that the reviews should be '... on a frequency of *no greater than* a five yearly basis' (emphasis added). Alcoa's view was that a more frequent basis would impose unnecessary work load for EPA officers and industry for little gain, given that changes in knowledge on environmental impacts take time.[36] GDF SUEZ Hazelwood stated that the timing of licence reviews should be reflective of the ability of the licensed premises to change. They emphasised that small changes to a licence (e.g. discharge water temperature) can impose substantial capital expenditure costs (e.g. new mechanical cooling).[37]

EDO was supportive of the proposed approach to periodic licence reviews but suggested what it regarded as additional triggers, namely:

- a more frequent review schedule where a licence holder has a poor environmental record
- where new pollutants are listed under National Environment Protection Measures (NEPMs)
- where there is a significant level of community or public concern in respect of a premises or its activities.[38]

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31 SITA, page 4
32 AiG, pages 13 & 17
33 Melbourne Water, page 2
34 SITA, page 5
35 AiG, page 18
36 Alcoa, page 3
37 GDF SUEZ Hazelwood, page 3
38 EDO, page 2

EPA agrees with EDO that each of these factors or events is relevant to the timing of licence reviews. EPA will take into account a licensee's environmental performance in its risk assessment process. When new pollutants are listed under NEPMs, these are implemented in Victorian law via statutory policies. The EP Act requires EPA to amend licences where this is necessary to make them consistent with a new or amended statutory policy (section 20C(4)). EPA agrees that an emerging local issue may be a catalyst for a licence review.

EPA has decided to commit to a *maximum* period of five years between systematic reviews of each EPA licence. This will align EPA's practice with New South Wales, and is also comparable to South Australia and Western Australia.

EPA maintains that the frequency of the review of each licence should primarily be driven by risk assessment. While EPA will establish a schedule for periodic licence reviews, individual licence reviews will be brought forward as necessary – for example, where requested by a licensee, or where a need arises out of a site visit or because of a contemporary environmental issue or an emerging regional or local issue.

If the periodic licence review results in a licence amendment that a licensee is dissatisfied with, the licensee will have the right to apply to VCAT for a review of the amendment.[39]

**Developing an alternative program to recognise licensee excellence**

The Draft Report countenanced the future of accredited licences. It noted that approximately 2% of sites licensed by EPA are currently accredited.[40] EPA indicated it would prefer to have a program that encourages, recognises and rewards superior environmental performance across all EPA licensees. EPA indicated it would work with stakeholders to develop such a program.

Following release of the Draft Report, EPA held a workshop with current accredited licensees.[41] The workshop provided an initial opportunity for representatives to share their experiences of the current accredited licence program and to put forward ideas to help shape the design of an alternative program.

The discussion at the workshop included the following key points:

- While only 2% of EPA licensed sites are currently accredited, these sites are highly significant to the Victorian environment and economy. EPA agrees and notes that the licence fees attaching to currently accredited sites demonstrate this point. Accredited sites currently account for a significant proportion of EPA's total licence fees. As licence fees are based on emission levels, the currently accredited sites therefore account for a significant proportion of the emissions of EPA licensed sites.
- Accreditation provides an assurance – to a range of stakeholders, including internal management, the local community, financiers and insurers – that the company goes 'above and beyond' in its environmental management of the site.
- Accreditation can provide the basis for a good relationship and structured engagement with the local community. The environment improvement plan, which the current accreditation program requires, is often highly valued by the local community.
- However, some felt there was a low understanding of accreditation in the general community and that accreditation carried very limited external public relations benefit.

39 EP Act, section 33A(4)(b)

40 Accreditation is granted under section 26B of the EP Act

41 29 November 2012, EPA head office, Carlton. It was attended by 15 industry representatives from 9 of the companies that currently have a licensed site or sites that are accredited.

- The 25% licence fee reduction is important. While, for most, the cost and time of maintaining accreditation outweighs this fee reduction, 'every penny counts' for internal financial reporting purposes.
- Accreditation, particularly the licence fee discount, helps the internal business case to build internal quality / environmental management systems.
- The non-prescriptive nature of accredited licence conditions has also been attractive.
- Being exempted from the requirement to obtain a works approval in certain circumstances has been valued but has only been made use of irregularly.

Looking ahead, workshop attendees advised EPA the following features would be beneficial in an alternative program that recognises licensee excellence:

- For the 'recognition' to last for a reasonable timeframe – i.e. five years rather than 12 months – to support the business case to seek and maintain it.
- Using ratings – star ratings, AAA, etc – to make the status more readily recognisable to the public.
- Using a tiered approach, rather than a 'one size fits all' approach. For example, a bronze rating if meet three criteria, silver if meet five, and gold if meet seven, with commensurate awards/rewards depending on the rating level. Some of the criteria should be broader than EPA licence compliance, such as whether the company has ISO 14001 accreditation, and whether the company contributes to local environmental projects.
- Assessment being based on a comparison with 'like industries'.
- Including a financial incentive as part of the award/reward 'package' is important.
- The 'award' providing for strong public recognition.
- Achieving a 'high rating' also providing the basis for a strong working relationship and trust between EPA and the company.

Many of the above points were reiterated in submissions provided on the Draft Report.[42]

In 2013, EPA will continue to consult with stakeholders – including accredited and non-accredited licensees, community and government stakeholders – on the design of an alternative program to recognise excellence across all EPA licensees. An alternative program will not be in place until at least 2014. Current accredited licences will continue in the interim, until at least 2014.

42 Alcoa, EnergyAustralia, GDF SUEZ Hazelwood, Qenos and Melbourne Water

## 6.3 Confirmed reforms

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

G.1 Annually reviewing the environmental performance of a proportion of approved works sites approximately one year after they begin operation, to track how effectively the reformed approvals process prevents environmental impacts. The sites reviewed will be a representative mix of different industries, brownfield and greenfield sites, and sites that received a fast track works approval and a standard track works approval.

G.2 Addressing gaps and developing improved 'plain English' guidance material, including:

- the selection criteria for the assessment pathways and the application and assessment procedures.
- guidelines on how to interpret key statutory or regulatory requirements including how exemptions are used and best practice is applied.
- guidelines on the interpretation of environmental standards.
- guidance on how the environment protection principles under the EP Act are applied to the assessment of approvals applications, including:
  - integrated environmental management – finding the best practicable outcome when managing an impact on one segment of the environment may impact on another segment (section 1J)
  - integration of economic, social and environmental considerations (section 1B)
  - intergenerational equity (section 1 D).

G.3 Improving EPA's expertise in assessing approvals by:

- updating its training program for assessing officers to include:
  - continually updated process documentation in Standard Operating Procedures (SOPs)
  - defined training for officers delegated decision-making powers under the EP Act
  - cross-training between specialist areas
  - defined skills and experience needed to become a senior or lead assessing officer
  - training from an industry perspective
- further developing EPA's expertise framework
- working with environment professionals outside EPA (including auditors and industry experts) to continuously improve and apply risk-based criteria and environmental standards.

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

H.1 Periodically review all standard conditions used in the approvals process to address updates in statutory policies, regulations, and guidance.

H.2 Periodically review and update the content of all licences, including (where relevant):

- licence limits
- wastes accepted
- which standard conditions are used and if any non-standard or specific conditions are used
- maps and plans.

H.3 There will be a maximum period of five years between systematic reviews of each EPA licence.

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.

# Chapter 7 Transparent, consistent and accountable

## 7.1 Context

EPA recognises it needs to become more transparent and accountable in the way it progresses and makes decisions on applications for exemptions and approvals.

EPA's research into overseas and Australian environmental regulators identified key better practice elements relating to transparency and accountability. These include providing clear information online on the steps involved in the approvals process and who is responsible for each step, and publishing clear information on current applications and on all previous applications and decisions.

## 7.2 Approach proposed in Draft Report and stakeholder comments

In the Draft Report, EPA proposed a range of reforms to increase the transparency, consistency and accountability of its approvals system. In summary, EPA proposed to:

- publish the criteria used in EPA decision-making, including to decide the appropriate assessment pathway
- publish all applications, summary assessments and decisions on approvals and exemptions (i.e. EPA's decisions and the rationale behind them)
- annually report on EPA's overall approvals timeframes (both the pre-statutory and statutory stages), and on the numbers of approvals and exemptions
- develop standard conditions for different types of approvals
- provide and receive all key approval documents via EPA's website
- share information more effectively within EPA, making use of EPA's new Integrated Business Information System (IBIS).

These proposed reforms were supported by a range of stakeholders.[43] SITA, for example, noted that providing more information online will benefit both the community and applicants. 'Transparent web-based tracking of [an] application will allow the community to review the process, [and] the relevant information and respond accordingly. Consistent information ... will also allow applicants to research past projects and access lessons learned, thereby contributing to the improvement of the application process.'[44]

**... a range of reforms to increase the transparency, consistency and accountability of EPA's approvals system.**

43 Consulting Environmental Engineers, Corangamite Shire, SITA, GDF SUEZ Hazelwood, Alcoa, AiG, Melbourne Water

44 SITA, page 5

Stakeholders also sought clarity on when EPA would deliver these reforms. EPA will work closely with stakeholders and provide regular updates as these reforms are developed in 2013. The majority of these reforms will be in place by early 2014.

The issue of whether EPA should have an internal review process for its assessment pathway determinations is addressed in Chapter 4 (section 4.2) of this report. A logical extension to this issue is whether EPA should establish an internal review process for its exemption decisions and/or approval decisions.

EPA recognises that, as part of being a transparent and accountable regulator, it is important that its decisions are open to challenge. However, it is also important to consider which EPA decisions were intended by the legislature to be subject to review.

Part IV of the EP Act sets out which EPA decisions are subject to merits review at VCAT. EPA's exemption decisions are not subject to review at VCAT. By contrast, both proponents and affected third parties can apply to VCAT for a review of an EPA works approval decision.[45] Licensees can apply to VCAT for a review of an EPA licence amendment.[46]

EPA does not support establishing an internal review process for its exemption decisions as it would create an undesirable level of uncertainty for industry.

EPA also does not support establishing an internal review avenue for third parties of its works approval decisions. EPA believes it would be unworkable given the number of third parties potentially involved and the need to complete internal reviews very quickly so that parties retain the option afterwards of applying to VCAT.[47]

After the reforms set out in this report have been implemented, EPA will further consider if it should set up an internal review mechanism for applicants dissatisfied with a works approval decision and for licensees dissatisfied with a licence amendment.

This will provide EPA with the opportunity to learn from the internal review process that it will shortly be introducing for recipients of Pollution Abatement Notices and Clean Up Notices.[48]

When this is reconsidered, EPA will need to take into account a number of factors. They include the number of decisions that the process would apply to (noting the periodic review of all licences is likely to result in more licence amendments); the practicability of completing internal reviews very quickly (the grounds for seeking an internal review would need to be carefully defined); and, importantly, how much cost and time is likely to be saved (for industry and EPA) by lessening the likelihood of industry seeking external review at VCAT.[49]

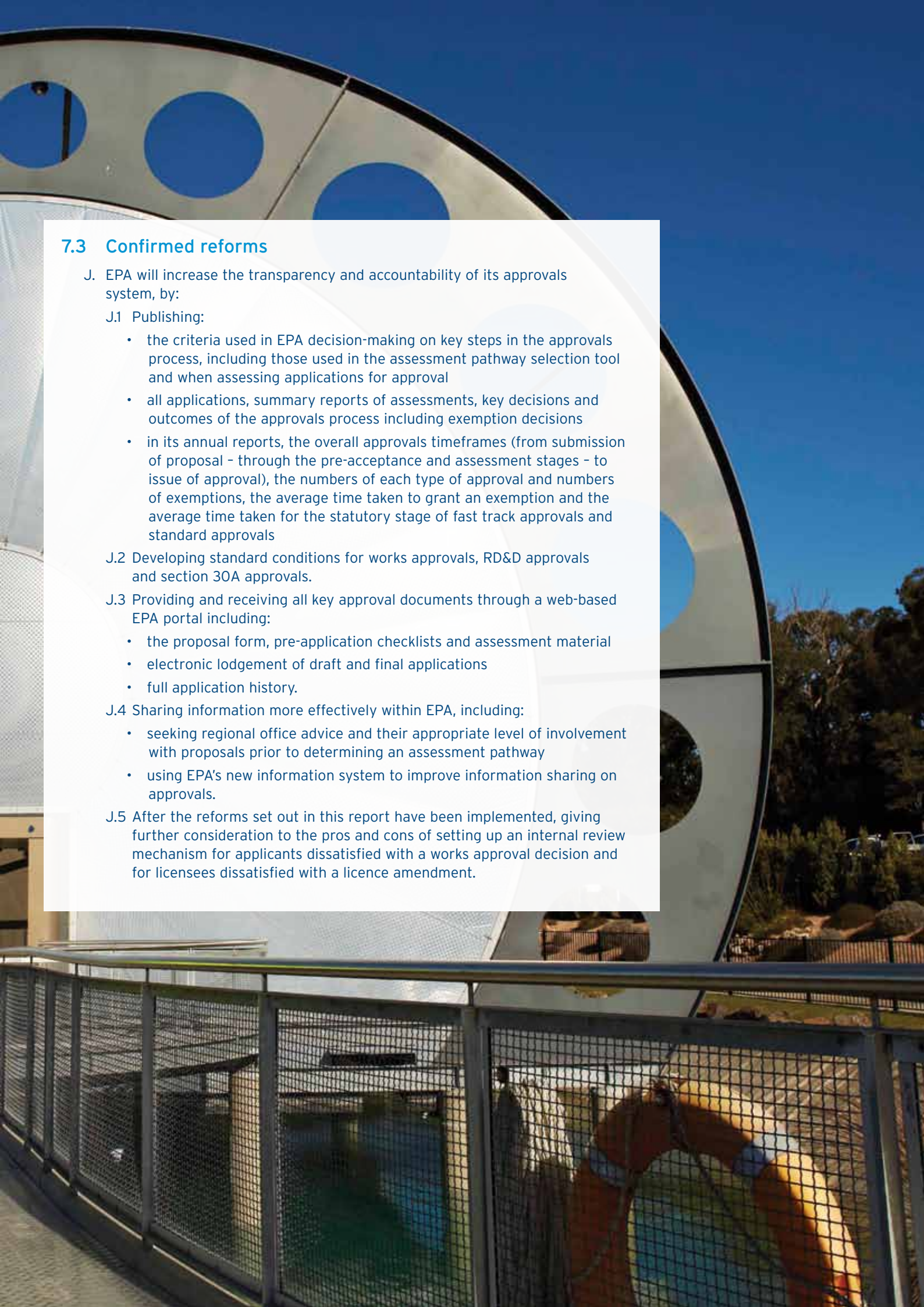
45 section 33(3) and section 33B(1)

46 section 33A(4); under section 33B(1), affected third parties can also apply to VCAT in relation to long-route licence decisions and amendments

47 Parties have 21 days to apply to VCAT for a review of EPA's decisions.

48 This process was recommended by EPA's 2011 Compliance and Enforcement Review (see Chapter 17 and recommendation 17.1).

49 As part of this calculation, it will be necessary to take into account how many of the matters that are taken to VCAT are settled, or partially settled, at mediation prior to a contested hearing.



## 7.3 Confirmed reforms

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

J.1 Publishing:

- the criteria used in EPA decision-making on key steps in the approvals process, including those used in the assessment pathway selection tool and when assessing applications for approval
- all applications, summary reports of assessments, key decisions and outcomes of the approvals process including exemption decisions
- in its annual reports, the overall approvals timeframes (from submission of proposal – through the pre-acceptance and assessment stages – to issue of approval), the numbers of each type of approval and numbers of exemptions, the average time taken to grant an exemption and the average time taken for the statutory stage of fast track approvals and standard approvals

J.2 Developing standard conditions for works approvals, RD&D approvals and section 30A approvals.

J.3 Providing and receiving all key approval documents through a web-based EPA portal including:

- the proposal form, pre-application checklists and assessment material
- electronic lodgement of draft and final applications
- full application history.

J.4 Sharing information more effectively within EPA, including:

- seeking regional office advice and their appropriate level of involvement with proposals prior to determining an assessment pathway
- using EPA's new information system to improve information sharing on approvals.

J.5 After the reforms set out in this report have been implemented, giving further consideration to the pros and cons of setting up an internal review mechanism for applicants dissatisfied with a works approval decision and for licensees dissatisfied with a licence amendment.

# Chapter 8
# Inclusive and accessible

## 8.1 Context

EPA is committed to making its approvals process inclusive and accessible.

EPA recognises that its exemption and approvals decisions, including the works approval and licence conditions that EPA sets for new infrastructure and activity, can have a significant impact on the environment and local communities.

An inclusive and accessible approach is essential for communities to know when EPA is assessing a proposal, how the proposal may affect them, and how they can participate in and influence EPA's decision-making.

EPA has a strong record of community engagement in its approvals process and, in recent years, has trialled and introduced a range of practices that go beyond the requirements in the EP Act. However, consultation with community members on this review and research on other regulators' approaches has demonstrated that we can make further improvements.

An inclusive and accessible approach is essential for communities to know when EPA is assessing a proposal, how the proposal may affect them, and how they can participate in and influence EPA's decision-making.

## 8.2 Approach proposed in Draft Report and stakeholder comments

In the Draft Report, EPA committed to seeking opportunities for improved interaction between the community and industry. In particular, EPA proposed to provide an incentive for applicants to engage with their local community before seeking an approval, by making this a pre-requisite for proponents seeking a fast track works approval. EPA also noted that the mandatory pre-application meeting and assessment plans for all standard works approvals would support applicant engagement.

Stakeholders expressed support for these approaches.[50] Melbourne Water, for example, expressed its support for 'the recognition of applicant driven engagement processes used to support and to comply with formal approval processes'.[51]

GDF SUEZ Hazelwood sought an assurance that EPA would continue to support long standing community environmental review committees.[52]

EDO emphasised the need for engagement to be relevant to the communities in which the proponents are operating, and noted this may include providing information in languages other than English.[53]

50 SITA, Alcoa, Melbourne Water
51 Melbourne Water, page 3
52 GDF SUEZ Hazelwood, page 4
53 EDO, page 2

## 8.3 Confirmed reforms

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

K.1 Community engagement by applicant:

- By using the assessment pathway selection tool and related EPA guidance, provide an incentive for all applicants to engage with their local community before seeking an EPA approval.

K.2 Applicant engagement:

- Introduce a mandatory pre-application meeting and an assessment plan for all standard works approvals to better support applicants through the process.

The approaches proposed in Chapter 5 (seeking opportunities to coordinate approvals by working with other approving agencies) and in Chapter 7 (publishing more information online) will also increase the accessibility of EPA's approvals system.

# Chapter 9
# The reforms we will make

## 9.1 Summary of reforms

This section confirms the reforms that EPA is committed to making (as described in Chapters 4 to 8).

**A new risk-based assessment system (Chapter 4)**

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

A.1 Introduce a system that can vary the level of assessment required for an application. The system will include assessment pathways for:

- Exemptions from the approval process, which only applies to existing scheduled premises where works will not adversely affect:
  - the quality of any segment of the environment

  or
  - the interests of any person other than the applicant.
- Fast track approvals for those proposals that EPA assesses to have a low risk to the community and are:
  - known technologies that have been previously used in successful approvals

  or
  - a low risk to the environment, based on our published selection criteria.
- Standard approvals for those proposals that require a complete assessment based on the likely impact to the environment and/or the community.
- Major projects for those proposals that are large infrastructure projects, led or commissioned by the Victorian Government, or projects considered to be environmentally high risk.

A.2 Develop selection criteria based on the risk to the environment and the impact on the community for use in the risk-based selection tool.

A.3 Introduce a standardised and simple proposal form for applicants.

A.4 Determine the assessment pathway of a development proposal within two weeks of receiving it.

A.5 Publish details of its assessment pathway determinations on its website.

**Streamlined and efficient (Chapter 5)**

B. EPA will consistently, confidently and efficiently apply exemptions where allowed under the EP Act. The exemption pathway will have a maximum 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, with the following features and benchmark timeframes:

- EPA will provide advice on what will be needed in a fast track application
- an applicant will submit a single application form – there will be no 'draft application' stage
- within six weeks of receiving the application, EPA will make its decision on the approval.
- EPA will provide fast track status on the basis of information in the proposal, although this may change if:
  - the applicant makes changes to the proposal after the fast track assessment pathway is selected
  - the application includes contradictory information
  - unforseen community or referral agency concerns are raised.

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

D.1 After EPA has advised the applicant the standard assessment pathway is needed and held a proposal meeting with them, we will provide the applicant with an assessment plan within two weeks of the proposal meeting. The assessment plan will detail:

- supporting information required for their application, including the key issues to be covered, the level of detail needed and what methodology is to be used (where relevant)
- target timeframes for the overall application process (for the applicant and EPA)
- where and when in the process further information can be requested by EPA.

D.2 EPA will set the following benchmarks for all standard works approvals:

- only one draft application

- two weeks for the draft application to be reviewed, before a draft application review meeting
- a maximum of three months from an application being received for assessment to a decision being made (with a statutory maximum of four months).

D.3 Management sign-off by EPA will be required to alter the assessment plan if there are:

- significant changes to the level of detail of information required, or methodology used to demonstrate the potential impact of the works
- significant alterations to agreed timeframes
- concerns about the veracity of the information in the application.

D.4 EPA will introduce combined applications to allow, for example, a proponent to lodge a single application for a works approval, commissioning approval and a licence to operate.

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, including:

F.1 Where a standard works approval as well as a planning permit is required, developing a standard administrative process to allow parallel processing of applications with:

- a joint pre-application meeting with local government, EPA and any other agency or referral authority likely to be asked for specific advice during the assessment
- joint advertising of the applications
- coordinated community engagement activities and events.

F.2 Establishing a working group with relevant co-regulators to implement this new coordinated approach.

**Effective at protecting the environment (Chapter 6)**

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

G.1 Annually reviewing the environmental performance of a proportion of approved works sites approximately 1 year after they begin operation, to track how effectively the reformed approvals process prevents environmental impacts. The sites reviewed will be a representative mix of different industries, brownfield and greenfield sites, and sites that received a fast track works approval and a standard track works approval.

G.2 Addressing gaps and developing improved 'plain English' guidance material, including:

- the selection criteria for the assessment pathways and the application and assessment procedures.
- guidelines on how to interpret key statutory or regulatory requirements including how exemptions are used and best practice is applied.
- guidelines on the interpretation of environmental standards.
- guidance on how the environment protection principles under the EP Act are applied to the assessment of approvals applications, including:
  - integrated environmental management – finding the best practicable outcome when managing an impact on one segment of the environment may impact on another segment (section 1J)
  - integration of economic, social and environmental considerations (section 1B)
  - intergenerational equity (section 1 D).

G.3 Improving EPA's expertise in assessing approvals by:

- updating its training program for assessing officers to include:
  - continually updated process documentation in Standard Operating Procedures (SOPs)
  - defined training for officers delegated decision-making powers under the EP Act
  - cross-training between specialist areas
  - defined skills and experience needed to become a senior or lead assessing officer

- training from an industry perspective
- further developing EPA's expertise framework
- working with environment professionals outside EPA (including auditors and industry experts) to continuously improve and apply risk-based criteria and environmental standards.

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

H.1 Periodically review all standard conditions used in the approvals process to address updates in statutory policies, regulations, and guidance.

H.2 Periodically review and update the content of all licences, including (where relevant):

- licence limits
- wastes accepted
- which standard conditions are used and if any non-standard or specific conditions are used
- maps and plans.

H.3 There will be a maximum period of five years between systematic reviews of each EPA licence.

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, by:

J.1 Publishing:

- the criteria used in EPA decision-making on key steps in the approvals process, including those used in the assessment pathway selection tool and when assessing applications for approval
- all applications, summary reports of assessments, key decisions and outcomes of the approvals process including exemption decisions
- in its annual reports, the overall approvals timeframes (from submission of proposal – through the pre-acceptance and assessment stages – to issue of approval), the numbers of each type of approval and numbers of exemptions, the average time taken to grant an exemption and the average time taken for the statutory stage of fast track approvals and standard approvals.

J.2 Developing standard conditions for works approvals, RD&D approvals and section 30A approvals.

J.3 Providing and receiving all key approval documents through a web-based EPA portal including:

- the proposal form, pre-application checklists and assessment material
- electronic lodgement of draft and final applications
- full application history.

J.4 Sharing information more effectively within EPA, including:

- seeking regional office advice and their appropriate level of involvement with proposals prior to determining an assessment pathway
- using EPA's new information system to improve information sharing on approvals.

J.5 After the reforms set out in this report have been implemented, giving further consideration to the pros and cons of setting up an internal review mechanism for applicants dissatisfied with a works approval decision and for licensees dissatisfied with a licence amendment.

**Inclusive and accessible (Chapter 8)**

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

K.1 Community engagement by applicant:

- By using the assessment pathway selection tool and related EPA guidance, provide an incentive for all applicants to engage with their local community before seeking an EPA approval.

K.2 Applicant engagement:

- Introduce a mandatory pre-application meeting and an assessment plan for all standard works approvals to better support applicants through the process.

## 9.2 Implementation of reforms

EPA has established an implementation team – led out of its Development Assessments Unit – to progress the delivery of these reforms.

The implementation team will work closely with key stakeholders to develop the reforms – including by circulating draft guidance documents and including an industry perspective in its updated training program.

A high priority reform is the development of the criteria that will be used in the risk-based assessment pathway selection tool (reform A.2). These criteria will determine the level of assessment required for each development proposal. Finalising these criteria is critical as it will enable EPA, with stakeholder input, to design the proposal form (reform A.3) and to update its process guidance (reform G.2) and training program for assessors (reform G.3).

The team will provide stakeholders with quarterly updates on EPA's website on the progress of the reforms. The implementation team's first update will include forward timelines and details of key milestones for each of the reforms.

In 2013, EPA is also continuing the roll out of its Integrated Business Information System (IBIS). The implementation of these approvals reforms will be carefully integrated with this major system reform.

# Appendices

## Appendix 1 – Stakeholders that commented on the Draft Report

19 stakeholders provided comments on the Approvals Review Draft Report, including three on a confidential basis.

The following stakeholders provided non-confidential submissions that were published on EPA's website:

- Australian Industry Group (Ai Group)
- Alcoa
- Barwon Water
- Bill Farrell
- Consulting Environmental Engineers (CEE)
- Coliban Water
- Corangamite Shire Council
- Department of Health
- Environment Defenders Office (EDO)
- EnergyAustralia
- Goulburn Valley Water
- GDF SUEZ Hazelwood
- Melbourne Water
- Plastics and Chemicals Industries Association (PACIA)
- Qenos
- SITA Australia

## Appendix 2 – Stakeholder meetings since the release of the Draft Report

| Date | Meeting description |
|---|---|
| 29 November 2012 | Workshop with representatives of accredited licensees |
| 3 December 2012 | Meeting with Department of Primary Industries |
| 3 December 2012 | Meeting with Department of Business and Innovation |
| 4 December 2012 | Meeting with WorkSafe |
| 13 December 2012 | Meeting with Department of Health |
| 10 January 2013 | Meeting with Environment Defenders Office |
| 14 January 2013 | Meeting with Australian Industry Group |

## Appendix 3 – Abbreviations and acronyms

| Acronym | Full title |
|---|---|
| AiG | Australian Industry Group |
| APS | Annual Performance Statement |
| DBI | Department of Business and Innovation |
| DoH | Department of Health |
| DPCD | Department of Planning and Community Development |
| DPI | Department of Primary Industries |
| EDO | Environment Defenders Office |
| EP Act | *Environment Protection Act 1970* |
| EPA | Environment Protection Authority Victoria |
| IBIS | Integrated Business Information System |
| MoU | Memorandum of Understanding |
| PACIA | Plastics and Chemicals Industries Association |
| RD&D approvals | research, development and demonstration approvals (under section 19D of EP Act) |
| Regulations | Environment Protection (Scheduled Premises and Exemptions) Regulations 2007 |
| section 30As | Emergency or commissioning approvals (under section 30A of EP Act) |
| SEPP | State Environment Protection Policy |
| VCAT | Victorian Civil and Administrative Tribunal |
| VCEC | Victorian Competition and Efficiency Commission |
| WA | works approval |
| WMP | Waste Management Policy |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