

EPA's works approval assessment process



Environment
Protection
Authority Victoria

Publication 1657* June 2017

Information bulletin

* This publication gives an overview of the works approval process. It replaces the Introduction and Section 1 of *Works approval application* guideline (publication 1307.10)

Introduction	1
1. Works approvals overview	2
1.1 About works approvals.....	2
1.2 Legislative framework governing works approvals.....	3
1.3 Overview of EPA assessment considerations.....	4
2. The works approvals process	6
3. Post-decision process	10
4. 'Commercial in confidence' information	12
5. Contacting EPA	12

Introduction

Works approvals are issued by EPA Victoria under the [Environment Protection Act 1970](#) ('the Act'). They are required for industrial and waste management activities that have the potential for significant environmental impact.

A works approval permits plant and equipment to be installed, the operation of which will result in one or more of:

- the discharge of waste to the environment
- an increase in, or alteration to, an existing discharge
- a change in the way waste is treated or stored.

EPA's works approval process is designed to ensure the best and most cost-effective environmental outcomes on projects are achieved. Without works approvals there is an increased risk of industrial projects causing pollution issues and requiring expensive retrofitting. Works approvals are an opportunity to save energy and water and to reduce waste at the project design stage, creating value for a business.

This guideline provides an overview of the EPA works approval process, including post decision processes.

It has been written with works approval applicants in mind in order to help them understand the regulatory framework and what to expect during the works approval application process.

EPA's works approval assessment process

1. Works approvals overview

1.1 About works approvals

What is a works approval?	It is a statutory approval required by the EP Act , which permits the construction of an entire plant, the installation of new equipment or the modification of a process.
When it is required	<p>A works approval is required, if:</p> <ul style="list-style-type: none">• you are, or will become, the occupier of a scheduled premises as specified in the Environment Protection (Scheduled Premises) Regulations 2017 ('the Scheduled Premises Regulations'), and• the proposed operation, expansion or upgrade will result in one or more of the following:<ul style="list-style-type: none">– the discharge of waste to the environment– an increase in, or alteration to, an existing discharge– a change in the way waste is treated or stored. <p>For details refer to: Works approvals – when does my business need one?</p>
Works approval assessment processes	<p>EPA applies a level of assessment that is appropriate for an application. There are two types of assessment processes for works approval (fast track and standard), as summarised in Table 1.3 of the Approvals Proposal Form and Pathway Guidelines (EPA publication 1560).</p> <p>A <i>standard works approval</i> is an application pathway for applications with medium to high potential impact to the environment and/or significant third-party interest. The statutory date for a Works Approval decision is 4 months after an application has been accepted for assessment.</p> <p>A <i>Fast track works approval</i> is an application pathway for proposals that have a low impact on the environment and the community, and use standard proven technology. The decision due date for a fast track works approval is 6 weeks.</p>
When to submit an application	<p>You should only submit a works approval application if you have been advised to do so after speaking to the EPA or through the pathway selection process.</p> <p>We ask that you avoid submissions during the Christmas and New Year period as effective advertising during this time is problematic.</p> <p>If your proposed activities require a planning permit or a planning scheme amendment, we recommend that you submit your planning permit application to Council at the same time that you submit your works approval application to EPA¹ This will enable EPA and Council to jointly process your application. For further information on the joint process refer to EPA website http://www.epa.vic.gov.au/business-and-industry/guidelines/licensing-and-works-approvals/how-to-apply-for-a-wa.</p>
Application fee	<p>The fee is proportional to the cost of works and changes for each financial year (refer to 1.2 of Part B). For the same cost of works, the application fee for the fast track and standard works approval is the same.</p> <p>An application fee must accompany all works approval applications.</p>
What you need to demonstrate to obtain a works approval	<p>To obtain a works approval, you should demonstrate that your proposal:</p> <ul style="list-style-type: none">• is permitted by the land use planning scheme• will not adversely affect the interests of any person other than you• will not adversely affect the quality of any segment of the environment• complies with relevant state environment protection policies (SEPPs), regulations and guidelines as explained in 1.2 below. <p>You also need to demonstrate that you have applied the environment protection principles in Sections 1B to</p>

¹ For information regarding how to apply for a planning permit, please refer to the Chapter 3, Using Victoria's Planning System.

EPA's works approval assessment process

1L of the [EP Act](#); see [Application of Environment Protection Principles to EPA's Approvals Processes](#) (EPA publication 1565).

Grounds for refusing a works approval

EPA may refuse to issue a works approval under the following circumstances:

- one of the statutory referral bodies (i.e. Council on the basis it is prohibited by the planning scheme or Department of Health (DHHS) on the basis that human health will be endangered by it) objects to the application
 - an application does not comply with relevant SEPPs and waste management policies
 - you are, in the opinion of EPA, not a fit and proper person to hold the authorisation under Section 20C of the [EP Act](#)
 - the operations of the facility would be inconsistent with the [Statewide Waste and Resource Recovery Infrastructure Plan](#) or a relevant Regional Waste and Resource Recovery Implementation Plan under Section 50C (1)(a) of the [EP Act](#).
 - the works included in the application will result in pollution or environmental hazard.
-

Review of a decision

Within 21 days of the date of EPA's decision, you or a third party can seek a review by Victorian Civil and Administrative Tribunal ("VCAT"), if either of you object to:

- a decision to issue a works approval
- conditions in a works approval, or
- a decision to refuse a works approval application.

For details refer to EPA webpage [Appealing a licence or works approval](#).

Expiry date of works approvals

Your works approval is normally valid for two years, before which the works must have commenced. If you have not started works before the expiry date, you may apply to EPA for an extension. Please note that the conditions may be subject to review.

When and how to amend and transfer a works approval

You need to contact EPA to discuss the need for transfers or amendments to your works approval if there are:

- changes in ownership
 - project changes (for example, design, layout etc.)
 - proposed extension of timeline.
-

1.2 Legislative framework governing works approvals

EPA's legislative framework consists of three tiers (for details refer to [EPA's webpage Legislation](#)).

Tier 1

The [Environment Protection Act 1970](#).

Tier 2

State environment protection policies (SEPPs)

SEPPs are subordinate legislation made under the provisions of the [EP Act](#). They define:

- the uses and environmental values to be protected in Victoria
- the environmental quality objectives needed to protect the beneficial uses.

Under the [EP Act](#), the requirements in works approvals and licences must be consistent with SEPPs.

These policies may include additional detail set out in a relevant protocol for environmental management (PEM).

Waste management policies (WMPs)

WMPs contain statewide objectives and directions for waste management.

EPA's works approval assessment process

Regulations

Regulations prescribe details (requirements, processes, forms, etc.) of various provisions of the [EP Act](#).

Tier 3

Practice guidance

EPA publishes a range of 'third-level' documents that provide guidance and/or obligations for industry in more detail. These include:

- best practice environmental management (BPEM) publications
 - guidelines and guidance
 - guidelines for environmental management (GEMs)
 - process guidance.
-

All the above types of documents are used during works approval assessments. Appendix A of the [Works Approval Application Guidelines \(publication 1307\)](#) provides a list of policies, regulations, protocols and guidelines used in EPA's works approval assessments.

1.3 Overview of EPA assessment considerations

When EPA assesses your application, we look for information that is relevant to each impacted segment of the environment and whether your proposal meets requirements in the [EP Act](#), policies, regulations and relevant guidelines. [Works Approval Application Guidelines \(publication 1307\)](#) section 2, we have outlined these assessment considerations for each environmental segment in more detail. This will give you more guidance on the type of information required, and includes reference to relevant guidance material.

Following is an overview of EPA's assessment considerations:

Emissions from your proposal	<ul style="list-style-type: none">• identify and confirm the environmental segment(s) (Air/Land/Waste/Water/Noise) impacted by the proposal. See Appendix B of Works Approval Application Guidelines (publication 1307): Summary of Information Requirements by the Scheduled Premises for segments typically impacted by industry sectors• identify the relevant physical and/or chemical indicators of environmental quality discharged• quantify the expected environmental impacts.
Standards to be met	<ul style="list-style-type: none">• all works approval applications (and subsequent operation of the facility) must be consistent with the Statewide Waste and Resource Recovery Infrastructure Plan or Regional Waste and Resource Recovery Plan.• identify the relevant Environment Protection Principles (Sections 1B to 1L of the EP Act)• identify the relevant SEPPs and guidelines• identify the appropriate standards for best practice• identify the design criteria or ambient standards to be met• if ambient standards are used, identify the proportion of the allowable ambient standards that will be permitted to be used by the proposal.
Assessment	<ul style="list-style-type: none">• decide whether the works approval with conditions meets the requirements of the EP Act.<ul style="list-style-type: none">- Section 20C. The applicant is a fit and proper person to hold the works approval. The proposal meets applicable polices and will not cause pollution.- Section 50C. EPA may refuse works approval applications if the operations could be inconsistent with the Statewide Waste and Resource Recovery Infrastructure Plan or Regional Waste and Resource Recovery Implementation Plan.• have regard to the environment protection principles (section1B–L of the EP Act; see EPA publication 1565, June 2014).• compare estimated impacts for the identified indicators with the relevant standards (SEPPs and guidelines)

EPA's works approval assessment process

-
- identify any indicators that don't meet relevant standards and determine whether this can be addressed by an applicant by conditions
 - decide how to minimise the risk of non-compliance through credible failure scenarios and whether these can be addressed by conditions
 - have regard to the climate change impacts under the Climate Change Act.
-

EPA's works approval assessment process

2. The works approvals process

After EPA has advised you to apply for a fast track or standard works approval, the following steps occur prior to EPA making its decision:

For details of the pathway selection process which should take place before the steps listed below, refer to the web page [Approvals proposal form and pathway: Guideline](#).

Step	Responsible party	Description	
		Fast track approval	Standard approval
Pre-application	EPA	<ul style="list-style-type: none"> Advises the level of information required May hold proposal meetings (optional) 	<ul style="list-style-type: none"> Holds a proposal meeting Provides you with an Assessment Plan within two weeks of the meeting informing: <ul style="list-style-type: none"> information and scope of specialist technical assessment requirements targeted timeframe for decision when in the process further information may be required
	Applicants	-	Submit a draft application
	EPA	-	Receives and comments on the draft within two weeks of receipt
Lodge application	Applicants	Lodge the final application and fee payment	
Receiving application and verifying information	EPA	Verifies: <ul style="list-style-type: none"> fee is correct sufficiency of information provided 	
		If insufficient information, EPA will return the application within 21 days of receipt and request you to resubmit.	
Accepting application	EPA	<ul style="list-style-type: none"> Accepts the application⁽¹⁾ Acknowledges receiving the application 	
Third parties' comments within 21 days	EPA	<ul style="list-style-type: none"> Refers the application to: <ul style="list-style-type: none"> a local council⁽²⁾ DHHS other agencies if considered necessary (e.g. SV) Advertises in local papers and Herald Sun for public comments⁽³⁾ The EPA (or the applicant) can hold a information session 	
	Third parties	Provide comments to EPA regarding: <ul style="list-style-type: none"> land-use planning issues by council 	

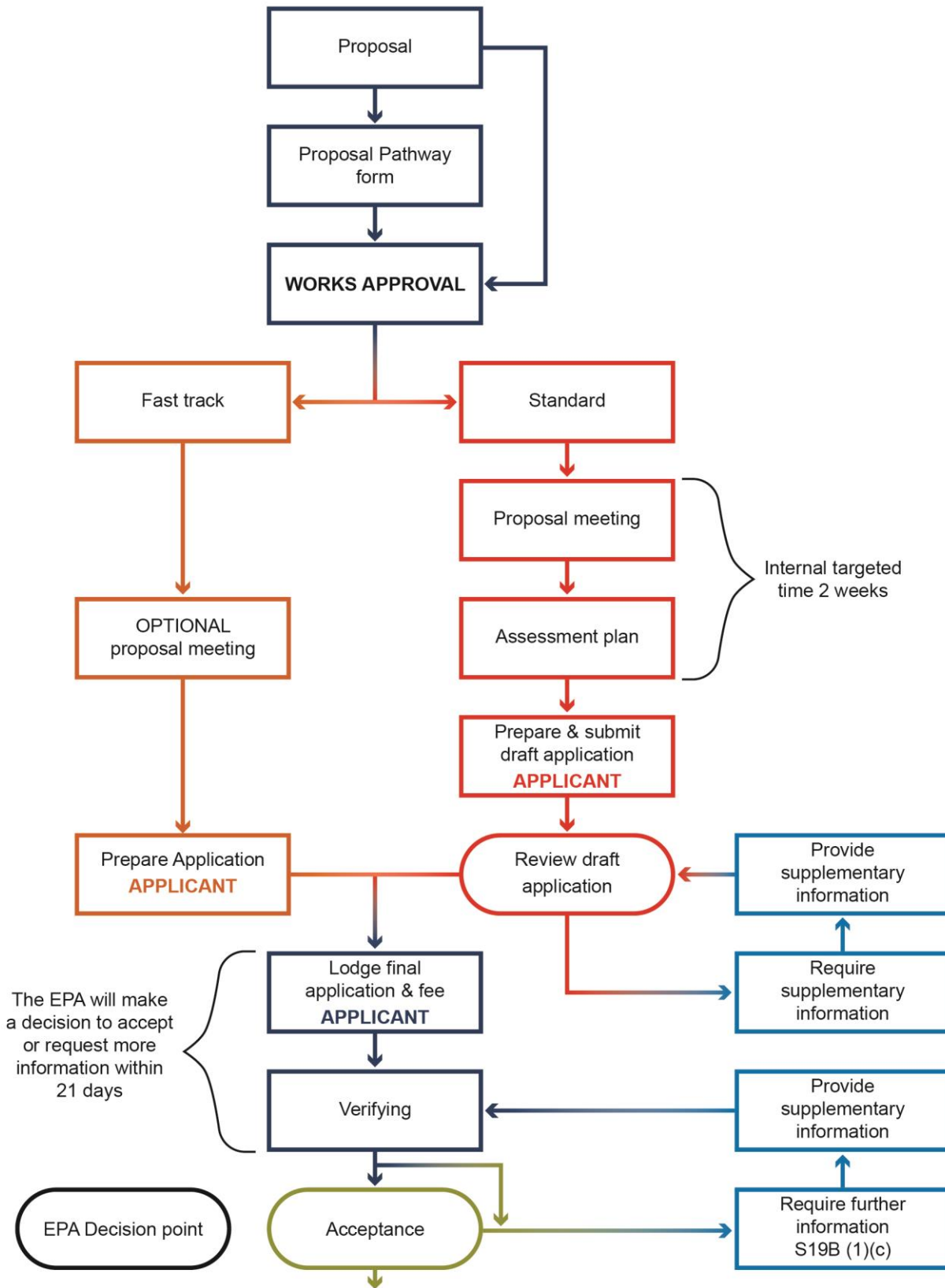
EPA's works approval assessment process

		<ul style="list-style-type: none"> • public health issues by DHHS • environmental and amenity issues by public 	
Assessment	EPA	<ul style="list-style-type: none"> • Receives third parties' comments. • Undertakes assessment 	<ul style="list-style-type: none"> • Receives third parties comments • May hold 20B conference if considerable public concern raised⁽⁴⁾ • Responds to public comments⁽⁵⁾ • May issue an S22 notice requesting you to provide further information • If significant further info is provided it forms part of the application and will be made available to submitters for a further comment period. • Undertakes assessment
		<p>May consider processing an application as standard approval if:</p> <ul style="list-style-type: none"> • third parties raise unforeseen concerns • contradictory information in your application • change of initial proposal 	
Review and finalise report	EPA	<ul style="list-style-type: none"> • May undertake internal /external review of an assessment report • Incorporates comments into the report and draft a works approval with conditions • Sends the draft works approval for your review • Receives comments back from you • Makes recommendations for decision to grant or refuse a works approval 	
Decision	EPA	<ul style="list-style-type: none"> • Makes decision⁽⁶⁾ • Notifies you and third parties of decision 	

- (1) Statutory clock starts from the date that EPA receives the final application, which is acceptable and no further information required, and correct fee (For details refer to [1.2](#) of Part B).
- (2) Council has up to 45 days to comment on the works approval.
- (3) May advertise jointly with council. For details refer to [1.1](#) of Part A.
- (4) Applicants will be invited to these meetings and provided with opportunities to address community concerns.
- (5) May require you, the applicant, to provide further information.
- (6) Normally, decisions will be made within six weeks for fast track approvals and three months for standard approvals, after formally accepting the applications.

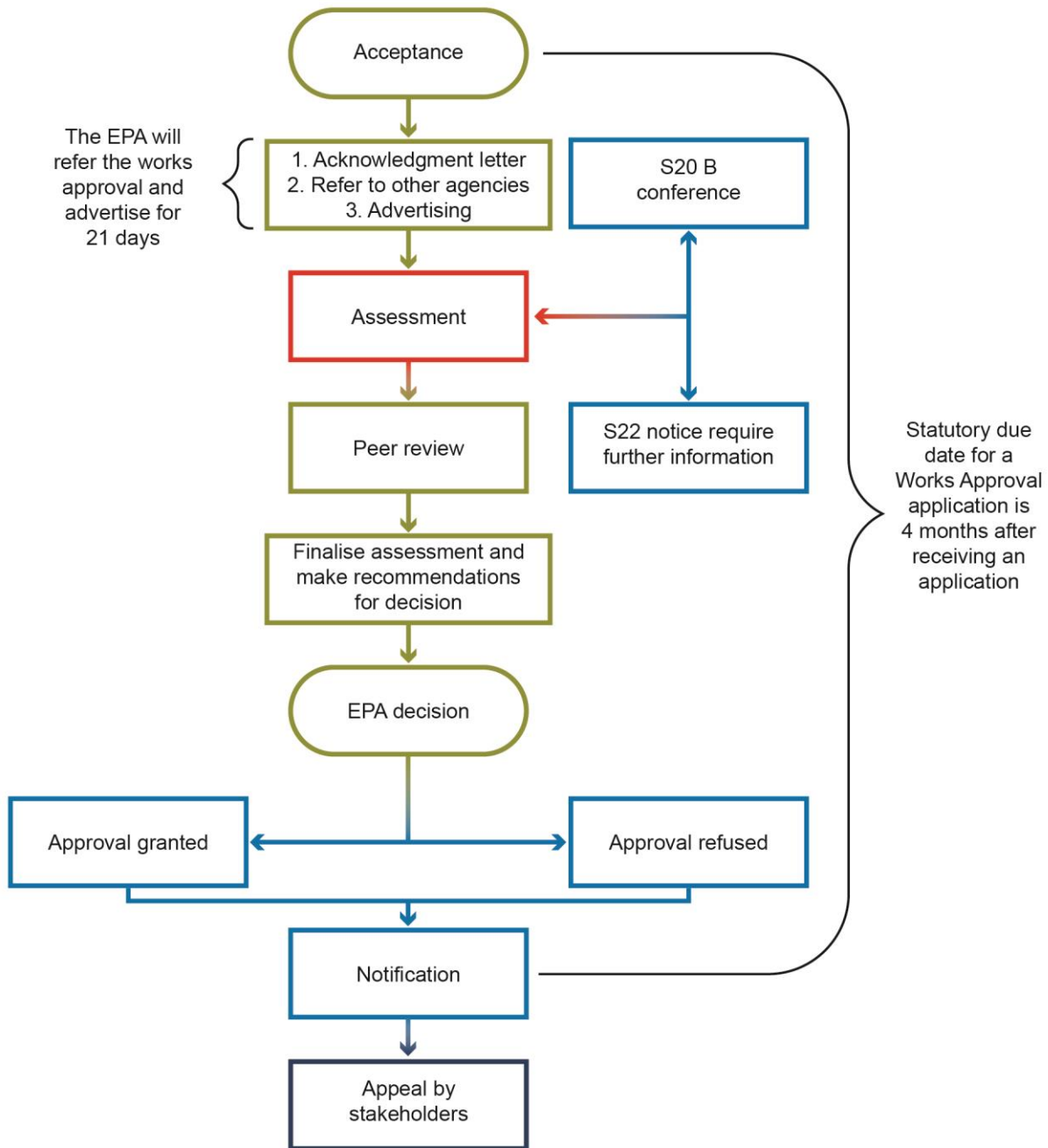
EPA's works approval assessment process

Figure 1: Pre Acceptance process for a works approval, showing fast track and standard pathways



EPA's works approval assessment process

Figure 2: The works approval process once the application has been accepted by the EPA.



3. Post-decision process

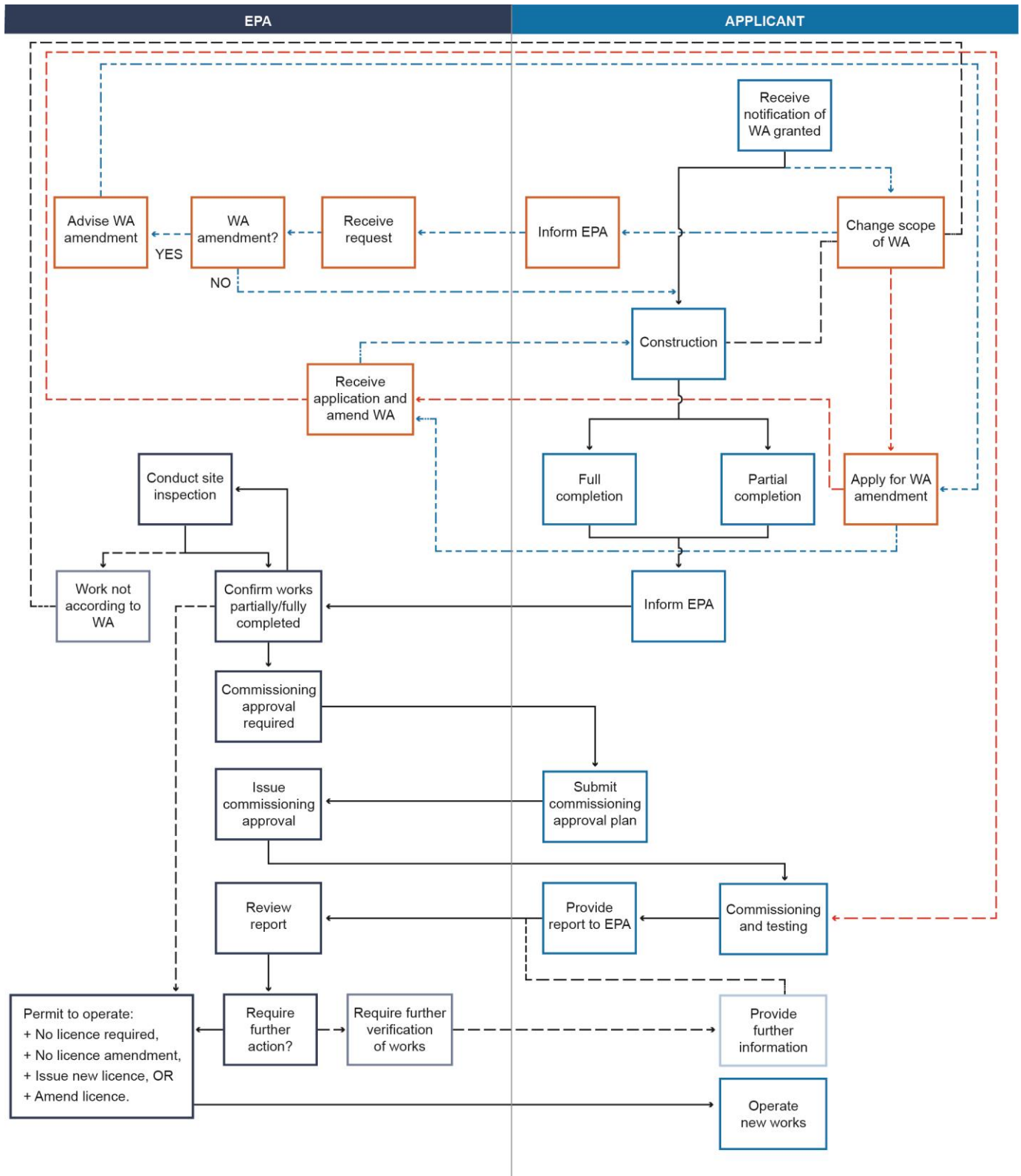
After a works approval is issued, some of the following steps need to be undertaken prior to operating new equipment, as summarised in the table below and shown in Figure 2.

Step ⁽¹⁾		Responsible party	Action
1	Appeal	Applicants or third parties, VCAT	<p>Within 21 days after EPA's decision, you or an affected third party can seek a review under most circumstances by VCAT¹.</p> <p>If a third party seeks the review, the works cannot proceed until VCAT has made a decision.</p>
2	Commence installation	Applicants	Satisfy the conditions of the approval and inform EPA of the commencement of works installation
3	Ready to commission	Applicants	Inform EPA works are completed or partially completed and ready for commissioning /operating
4	Confirm completion of works	EPA	To confirm works completed or partially completed, according to the approval. Site inspections are normally required.
			<p>If not,</p> <p>then requires you to:</p> <ul style="list-style-type: none"> explain and/or rectify, or apply for a works approval amendment
			<p>If yes,</p> <p>then decides whether to:</p> <ul style="list-style-type: none"> require a commissioning approval (see Step 5) issue a new licence or licence amendment to operate, or permit operation (if licence is not required).
5	Prior to commissioning (selected cases)	Applicants	<p>Submit a commissioning plan:</p> <ul style="list-style-type: none"> duration of commissioning period monitoring proposal
		EPA	Issues a commissioning approval (Section 30A of the EP Act)
6	Complete commissioning (selected cases)	Applicants	Submit to EPA a commissioning monitoring report
		EPA	Confirms emission /discharges levels are consistent with approval.
			<p>If not,</p> <p>then requires you to:</p> <ul style="list-style-type: none"> investigate, and rectify the situations, and re-test and submit reports
<p>If yes,</p> <p>then:</p> <ul style="list-style-type: none"> issues new or amended licence to permit you to operate new works, or permits you to operate under existing licence or no licence. 			

(1) Applications advertised with an EES or planning scheme amendment under 20AA don't have appeal provisions or have altered appeal provisions.

EPA's works approval assessment process

Figure 3: Post-works decision process diagram



LEGEND

- Amending scope of WA after receiving notification of WA granted → (dashed blue arrow)
- Possible action → (dashed black arrow)
- Enforcement → (dashed red arrow)
- WA amendment (orange box)

4 'Commercial in confidence' information

A works approval application document will be publicly available for viewing on EPA's website and must not contain 'commercial in confidence' information. If you need (or are requested) to provide 'commercial in confidence' information to support your application, this must be provided in hard copy clearly marked 'COMMERCIAL IN CONFIDENCE' on each page. This information will not be copied or retained by EPA and will be returned to you. Information that is in the public domain is not considered confidential. Similarly, environmental emission data is not considered confidential.

5. Contacting EPA

EPA recommends you contact our Development Assessments Unit at an early stage of project development, and welcomes any questions throughout the works approval process.

EPA welcomes your feedback on this guideline document at any time, as well as our handling of your application at the end of the works approval process. Please feel free to email us your comments.

① Contact details are:

Email: approvals.applications@epa.vic.gov.au

Phone: 1300 EPA VIC (1300 372 842)