

Independent Inquiry into the EPA Gippsland Water's Consolidated Feedback

Gippsland Water welcomes the opportunity to provide a submission to the Independent Inquiry into the EPA.

The following submission has been formatted to address the Terms of Reference that were established by the Minister for Environment, Climate Change and Water for the Independent Inquiry into the EPA”.

Executive Summary

Gippsland Water believes EPA Victoria is at its most effective when operating under a cooperative regulatory model, supported by strong regional offices, adequately resourced to enable the EPA to appropriately collaborate and engage with industry. This provides the EPA with the best platform to address local and regional environmental issues and ensure that sustainable outcomes are achieved for the benefit of both current and future generations. In our experience, direct contact with locally based EPA staff, which have knowledge of local issues allows for greater clarity of requirements, more timely resolutions and more sustainable outcomes.

A greater clarity of regulatory requirements coupled with consistency of approach is crucial for the EPA to continue to drive successful environmental outcomes. This can be achieved even though the EPA is both a regulator and service provider for the Victorian community. Ultimately Gippsland Water and EPA have the same objectives in ensuring that both the environment and resources in our care are managed for the benefit of present and future generations.

Both organisations need to work with the community and their stakeholders to achieve the most appropriate solutions in environmental management. As such it is important to collaborate and consult together. This type of approach is only effective when the EPA is adequately resourced in regional Victoria and can appropriately engage with industry to deliver tangible environmentally sustainable outcomes that potentially go beyond compliance, rather than just a compliance response to issues once they arise.

An increased clarity with regard to EPA's expectations and regulatory requirements is also crucial in this relationship. With widespread licence reforms completed, the current generic approach to licence conditions coupled with a move away from, and an ability to communicate with local EPA offices, has made it more difficult to obtain a clear understanding of EPA's expectations and level of information required to enable informed decision making

We have also observed that the consistency of the application of regulatory actions, tools and precautionary principles concept is not evident across EPA regions or subject groups (water, waste, air etc).

Consolidated Feedback

The following section consists of consolidated feedback from Gippsland Water to the Terms of Reference set by the Ministerial Advisory Committee. To support the preparation of this submission Gippsland Water completed an internal survey of employees that interact with EPA on a regular basis. |

1. The EPA's appropriate role in relation to public health issues, including at least: community concerns such as exposure to asbestos, chemicals and other pollutants; the prevention and management of site contamination, air quality, and water quality in rivers and other waterways;

Local knowledge, local issues and a strong local presence is key to the EPA's ability to effectively balance the role of 'Regulator and Service Provider' to the community in the Latrobe Valley. A strong regional presence, with locally based EPA officers and staff is crucial in addressing the community's concerns that EPA is available for the region. The EPA needs to demonstrate that it is concerned about and on top of local environmental issues and has the ability and resources to be effective in both a response and a preventative capacity. Resourcing regional offices allows industry to actively engage with the EPA, seek timely advice, resolve issues in a timely manner and work cooperatively and proactively to achieve the best environmental outcomes.

2. The Victorian community's and industry's expectations of the EPA as its environmental regulator;

Consistency of message, clarity of direction (in particular its regulatory responses) and clear communication between EPA's Melbourne and the Regional Offices.

The EPA as a regulator needs to work with local entities, including both entities that are exemplars of good environmental performance and those entities whose performance is marginal at best. The entities whom are exemplars should be recognised as such. Such an approach builds working relationships and fosters positive outcomes as both the EPA and local entities essentially have the same stakeholder base – the local community. By providing industry with feedback in regards to performance, EPA can assist industry to develop its environmental social licence.

3. The EPA's appropriate role in protecting the environment;

EPA needs to continue to work to balance the public's expectation of the EPA both as a service provider (keeping the environment safe) and "*policeman*" in its regulatory role. Industry wants consistency in a regulator, where communication and clarity is the focus. By retaining, developing and promoting strong local knowledge within the regional offices EPA can more effectively deliver on positive environmental outcomes for the regions. That is not

only by regulating poor environmental performance but by working proactively with good environmental performers to drive positive outcomes and promote regulation within the region.

4. The ability of the EPA to ensure that the principle of environmental justice is adhered to, the environment is protected for the benefit of the community, and members of the community can be meaningfully involved in, and access fair treatment through, environmental regulation;

Consistency of message coupled with open and transparent communication during periods when the regulatory tools available are changed is required to retain and foster industry engagement.

For example,

1. EPA now prefer the use of Pollution Abatement Notices (PANs) as mechanisms to drive routine environmental outcomes. Industry still regards PANs as serious offences and views these in a similar light to infringement notices. Better communication of why the change in emphasis is required.
2. Following recent criticism of EPA engagement with the community following a significant environmental event, the EPA actively encourages engagement with the community via both the EPA and the entities in relation to environmental issues, however there is no clear mechanism or process for EPA to collaborate in this process.

EPA also appears under-resourced in the Region when it comes to being able to collaborate and engage on environmental issues with industry and the community as a whole. Significant benefit would be gained through engaging collaboratively for positive environmental outcomes, as ultimately Gippsland Water and EPA share the same end goal in regards to environmental performance and local environmental issues.

5. The ability of the EPA's current governance structures and funding arrangements to enable it to effectively and efficiently discharge its powers, perform its duties and implement its required functions;

The centralisation of resources within EPA and the move away from contact with Regional offices has created confusion in dealing with the EPA. Local knowledge of local issues and consistency of dialog allows for much more timely resolution of issues and also for the prevention of issues.

A disconnect is often observed between the EPA's regional offices and the central EPA office. In our experience, telephone calls and emails seem to be passed around officer to officer until someone is finally found who can answer a question or assist with a query. Gippsland Water feels it received much more timely and effective advice and responses when the local Traralgon Office was the primary point of contact and when there were more resources available. In Gippsland Water's experience the centralised business model of EPA has decreased the efficiency and effectiveness of the EPA's Traralgon Office.

6. The scope and adequacy of the EPA's statutory powers, and the effectiveness and efficiency of the suite of tools available to and utilised by the EPA, in enabling protection of the Victorian community and the environment, particularly in light of recent, new and emerging risks and issues; and

The scope and adequacy of EPA's statutory powers is sufficient for EPA to deliver on its obligations, however the tools available are sometimes poorly understood by both EPA staff and industry when changes in their administration occur. This is highlighted by EPA's shift and preference to use Pollution Abatement Notices (PANs) as means of formally communicating and resolving an issue. There appears a lack of consistency as to the use of PANs – in some instances there appears to be a 'one PAN, one issue' approach and other times multiple issues are included in one PAN. The EPA have been very poor in communicating this administrative change as industry still regards PANs as serious offences, viewing them in a similar light to infringement notices. This is not understood by the community or stakeholders at large.

7. Any other matter reasonably incidental to these above matters.

As part of Gippsland Water's submission, an internal survey was completed of employees that interact with EPA on a regular basis. There were a number of reoccurring themes present in the responses which impact on Gippsland Water's activities which have not been addressed in the above points.

1. The number of EPA publications/guidance notes is very high, lack clarity in many instances and do not often become superseded, rather they are cumulative. Therefore, they are often not a useful guidance tool, requiring follow up with EPA staff who are often unavailable or need to defer their response whilst they research the issue. This can cause delays in project planning and is not an efficient use of resources at either end.
2. The 'EPA' brand/remit is not clear. While there is an engagement policy stating that EPA 'work and collaborate with stakeholders, using engagement as a foundation to achieve compliance, this is not what we have seen occur. At an operational level over the past 4 years engagement has clearly decreased. It is important to have transparency in the approach so that we can manage our activities accordingly.
3. EPA and CMAs have a charter for protection of water quality in Victoria. The roles, responsibility and potential overlap of each agency is not clear and the experience in Gippsland is that neither agency is resourced to cover or respond to water quality issues.
4. EPA needs to be aware of which downstream users need to be privy to 'real time' pollution issues that may be detected upstream of our potable water off takes, to minimise risk to public health (eg. failing septic waste systems) in water supply catchments.