

EPA Inquiry

[REDACTED] I have been involved with the EPA licensing and approval process since the 1990s.

In the waste industry I have designed, developed and invented processes and systems in the recycling and waste treatment. I own patents on machinery and have received national awards for innovation selling products in Australia and overseas. I am from farming background with detailed knowledge of land care principles, land, water management and the organic cycles. My intention in making this submission is to present to the Inquiry a summary of day to day operational experiences of dealing with the EPA to allow the Inquiry to make its own interpretations of how to deal with the questions 1-13 for future direction of EPA. The following are my team's observations.

I am making this submission on the basis that I am one of the industry stakeholders that can submit a full and frank account of historical dealing with EPA over a long period as a director/owner. This is not without risk to my business, so I have asked this submission to be anonymous.

I have seen one person that worked for a multinational company at an industry conference meeting with EPA in attendance. The person had a general question "is anyone getting any support from EPA". Due to an EPA officer complaint about the question to the company head office, the person found herself having to defend her actions asking for written statements from others that attended the meeting to demonstrate she did nothing wrong but still lost her job.

Industry stakeholders of privately owned business have their financial livelihoods invested in the industry for the long term. These people have goals to be compliant and sustainable continually for the long term. What this industry has experienced over the last 5 years where stakeholders are being treated as criminals has caused in my case a mass exodus of expertise from the industry. This has included two mature age business partners and three site managers with collectively 65 years experience with a broad cross section of dealing in waste industry. Comments from staff like we don't get paid enough to be treated like criminals. One experienced manager ended up in hospital after an EPA inspection with anxiety and stress breakdown brought on by the actions. As an employee I moved person from the role and he has had no event like this since.

Most people in waste industry come from other backgrounds so bring expertise and a wealth of knowledge that will enhance the waste industry outcomes but if EPA continues its model of punishing and not partnering this expertise it will continue to be lost forever.

Licence Approvals History, since the inception of EPA licensing system the EPA was providing approvals to operate. In the waste industry EPA gave licences to treat waste and dispose. This industry has totally changed now all new and existing EPA licences are a licence to recycle. Industry has found it near impossible for the EPA to approve technologies and process that produce recycled end products. This is due to the EPA having little relevant expertise in these areas or little acceptance of approvals or other acts and regulations in Victoria or other states. This we see is and has been a major roadblock for the EPA and industry to obtain recycling approvals as recycling introduces a risk to the environment and EPA as a regulator is averse to any risk. What I mean by this is recycling waste products and producing an end product EPA has inappropriately taken on the responsibility of setting what is a viable product to go to market. There are already regulatory bodies, acts and

rules determining commercial and safe use of products and are proven and established to manage the inherent risks of any product. i.e. A product recycled or not with an identified risk can validly be used with instructions and MSDS guidelines.

EPA is being inappropriately concerned in the risk that these recycled products can if used be harmful to the environment this also causes a conflict that the EPA is also enforcement agency in the same space. Another example a non-waste fertiliser can be over applied to land and create contamination just as a by-product from recycling to produce a fertiliser can have the same impact. . Waste that meets the criteria of a product must sunset the waste category and become a product as you cannot sell a product that has a waste association with it impacting the SV goal of commercial market for these products.

In summarising this point the EPA are issuing licences and also a regulator not allowing appropriate arms length. EPA is the authority for issuing works approval and licencing that have inherent risks but EPA have a mandate to have no risk to the environment. On these grounds alone makes it conflicting for the EPA to give any such approvals with a mandate of no risk to the environment. The approvals are based on a risk review method but the enforcing is based on inspection and compliance monitoring allowing clear responsibilities. These lines should not be blurred.

Please make your own assessment by looking at the works approval system of how many approvals have not been accepted or rejected (if recorded at all). The so called pathway system and fast track actually slow the system down, I question how many are actually approved by this method.

FINANCIAL ASSURANCE; The EPA has embarked on a new financial assurance system not yet implemented to force licence holder to reduce or remove their licence capacity of certain waste to receive/store by having to hold a large financial assurance for that type of waste that may not even come to the site which is an unreasonable burden on the business. As the burden of cost to continue to hold licence capacity is prohibitive. Example in my case a truck may crash in my regional area and capacity to accept this scenario is diminished. It does not make sense except to reduce the industry capacity. The proposed financial assurance system format is based on the risk realisation that EPA will be left with site clean-up cost caused by licenced site operations, these licensed site owners have entire livelihoods invested in the business so are incented to not create such an issue, the burden of additional funds above those already provided we feel does not address the issue of site clean-up as there is growth in non-licenced activities such as drilling muds that have no burden of financial assurance that are undermining the viability of licenced premises.

Generally EPA officers are well presented and polite, (with some exceptions) but we have seen EPA officer behaviour that is inappropriate such as not respecting site safety, induction procedures and implied influence of industry experts by our staff. We have experience that EPA are trained in policing investigative tactics but EPA lack important formal industry training for prescribed industrial waste that industry undertakes and operates to. So the interface between EPA and Industry is going to lead to conflict through the lack of basic formal knowledge of the industry or understanding licence conditions.

EPA SITE INSPECTIONS/ INSPECTION REPORTS. These are seen as an important part of site compliance for companies and EPA alike. However, these should be based on officers doing inspections or investigations at least should have completed PIW training course. But what we have found is EPA have done investigative training to interrogate stakeholders in the industry, not a proactive partner approach.

What EPA have done is a quasi police training to interrogate stakeholders in the industry. Licence holders have invested into these business's and have a vested interest to be compliant. Investigation methods do not include a conclusion meeting or document to at least agree/disagree the observations, the observations are often clearly not correct and could have been shown to be compliant during the visit and the inspection reports are often sent weeks or months later.

No acknowledgement or records of correspondence are kept of stakeholders response to an inspection report and as the officers have little understanding of the day to day operations that they have observed so it appears to be no gaining of knowledge of licence sites operational activities. EPA operational staff in field and in house seem to have a process mind set nothing to do with environmental outcomes more to do with KPIs.

PAN NOTICES/MINOR WORKS PAN – PAN notices should be issued in draft format for feedback prior to issue to allow EPA to consider expert information presented before issuing final PAN and this would help prevent unnecessary VCAT appeals. PAN notices should not be used in the way that has happened in the past to be seen as something is happening in the eyes of the public and media and issuing PAN notices that have no relevance to the issue at hand.

PAN notices should not be called PAN for straight forward tasks of supplying documentation that was already with EPA.

The use of media outlets as a method of publicly naming and shaming industry stakeholders on minor events is inappropriate with no right of reply. This will discourage investment from industry and creates conflict with no benefit to environmental outcomes and has caused divestment off expertise and investment.

We would love to see a basic questionnaire test of EPA officers in the field. As in this industry it needs to be correct 100% of the time.

The EPA hotline reporting system is flawed for the following reasons;

-For EPA to do their investigation or for a licence holder to do follow up compliance monitoring as a requirement for the licence compliance as most times the odour reports do not have some or all of the following not recorded; no times given no wind direction, correct description and are received days or weeks later and multiple reports for the same incident. As licence holder we have to declare on APS any noncompliance and maintain compliance at all times. How can we effectively investigate and correctly declare non compliance if the reports are incomplete. We also cannot proactively investigate issue to address the root cause without correct and timely information.

COMMENTS ON NEW COMPUTER SYSTEM, outsourced data entry not overseen by experienced EPA officers, for example a recent non regulated activity on waste certificates was incorrectly changed to a licenced activity with no consultation with licence holder to correct. Once followed up by licence holder it was quickly corrected. Also recent Licence amendment was constrained by standard wording imposed by the computer system design.

APS portal with new EPA computer system. Is not being used to allow stakeholders to log interaction with EPA or filing ability for keeping records of day to day direct compliance correspondence. We are aware EPA can use the system this way for EPA records but not for stakeholders to retain important information. So any interaction history log gets lost, all historical information is lost. Correspondence recording has no official

provision for logging history as stakeholders. Staff churn or contract positions changing, so no important history information gets passed on. Information is lost in person to person emails.

Historical publications are not kept, new publications do not indicate where changes have been made. EPA needs an electronic newsletter that crosses all industries to give stakeholders an understanding of changes to laws and policies or guidance documents. Currently EPA has and does change these and does not routinely issue an amendment note that it has been changed and remove the historical document with no comparison of changes. Examples of why we need newsletters is to educate business of the compliance requirements, ie you can drive down most industrial streets and find non-compliant discharge to stormwater, groundwater and litter. Country roads you can see industrial waste on dam banks or water ways for erosion control that farmers are not aware of the issue (breaking the law).

NO DIRECT ACCESS TO EPA EXPERTS and no interface between industry and EPA operations, front door only to EPA.

EPA have lost expertise due to staff churn but lack the recognition of other states expertise or guidelines and other external expertise.

A previous EPA CEO set the EPA goals in his time to manage EPA sites from boundaries recognising the EPA will never have the expertise going forward via having operational system assessed by an auditor. However, this has been wound back for some reason even though designated site licence boundary was changed but this has not been restored in the licences. For example we have an area onsite that is a car park that had to be checked for permeability and this is inappropriate.

NOT accepting works approvals and getting EPA responses to reasons and then again not accepting the application.

EPA transport permits and operator training are not monitored by EPA, for example a transporter arrived at our site with expired transport permit, EPA have systems to monitor expired transport permits, it should not be job of EPA licence holders to monitor incoming transport permits that we do not control.

EPA are able to do simple things easily like cross border and vehicle permits, but took nearly 20 years to upgrade composting guidelines.

EPA role and behaviours is potentially causing contamination by the protracted decision making process not approving systems or technologies that would allow industries to locate genuine licence approved capacity within their region.

EPA is now allowing unlicensed operations to insufficiently treat drilling muds but exclude licenced operators from accepting same material and treat properly due political pressure of the NBN rollout. This is the biggest change coming to the industry due to growth of activity (non destructive drilling) in this area but is being removed from treatment facilities.

WASTE treatment industry is an industry which caters for a lot of emergency jobs big and small particularly in the cat "A" liquid processing and to get a technical question answered by EPA at local region or head office can take several weeks if answered at all.

EPA collusion with local council (the council publicly stated wanted to shut the site down) set a course lead by a previous head of EPA on the issue. EPA set about doing what they had done to other companies over the past few years.

In all dealings there has never been an outcome focus from EPA or council with significant costs incurred and wasted as funds could have been spent on process improvements.

To give an example of behaviour EPA and Council on a number of occasions had multiple vehicles for weeks stationed around the site trying to get evidence to take to the tribunal/court even though we admitted we had an issue at the time, the was not focus on fixing the problem.

My company publicly admitted at the time due to 1 in 100 year rainfall event there was an odour issue. However, EPA would not support any capital spending to fix the issue. After a number of submissions to VCAT and investigation of the issues and forcing EPA hand to agree with upgrades to the site. To cope with new buffer distances that was introduced by Council rezoning land without any consultation with all stakeholders.

My company's site is now compliant to its licence demonstrating the validity of the outcome of the upgrade.

EPA Senior officers should be held to account for their behaviour for not doing what was within responsibility and charter of EPA. The officers chose to extend the odour issue by 18 months by pushing to shut down the site as an option to overcome the Council's decision to rezone the land and allowing development for financial gain.

Other examples of behaviour of most senior EPA officers who have made comments such as "you just like to take legal action" and "some lawyers just like to take action rather than sitting down and talking about it", one of the officers was in licensing role nothing to do with enforcement which demonstrates inappropriate behind the scenes commentary in EPA against particular licence holders. These comments from EPA we do not agree with as demonstrated by many years of successful collaboration with EPA. It is only in recent events that the business viability has required intervention by VCAT to resist considerable combined efforts of EPA and local council to close the business.

I ask this does into happen in future to other companies.

In summary as a stakeholder of 30plus years observing and dealing with the behaviour of EPA in particular the last 4 years in relation to my site that has operated since early 1990s is beyond belief.

**Knowing what I know now I would not have invested my expertise and funds in this industry over 30 years.**