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Dear EPA

Submission to the EPA Inquiry: examining the future task of Victoria's Environment Protection Authority

I welcome the opportunity to make a submission regarding the inquiry into EPA. Moira Shire Council has provided feedback to and supports the submission to the inquiry by the MAV. I provide below comments and feedback on behalf of Moira Shire Council. These comments generally relate to the key area of the investigation "Improving regulatory efficiency and effectiveness".

**Landfill Management and rehabilitation
Landfill BPEM Guidelines**

The EPA landfill BPEM is a guideline not a 'standard'. Yet they are being applied as a 'standard' without any consideration for the variability of climate and soil type across the state. While the guidelines suggest performance based standards for landfill designs, the default position of the EPA is to rely solely on prescribed landfill systems. This has the result of stifling innovation and in many cases requiring Council to invest more money in landfill works than is actually required.

A result of the guidelines not being legislated is that they have not undergone a Regulatory Impact Statement to assess their financial implications. The application of the BPEM is inconsistent and changes over time. There is more on this point in the 'operational environment' section below.

Audit processes

When the EPA first sought comment on the new Landfill Licensing Guidelines back in the late 2000's, concern was raised by Councils regarding the multiple layers of consultants preparing and auditing landfill designs, capital works and operations. These concerns were discounted by the EPA at the time but have proven to be a reality. It is not unusual to have one consultant questioning another consultants opinion (often a Commercial competitor) all the time the hours continue to add up with Council (the community) having to foot the bill. Having two auditors arguing over an obscure point, each at \$400/hour can add up to a sizeable amount very quickly.

The auditors appear unable to allow an audit to conclude without requiring Infrastructure i.e. additional groundwater bores or gas bores or extra monitoring which adds further cost to Council's ongoing landfill operations. This gradual ratcheting up of standards occurs without any evidence that the previous standard is actually posing a risk to the environment. The result is that Council, and therefore the community, has to pay more for waste services to guard against risks that have little likelihood of occurring.

Risk

The whole issue of risk appears not to be understood very well by the EPA at all. Risk is made up of a combination of consequence and likelihood.

The EPA appears to focus solely on consequence, neglecting the likelihood of the event occurring or any controls put in place to guard against the event occurring.

The best example of this is the need for the 2mm polyethylene membrane in the floor of a landfill. BPEM requires a landfill cell to be lined with 1m of compacted clay with very low permeability. It also requires a 2mm polyethylene membrane between the 300mm drainage layer and the clay liner.

When questioned about the need for the membrane in a proposed landfill cell in North East Victoria (it added around \$250,000 to the cost of the new cell) the EPA responded it was to protect the clay when the drainage layer blocked. (The drainage layer is 300mm thick with only 40mm sized rock that can behave a bit like a neural network.) When asked for an example where the drainage layer had blocked creating this need, none could be given.

As the membrane added a further 30% to the estimated cost of the new cell, the EPA was asked whether the thickness of the clay liner could be reduced to offset the cost of the membrane. The answer was no because the membrane could leak! So what was the point of the membrane?

Similarly, a recent rehabilitation in northern Victoria required a membrane to be installed above a clay liner which was then covered by over a metre of soil. The membrane was to prevent moisture from rainfall on the vegetated ground surface getting to the clay layer over a metre below. One wonders how in an area of Victoria where average annual rainfall is around 500mm and evaporation is 1600mm how this would ever happen?

Operational environment

The operational environment of Councils needs to be understood by the EPA and its application of the Landfill BPEM guidelines. The planning, design and budget approval processes within Councils take time. Capital works budget bids are prepared and approved based on EPA approved designs. It is problematic when the scope of a budgeted project is reviewed and altered by the EPA appointed auditor due to a different interpretation of the Landfill BPEM which has evolved over time. This situation has occurred recently in Northern Victoria due to a 1 year (internal Council) delay.

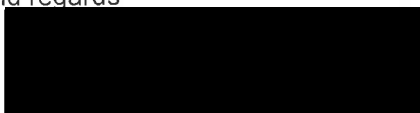
Encroachment/buffers

There have been some enquiries for intensive agriculture operations that trigger the buffer distance requirements. It seems that there is little preparedness to consider requests to reduce the buffer distances given the methods proposed for the management of emissions associated with the proposed development.

There is concern that this rigid adherence to the prescribed buffer distances stifles innovation in how these operations might be managed and also opportunities for these companies to invest in regional Victoria.

If you have any queries or wish to discuss this matter further, please do not hesitate to contact me on (03) 5871 9 222

Kind regards



Sally Rice
Manager Safety, Amenity and Environment