

Our reference
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29 October 2015

EPA Inquiry
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Contact
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Dear Sir/Madam

EPA Inquiry: Submission on behalf of Paper Australia Pty Ltd

Thank you for the opportunity to participate in the independent Inquiry into the Environment Protection Agency (EPA). The **attached** submission is made on behalf of our client Paper Australia Pty Ltd (**Australian Paper**).

Australian Paper is a vital part of the Australian manufacturing industry and economy, value-adding \$754 million to the Australian economy each year. It is Australia's only manufacturer of office, printing, packaging papers and other paper products, with products sold Australia-wide and exported to approximately 75 countries across Asia, North America, Europe, the Middle East, the Indian subcontinent, Latin America and Africa.

Australian Paper is also a major regional employer and one of the largest private sector employers in the Latrobe Valley. Its operations support approximately 1,250 direct jobs and approximately 6,000 indirect jobs, with 70% of its workforce based in regional communities. Its Victorian facilities comprise a manufacturing facility in Preston and a mill at Maryvale in the Latrobe Valley. The mill, which has been in operation for more than 75 years, sits on approximately 360ha of industrially zoned land.

Additionally, as the holder of a licence under the *Environment Protection Act 1970 (Vic)* and as a corporate citizen concerned for the health and wellbeing of its employees and the wider community, Australian Paper takes its environmental obligations very seriously and takes a keen interest in this inquiry into the EPA.

Australian Paper has a commitment to long term sustainability and in early 2015 commissioned a new recycling facility at the Australian Paper Maryvale site. The facility cost \$110 million and involved 967 construction jobs and is responsible for 246 ongoing jobs. This recycling facility underpins Australian Paper's commitment to sustainability and a long term future in the Latrobe Valley.

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Australian Paper is an active member of the Latrobe Valley community. Australian Paper maintains a Community Consultative Committee and regularly discusses its future directions and sustainability activities with this committee. Australian Paper is also a member of the Latrobe Valley Field Monitoring Network, and recently attended the EPA Inquiry Ministerial Advisory Committee meeting held in Traralgon and actively participated in discussion regarding the future role of the EPA in regional Victoria.

Australian Paper would like to thank the Ministerial Advisory Committee for the opportunity to make this submission in (as described in the Discussion Paper) this “once-in-a-generation opportunity” to evaluate and articulate the fundamental purpose and functions of the EPA.

Please do not hesitate to contact me should you have any queries or would like to discuss any of the matters raised in the submission.

Yours sincerely



Michelle Blackburn
Partner



| Issue | Details about issue | Submission |
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| Should the EPA continue to licence scheduled premises? | <ul style="list-style-type: none"> The Discussion Paper notes that the number of licensed premises has dropped significantly There are other regulatory models where licences have been abolished, sometimes replaced with a notification process (eg Dangerous Goods). While many conditions on the licence are generic, they also include site specific controls which help provide clear operating parameters for business and the community | <p>EPA licensing of significant operations ensures that site specific controls are able to be clearly set. In this way, licensing can play a key role in explaining the operations to the community and in providing some assurance to the community that the specific circumstances of the operation have been considered appropriately by the EPA.</p> |
| Net benefit approach to licensing | <ul style="list-style-type: none"> Existing industries are often looking to undertake initiatives to improve environmental performance and this should be better facilitated by the EPA to enable an outcome which is of net benefit to the environment | <p>There are times when an initiative of a licensee will produce a medium to long-term overall benefit to the environmental performance of that industry. The EPA should have the flexibility to facilitate a licensee to achieve a net environmental benefit, by allowing the industry to apply its resources to longer-term initiatives, in preference to requiring the expenditure to be applied to less effective interim measures.</p> |
| Risk based reporting | <ul style="list-style-type: none"> Licensed premises are now required, by licence condition, to immediately report any non-compliance with their licence to the EPA. | <p>The licence based reporting requirements should adopt a risk based model.</p> <p>The requirement to immediately report non-compliances should be altered to a risk based approach, with the effect that significant breaches are immediately reported, but minor breaches which are unlikely to have a significant impact on human health or the environment are not required to be immediately reported.</p> |



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| | | <p>An example of this approach is contained in the relatively recent <i>Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009</i> (Cth) which adopt the notion of “reportable” and “recordable” incidents, with “reportable incidents” being the more serious and to which immediate reporting requirements apply.</p> <p>There should also be an option to allow licence holders to have their risk based reporting procedures endorsed by the EPA, to ensure that there is agreement as to reporting requirements.</p> |
| <p>Regulatory burden of reporting</p> | <ul style="list-style-type: none"> Licensed premises are now required, by licence condition, to immediately report any non-compliance with their licence to the EPA. Licensed premises are also required to submit an annual performance statement to the EPA which outlines the non-compliances from the previous year. | <p>The system should be simplified to remove dual reporting requirements.</p> <p>Given the requirement to report incidents at the time of the incident, the duplication of re-reporting that incident as part of the APS should be removed.</p> |
| <p>Health limits for chemicals</p> | <ul style="list-style-type: none"> One of the beneficial uses of land under the SEPP (Prevention and Management of Contaminated Land) is human health. However, the acceptable human health limit for many chemicals can be difficult for organisations to determine. | <p>There needs to be some clarity around the role of the EPA in respect of human health. While all of the key offences and definitions of contamination draw upon risks associated with human health, the EPA itself tends to focus its efforts on setting environmental limits for substances in the soil or groundwater, rather than</p> |



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| | | <p>human health limits.</p> <p>There should be clear funding and resources to both the EPA and other health related organisations of the Victorian Government so that there is clear support and direction for the community and industry on the human health limits of various substances in the air, soil and groundwater.</p> <p>While there are current health limits for some substances which is available to industry (eg through worked examples in the NEPM), relevant information (such as information to inform toxicity reference values) for other substances can be difficult to source.</p> |
| <p>Separation distances</p> | <ul style="list-style-type: none"> Separation distances between industry and sensitive uses is critical. There needs to be a stronger focus on this. While “reverse buffers” are protected by the current planning scheme provisions, better more transparent protection by overlays should be implemented for significant industrial areas. At the moment planning scheme amendments seeking to achieve site specific overlays to protect buffers can take a lot of time and resources for industry over very long timeframes. | <p>The EPA does provide critical support for industries seeking to strengthen planning controls to prevent encroachment by sensitive uses. However, it may be that better resources in this area could allow the EPA to further assist or take the lead on seeking these planning controls. In particular, planning controls relating to buffer areas should be clear from statutory title searches (eg by way of an overlay) and should ensure that the view of the industry protected by the buffer is sought and taken into account in planning decisions.</p> |
| <p>EPA Notices</p> | <ul style="list-style-type: none"> Currently, there is inconsistency as to the notices that can be appealed. | <p>All notices (including notices to produce and clean up notices) should have a clear right of statutory appeal.</p> |



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The effect of the notice should generally be stayed by statute until the appeal has concluded (emergency situations may be an appropriate exception to this). Internal review processes should be built into the appeal process.

To avoid appeals, there should be a formalisation of the currently informal process of providing recipients of notices requiring rectification or investigations (eg clean up notices or pollution abatement notices) with an opportunity to respond to the proposed requirements of the notice. This process is important as it ensures that the recipient is able to communicate to the EPA operational and other practical matters which may affect the nature of the investigations or rectification works. The timeframes for investigation or rectification should be reasonable and take into account these practicalities. This communication avoids unnecessary appeals by assisting the EPA to issue notices which are practically capable of being complied with.

This formalisation could be by way of introducing a statutory process requiring clean up and pollution abatement notices to be issued first in draft with recipients required to provide any comments/response within a certain number of days (e.g. 14 days) of receipt. By issuing the notice first in draft, this will appropriately avoid the statutory appeal timeframes from commencing



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| Environmental justice | <ul style="list-style-type: none"> The Discussion paper outlines overall objectives relating to environmental justice. | <p>during the consultation period.</p> <p>Any concept of environmental justice needs to be able to accommodate site specific and regional circumstances.</p> <p>The historic development of settlements and industry leaves many legacies which need to be taken into account and may mean that the same objective standards are not able to be consistently achieved.</p> <p>Any concept of environmental justice should therefore be clearly defined in a way which provides for:</p> <ul style="list-style-type: none"> (A) an outcome based approach to achieving a base level of environmental quality for all persons so as to minimise unreasonable amenity impacts or significant health impacts. (B) the minimisation of environmental risks by ensuring the appropriate separation of heavy industry from densely populated areas. <p>Focusing on outcomes rather than emission levels allows for the different sensitivity and reasonable amenity expectations of different areas to be taken into account, including the differences between metropolitan and rural areas. These differences are currently recognised, for example, in the different noise policies relating to noise in metropolitan and metropolitan area and are also recognised in different odour limits for</p> |



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| | | <p>metropolitan and rural areas in NSW with a weighting applied where there are an increased number of residences (see NSW EPA Approved Methods and Guidelines For the Modelling and Assessment of Air Pollutants in NSW (2005) & SA EPA Guidelines Odour Assessment Using Odour Source Modellingn (2007)). These differences should continue to be recognised and added to where appropriate.</p> |
| <p>Works approval requirements</p> | <ul style="list-style-type: none"> Section 19A of the Environment Protection Act 1970 partially adopts a risk based approach to works approval requirements for alterations to plant, in that the focus is on alterations which increase emissions. However, it also requires a works approval where waste discharges are altered, regardless of whether that alteration is a decrease or an increase in waste. | <p>The triggers relating to works approvals should be risk based to allow operators to easily implement initiatives which do not result in increased environmental risks, without the need for a works approval.</p> |
| <p>Waste and beneficial re-use provisions</p> | <ul style="list-style-type: none"> There are detailed regulatory requirements relating to waste, prescribed industrial waste, beneficial re-use and the various exemptions. | <p>These regulatory requirements are overly complex and would benefit from significant simplification and clarification, including in respect of the definitions of the various categories of waste.</p> |
| <p>Contamination</p> | <ul style="list-style-type: none"> Licence conditions require the reporting of new contamination, including historical contamination which is markedly changing or spreading. Reporting of contamination is otherwise not required in the legislation. | <p>As the current approach appropriately adopts a risk based approach there is no need for and should not be any expansion of reporting obligations.</p> |



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| Sustainability | <ul style="list-style-type: none">While sustainability remains a theoretical objective of the EPA there has been a reduced focus on this issue in recent times. | The resources of the EPA should be increased to allow it to play an active role in the local community in terms of sustainability, including community education. This is particularly the case in regional areas where the EPA is one of the only State environmental bodies with an office based presence. |
