

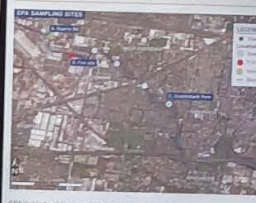


EPA
VICTORIA

DRAFT CHARTER OF CONSULTATION



West Footscray fire - pollution monitoring results



EPA is onsite at the location of the fire daily. We will continue to ensure that the footprint of the fire is monitored, and samples from the site to well as...

Environmental monitoring

Air monitoring

Atmospheric particulate matter (PM₁₀) and other pollutants were monitored at several sites during the fire. The highest concentrations were recorded at the site closest to the fire. The EPA is currently monitoring the air quality at several sites in the area. The results of the monitoring will be available on the EPA website.

Water quality and sediment monitoring

EPA is currently monitoring the water quality at several sites in the area. The results of the monitoring will be available on the EPA website.

Health information

Health information is available on the EPA website. The EPA is currently monitoring the health of the community in the area. The results of the monitoring will be available on the EPA website.



Environment
Protection
Authority Victoria



Introduction and Context

EPA Victoria is an independent statutory authority and our role is to protect Victoria's environment and people from the harmful effects of pollution and waste.

We are Victoria's environmental regulator.

- We monitor the health of the environment.
- We set standards to measure and maintain its health.
- We enforce compliance with these standards to protect the environment and deter polluters.
- We lead and support action across government, industry and the community to prevent harm.

But we cannot do this alone. We know that our actions must be informed by the aspirations of all Victorians and we rely on individuals, communities and businesses across Victoria to protect the environment, report pollution, and participate in environmental programs, working with us to achieve better environmental outcomes.

Legislative and regulatory context

This Charter of Consultation is EPA's commitment to consultation with Victorians under section 53 of the *amended Environment Protection Act 2017 (the Act)*. It outlines key aspects of our legislation that require or may benefit from consultation and describes how EPA may undertake such consultation.



Victoria

**Environment Protection Amendment
Act 2018[†]**

No. 39 of 2018

[Assented to 28 August 2018]

Part 2.3 of the Act includes eleven *principles of environment protection* that represent vital considerations in environmental decision making. EPA is required to give regard to these principles in administering the Act and they must be applied in relation to certain decisions, discussed below.

The *principle of accountability* (s22) clearly expresses the purpose and value of consultation:

Principle of accountability

Members of the public should—

- (a) have access to reliable and relevant information in appropriate forms to facilitate a good understanding of issues of harm or risks of harm to human health and the environment and of how decisions are made under this Act; and*
- (b) be engaged and given opportunities to participate in decisions made under this Act, where appropriate to do so; and*
- (c) have their interests taken into account in decisions made under this Act.*

The Charter also acknowledges the principle of shared responsibility (s16), which relies on opportunities for participation in environmental decision making.

Principle of shared responsibility

Protection of human health and the environment is a responsibility shared by all levels of Government and industry, business, communities and the people of Victoria.

The development of environmental rules and standards is supported by the *Subordinate Legislation Act 1994*, which provides and requires specific processes for consultation, outlined pg. 18, that EPA must sometimes manage and administer.

Why consultation matters

Improving environmental and human health outcomes

A healthy environment provides the foundation for healthy people. Essentially, consultation is about improving outcomes for the environment and human health, supporting a more liveable Victoria.

Consultation is vital in connecting EPA's activities, standards and decision-making to the concerns and values of Victorians. It enables us to listen, learn and deliberate on how we can best protect our environment from the harmful effects of pollution and waste.

Informing decision making at EPA

We recognise the importance of community input and the gathering of intelligence during assessment processes and standards development.

Our role is to:

- support community awareness of relevant matters and proposals, and
- provide suitable opportunities for stakeholders to participate in decision making.

Public scrutiny of proposals, including the involvement of community and industry advocates, contribute significantly to delivering robust outcomes.



Consultation scope

This Charter addresses the two central components of EPA consultation.

Permissions

EPA assesses applications for development that, without appropriate environmental management, may pose risks to human health and the environment. Where proponents can demonstrate they understand and can manage these risks, EPA will grant formal 'permission' for them to proceed.

Through our involvement at the earliest stages of development proposals, EPA can fulfil its goal of preventing harm by ensuring best practice in how works proceed (for example, the design and build of industrial facilities).

Standards

Consultation for the development of standards is a vital part of civic engagement and participation relevant to all Victorians. This is where Environment Reference Standards and Regulations that aim to protect what we value are set, and the rules for the management of pollution and waste are made.

Such standards are then used to assess the quality of environmental outcomes, implement environmental management programs, determine permissions, and undertake compliance and enforcement activity.

Because all members of the Victorian public are encouraged to participate in the setting of such standards, EPA and our government partner, the Department of Environment Land Water and Planning, seek to undertake broad public engagement, as-well-as focusing on stakeholders with special interest, specialist expertise, or concern in relation to the matters in question.

The consultation values we commit to

Healesville

We welcome you to have your say as a part of our decision-making on environmental issues.

Where possible, we will seek to build partnerships with our stakeholders that bring opportunities for greater collaboration and empowerment in environmental decision-making.



access to information



participation



transparency



recognition



engagement



feedback

In keeping with the principle of accountability, our overarching commitments to consultation are:

- **access to information** – producing accessible, informative, authoritative and timely information to help our stakeholders participate in consultation
- **participation** – creating appropriate opportunities for stakeholders to participate in decision-making
- **transparency** – giving clear direction on the scope and objectives of our decisions, the consultation processes that support them, and publishing our decisions
- **recognition** – recognising the diversity of culture, language and ability in our community, and identifying the potential impacts of our decisions on stakeholder groups and the public
- **engagement** – building trust with our stakeholders by facilitating effective consultation processes
- **feedback** – reporting back on how people’s input has been taken into account in decision-making.

EPA makes many decisions under the Act. They are varied and encompass a wide range of environments, populations, circumstances and risks. There is a requirement for us to undertake consultation on some matters, whereas we choose to consult on others because it represents good practice. These are opportunities for us to work with and engage the public on the issues they care about and that affect them. In either case, we always endeavour to ensure consultation is tailored to suit the unique settings of decisions, and target our resources appropriately.

Key components of consultation



Public notification

Our capability to notify the public about consultation is crucial to enabling inclusion and participation. EPA seeks to ensure that all parties who may have an interest in proposed standards and permissions are given suitable opportunities to be informed and to comment/make submissions.

We publish notification of all development licence applications (outlined pg. 15) on our website and at least one other publication EPA considers appropriate, which may include state-wide, regional or local media or websites such as EngageVic.

We may also utilise additional channels such as social media and direct mail, to reach interested and potentially affected parties, according to *finding the right **permissions pathway*** (pg. 12) identified for that application, which takes into account aspects such as the geographic, social, and environmental circumstances of the application being assessed.

Notification processes need to be tailored to the unique circumstances and requirements of the application and so are not appropriate to standardise beyond the two mandatory publications. Decisions about what is the right balance of notification will be informed by the commitments to consultation outlined pg. 9.

Consultation timelines

Our approach to timelines for consultation must also reflect the unique circumstances of matters put before us, considering the needs of both participants and decision makers, including other government agencies and regulatory processes. As such, only the minimum consultation timelines required by legislation are outlined pg. 15-19. In practice, EPA facilitates a range of formal and informal opportunities beyond these timeframes.

Finding the right pathway for consultation on permissions

Legislative requirements for consultation on permissions focuses on public notification of key matters under the Act, and timelines for submissions and comments to be received. EPA may, however, propose additional consultation activities based on a **permissions pathway** assessment, which considers several factors:

- potential for risk to human health and the environment
- potential for community impact and interest
- complexity of proposals
- relevant factors relating to operator and site history
- the strategic importance of a proposal, including state-wide significance.

Where there is significant public response to applications for permissions we may facilitate a *Conference of Interested Persons* (pg. 13) to engage stakeholders in discussion on the matter.



Conference of interested persons

A Conference of Interested Persons (s236) is a flexible provision that allows EPA to formally convene a public conference for the purpose of facilitating discussion and problem solving on any matter under consideration.

We will use conferencing in a variety of situations to aid discussion and give confidence to the community that their knowledge, views and experience will be taken into account in decision-making.

EPA appoints a conference convenor to preside over the conference and make recommendations arising from discussions. EPA must consider these recommendations in its decision-making. As such, conferencing can enable face to face engagement and involve all parties in constructive dialogue, whilst transparently reporting on the recommendations and outcomes from the conference.

Pre-application engagement

The best environmental and human health outcomes can occur when businesses are proactive in managing their environmental risks and attempt to engage meaningfully with the concerns of their stakeholders, including those of local communities and government.

EPA encourages applicants for permissions to involve all relevant stakeholders at the earliest stages of developing their proposals so that key issues can be addressed prior to submission. We will take into account the nature and quality of pre-application engagement during **permissions pathways** assessments, including the need for further consultation.

We believe that part of our role when approving a licence to operate, is in providing consultation processes that support the development of a business's social licence. Businesses who proactively involve stakeholders regarding their operations and impacts, whether at application stage or during operations, open pathways of communication and engagement, improve relationships, build trust, and allow issues to be addressed at the earliest possible time.

Consultation Guidelines

Yallourn Power Station

Our role is to bring about the best outcomes for all Victorians when it comes to the environment and human health. We take our statutory role very seriously.

It requires us to balance opportunities for economic development with people's right to live in a clean and healthy environment. Consultation is not a tick-a-box exercise in our decision-making process, it is central to the formation of good decisions and the development of best practice.

The Act demands a basic level of consultation, but it also gives us freedom to go beyond this. We will work constructively with people to have their say.

Consultation on permissions

Development Licences (s52)	
What are they?	<ul style="list-style-type: none"> - Development licences are the principal type of environmental approval issued by EPA. - They are designed to control the highest levels of risk to the environment and human health. - If approved, they give 'permission' for developments to proceed, sometimes with conditions. - Examples include commissioning of industrial facilities, landfills, wastewater treatment plants. - Development licence applications must meet all relevant environmental standards (pg. 18-19) to be accepted for EPA assessment. - Assessment of proposal must consider Environment Protection Principles.
	<p>Joint Publication</p> <p>EPA may agree to combine consultation processes with that of a planning permit, planning scheme amendment or Environmental Effects Statement.</p>
Consultation Approach	<ul style="list-style-type: none"> - See Public notification (pg. 11). - Following notification, a period of at least 15 working days follows during which the public can make a submission/comment on the proposal. - Additional consultation and engagement processes are provided according to EPA permissions pathway assessment (see <i>Finding the right permissions pathway</i> (pg. 12). - See <i>Conference of interested persons</i> (pg. 13).
	<p>Joint publication</p> <ul style="list-style-type: none"> - Joint consultation processes can provide benefits to stakeholders, by combining consultation and some other processes.
	<p>Requests for information (s50(4))</p> <ul style="list-style-type: none"> - EPA may require additional information of applicants in order to properly complete an assessment, pausing the assessment until the required information is received. - Consultation to address additional information will be considered according to an assessment of the degree of substantive change it represents to the application, and the nature of submissions already received.
Feedback	<ul style="list-style-type: none"> - EPA will produce a summary of comments received outlining key issues raised and EPA's response. - EPA may publish communications outlining our decisions such as media releases, fact sheets, assessment report.
Outcome	<ul style="list-style-type: none"> - EPA approval or non-approval of development licence. - EPA decisions are subject to appeal at VCAT by the public and applicants. - Decision must be published to the <i>public register</i>.

Pilot project licences (s78)

What are they?	<ul style="list-style-type: none"> - Pilot project licences are issued by EPA to allow short term projects (up to 5 years) for research, development and demonstration of new technologies and processes. - EPA conditions ensure such projects are appropriate and conducted in a safe way that protects human health and the environment. - EPA assessment of proposal must consider Environment Protection Principles.
Consultation approach	<ul style="list-style-type: none"> - EPA is required to assess and make a decision on applications for a pilot project licence within 22 business days, which limits opportunity for consultation within the EPA assessment period. As such, EPA encourages applicants to demonstrate substantial stakeholder engagement prior to making their application, See Pre-application engagement. - See <i>Finding the right permissions pathway</i> (pg. 12).
Feedback	<ul style="list-style-type: none"> - If EPA undertakes consultation activities, we provide summary feedback in response to issues raised in consultation.
Outcome	<ul style="list-style-type: none"> - Approval or non-approval of pilot project licence. This may be subject to conditions. - Pilot licence decisions must be published on the <i>public register</i>.

Permits (s81)

What are they?	<ul style="list-style-type: none"> - Permits are controls targeted at activities that may pose a 'moderate-risk' to the environment. - They are a tier of risk below development licences (pg. 15).
Consultation approach	<ul style="list-style-type: none"> - There is no default notification process. - EPA will not consult on permits except where we foresee significant public interest in a proposal. Any such decision will be guided by the permissions pathway assessment (see <i>Finding the right permissions pathway</i> pg. 12).
Feedback	<ul style="list-style-type: none"> - If EPA undertakes consultation activities, we provide summary feedback in response to issues raised in consultation.
Outcome	<ul style="list-style-type: none"> - Approval or non-approval of permit. - Permits must be published to the <i>public register</i>.

Registrations (s85)

What are they?	<ul style="list-style-type: none"> - Activities requiring registrations represent the lowest level of environmental risk. - EPA sets standards conditions to suit the activity being applied for.
Consultation approach	<ul style="list-style-type: none"> - As registrations are granted automatically when applications meet all relevant requirements, they are not subject to consultation.
Feedback	<ul style="list-style-type: none"> - All registrations are published to the <i>public register</i>.
Outcome	<ul style="list-style-type: none"> - All registrations are published to the <i>public register</i>.

Review of operating licence (s76)

What are they?	<ul style="list-style-type: none"> - EPA selects operating licences to be reviewed using a risk-based approach. - Licences under review must have been in place for at least 4 years. - Review of operating licence must consider Environment Protections Principles.
Consultation approach	<ul style="list-style-type: none"> - EPA must give 20 working days' notice to a licence holder before commencing a review. - There is no default public notification process but we seek to identify and notify relevant stakeholders. - See <i>Finding the right permissions pathway</i> (pg.12). - Where an operating licence being reviewed, additional consultation may be undertaken.
Feedback	<ul style="list-style-type: none"> - Where consultation occurs, feedback is provided to participants.
Outcome	<ul style="list-style-type: none"> - EPA may vary, revoke or leave the licence unchanged. - Operating licences must be published on <i>public register</i>.

Issuing operating licences (s74)

What are they?	<ul style="list-style-type: none"> - EPA typically issues an operating licence, containing conditions for operation, following certified completion of works approved under <i>development licence</i>.
Consultation approach	<ul style="list-style-type: none"> - Consultation on proposals has a preventative focus and so occurs during the <i>development licence</i> phase (pg. 15).
Feedback	<ul style="list-style-type: none"> - Operating licences must be published on <i>public register</i>.
Outcome	<ul style="list-style-type: none"> - EPA determines if licence can be issued, subject to <i>development licence</i> conditions - Operating licences must be published on <i>public register</i>.

Exemptions (S80)

What are they?	<ul style="list-style-type: none"> - An exemption for a development or operating licence may be applied for EPA will seek to publish its criteria for determining exemptions.
Consultation approach	<ul style="list-style-type: none"> - Where there are applications that may benefit from community awareness, we consider whether further consultation would be of benefit. - See <i>pre-application engagement</i>. - See <i>Finding the right permissions pathway</i> (pg. 12).
Feedback	<ul style="list-style-type: none"> - <i>Exemptions</i> must be published on <i>public register</i>.
Outcome	<ul style="list-style-type: none"> - <i>Exemptions</i> must be published on <i>public register</i>.

Consultation on standards

Regulations (<i>Subordinate Legislation Act 1994</i>)	
What are they?	<ul style="list-style-type: none"> - Where a need is identified for further specific laws to protect the environment, regulations can be made to support the Act. - Regulations often address a central problem, which may relate to such activities as licences and approvals, air and water quality, waste management, or contaminated land. - The formal consultation mechanism used to create regulations is Regulatory Impact Statement (RIS). - The RIS explores the environmental, social and economic impacts of proposed regulations. - RIS provides a structured process to assess the costs and benefits associated with proposed regulation with a focus on social and economic consequences, and significant impacts.
Consultation approach	<ul style="list-style-type: none"> - Consultation is a fundamental part of the RIS process. - EPA (and relevant government partners) undertake preliminary consultation with potentially impacted sectors (e.g. community, business groups) where appropriate, to develop a RIS. - A 'discussion paper' is usually drafted to help inform discussion and get feedback from the public and stakeholders on the options - including non-regulatory options - being considered to address the problem. This is typically released on EPA's Website, Engage Victoria, and via other suitable channels according to the subject, with instructions for responding. Statutory minimum. - 28 calendar days for the public to comment on RIS.
Feedback	<ul style="list-style-type: none"> - We publish a summary statement explaining the issues raised in public comments/submissions and how they have been addressed on our website. - Additional feedback tailored to stakeholders and the subject may also be provided.
Outcome	<ul style="list-style-type: none"> - Regulations may be removed, left unchanged, updated or remade.

Environment Reference Standards (s93)

What are they?	<ul style="list-style-type: none"> - Environmental Reference Standards (ERS) seek to identify particular uses of Victorian's environment (such as recreation, ecology, aesthetic), and to identify what indicators and objectives will be used to measure whether those environmental values are being achieved or maintained. - They may apply to parts, or the whole of Victoria. - ERS assessments must consider Environment Protection Principles.
Consultation approach	<ul style="list-style-type: none"> - ERS must be reviewed every 10 years. - ERS consultation culminates in the development of an impact assessment under the Subordinate Legislation Act 1994 (pg.18) applying the notion 'significant impact' in replacement of 'significant social and economic burden'. - A draft ERS and related impact assessment are released for public comment.
Feedback	<ul style="list-style-type: none"> - As for Regulations (pg. 18).
Outcome	<ul style="list-style-type: none"> - As for Regulations (pg. 18).

Position Statements (S108)

What are they?	<p>Position Statements are made by EPA to provide greater clarity of our interpretation of parts of the Act, or to describe the exercise of our discretion in particular circumstances or matters.</p>
Consultation approach	<ul style="list-style-type: none"> - EPA publishes a draft of the position statement in the Government Gazette, EPA's website, and other publications identified as suitable for reaching potentially interested stakeholders. - Targeted notification of potentially interested stakeholders. - EPA seeks comments and feedback from stakeholders.
Feedback	<ul style="list-style-type: none"> - A summary statement explaining the issues raised in public comments/submissions and how they have been addressed is published EPA's website. - Additional feedback tailored to stakeholders and the subject may also be provided.
Outcome	<ul style="list-style-type: none"> - All position statements are published to <i>public register</i>.

