

Waste & Recycling Reference Group

Chair: Rachel Gualano,
Director, Regulatory Programs

21 November 2019



Environment
Protection
Authority Victoria



Agenda

1. Welcome, apologies & introductions
2. Previous meeting summary
3. EPA's Regulatory Strategy
 - Compliance & Enforcement Policy
 - Permissioning Policy
4. Licence Transition
5. Tools & Tech Showcase
6. Lunch
7. Industry Guidance
8. Subordinate Legislation Update
9. Other Business

1. Welcome & introductions



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2. Previous meeting summary



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Regulatory Strategy 2020-2025

Permissions Scheme Policy
Compliance and Enforcement Policy

Matt D'Abbs - Director Regulatory Approach and Capability

November 2019

Our new regulatory strategic framework - context

Over next 5 years... we all have to adapt to the new legislation of *Environment Protection Act 2017*



Shift in regulatory focus from 'post pollution' to '**prevent pollution**'



Shift in how we issue permissions and ensure compliance is achieved



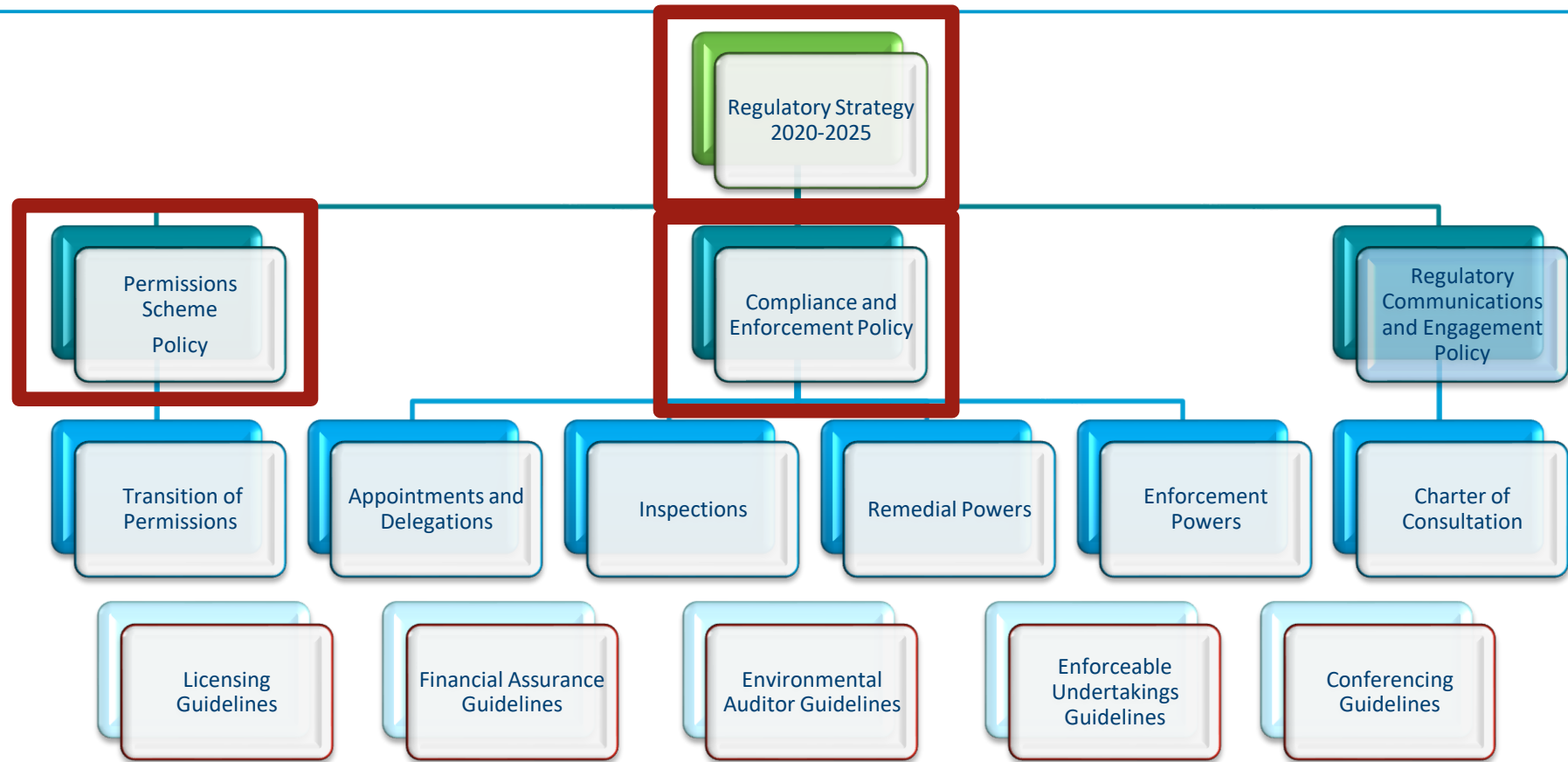
How?

Regulatory Strategy/Policies hierarchy

Strategic

↓

Operational



Regulatory Strategy 2020-2025

- Describes **EPA's regulatory focus over the next five years** under our new legislative framework
- Outlines **plans for our regulatory approach** to:
 - shift the concept of 'environment protection' to one of **prevention**
 - build **capability**: intelligence gathering, assessment, response (ours and yours)
 - **equip and work with our partners**
 - **address** non-compliance
- Is supported by key **regulatory policies and guidelines**, written specifically to address their type of regulatory activity.

| July 2020 | | | | | | |
|-----------|----|----|----|----|----|----|
| M | T | W | T | F | S | S |
| | | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 | | |



The Regulatory Strategy 2020-2025

Seven key sections:

1. Purpose
2. EPA's vision and role
- 3. Regulatory Commitments**
- 4. Our Regulatory Approach**
- 5. Risk-Based Approach**
- 6. Our Regulatory Focus**
7. Ensuring Success

Regulatory Commitments

Six things, consistent across Regulatory Strategy and Regulatory Policies...

| | |
|---|--|
| Acting to protect | ...by being responsive and proactive |
| Being informed and evidence-based | ...in how we make decisions |
| Targeting the biggest risks | ...by prioritising our efforts to address the largest risks to make the biggest difference |
| Supporting and encouraging | ...because we assume most people want to do the right thing |
| Being accountable for our commitments and responsibilities | ...and holding others to account for theirs |
| Acting with integrity | ...by being authentic |



Our Regulatory Approach

Is simple:

- **Intelligence-based**
- **Proportionate**
- **Balanced**
- **Responsive**
- **Clear**

... and is based on balancing the components of the 6-part 'Q'...



Risk-Based Approach

Risk of Harm x
Non-Compliance Likelihood



Where a matter sits within EPA's
Regulatory Priorities

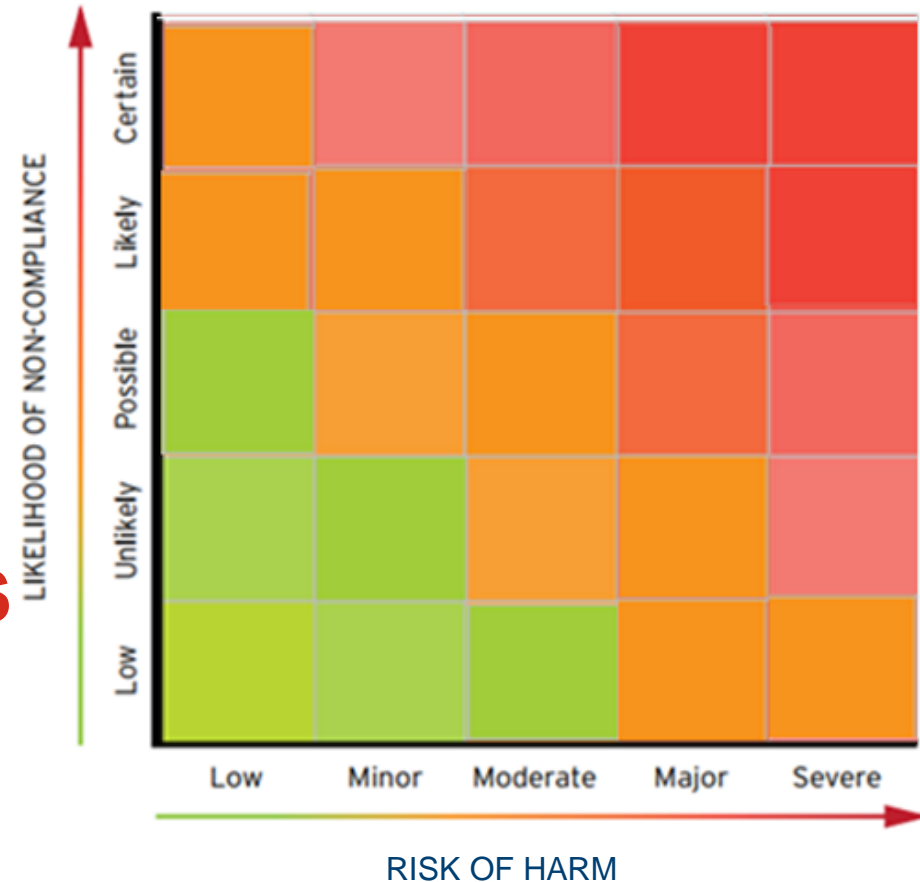


Figure 1 Model for risk-based prioritisation

Our Regulatory Focus

Delivery 'Horizons' and their priorities:

1: 2020-2022

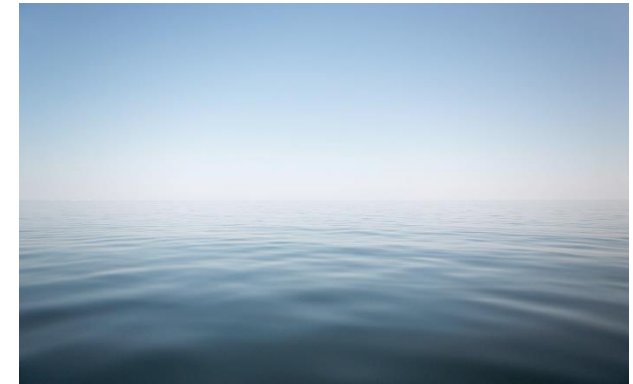
- Transition to the new legislative scheme
- Maintain focus on existing priority harms and those who deliberately do not comply with our laws, or create environmental risks

2: 2022-2024

- Focus on raising broader compliance across industry sectors and activities

3: 2024-2025

- Applying additional elements of our legislation and permissions scheme, to:
 - improve efficiency of our administration
 - 'incentivise business to increase environmental performance




Our Regulatory Focus

1. Creating an environment protection culture
2. Embedding duties of environmental protection
3. Targeting deliberate and criminal non-compliance
4. Strengthening preventative control framework
5. Equipping and working with our partners
6. Enhancing our capability

Our Regulatory Focus

Creating an Environment Protection Culture

| | |
|------|---|
| WHY | Because typically, sources of pollution and waste come from smaller activities from dispersed locations, and often from businesses who may not be aware of their legal obligations and the impact of their activities. The cumulative effect can combine to have a significant effect on the environment and our health. |
| WHAT | Broad education and awareness raising to lead to a culture shift where environment protection in business practice is a priority, and becomes the norm. |
| HOW | <div>A circular diagram representing the EPA Victoria regulatory cycle. It consists of six segments arranged in a circle around a central logo. The segments are: 'Inform and Educate' (top, green), 'Set Standards' (top-right, green), 'Support to Comply' (bottom-right, green), 'Enforce the Law' (bottom, orange), 'Monitor Compliance' (bottom-left, orange), and 'Encourage Higher Performance' (top-left, blue). The central logo features the letters 'EPA' above 'VICTORIA'.</div> <p>We will:</p> <ul style="list-style-type: none">• Inform and Educate: campaigns for small and medium sized businesses• Support to Comply: guidance and incident response programs• Monitor Compliance: targeted compliance inspections• Encourage Higher Performance: identify and promote examples of good practice• Partnerships: work with Regulatory partners and build relationships with industry |

Our Regulatory Focus


Embedding new environmental duties

| | |
|------|---|
| WHY | <p>Because our new legislation, from 1 July 2020, requires a change in the obligations of businesses and individuals. The focus will be on prevention of harm, and risk management.</p> <p>We will expect people to proactively identify their risks and ensure actions are taken to prevent harm.</p> |
| WHAT | <p>EPA will build our understanding of risks within different sectors, particularly industrial hazards. We will determine where we need to direct our regulatory efforts to maximise improvements, and provide the best opportunities for leverage from those improvement areas.</p> |
| HOW | <p>We will:</p> <ul style="list-style-type: none">• Inform and Educate: communicate our regulatory priorities to businesses, reminding them of their obligations to comply and/or remedy non-compliance• Support to Comply: assess various sectors for their respective understanding of new legislation, and where required, focus our efforts on maximising compliance• Monitor Compliance: via random and targeted inspections• Encourage Higher Performance: identify and promote examples of good practice• Enforce the Law: for non-compliance, require remedial action, pursue penalty or punishment• Partnerships: work with Regulatory partners and build relationships with industry |



Our Regulatory Focus

Targeting deliberate and criminal non-compliance

| | |
|------|---|
| WHY | Because despite most Victorians wanting to do the right thing by the environment, some wilfully break the laws established to protect the environment, and put it and the community at risk. These actions have led to significant hazards (eg major fires) and clean up costs. |
| WHAT | EPA will leverage increased maximum penalties for serious offences, ensure accountability for lawful industrial waste management, and take timely enforcement action against serious instances of non-compliance. |
| HOW | <div></div> <p>We will:</p> <ul style="list-style-type: none">• Inform and Educate: promote the outcomes of enforcement action as a deterrent, particularly focusing on waste generators.• Support to Comply: develop guidance to comply with the expanded waste management framework, also explaining the requirement of permissions.• Monitor Compliance: via intelligence-led surveillance and inspections of high risk activities.• Enforce the Law: for non-compliance, require remedial action, pursue penalty or punishment, and hold accountable company directors and those responsible for major contamination risks.• Partnerships: work with Regulatory partners to build enhanced intelligence capabilities, and leverage powers of inspection and inquiry. |

Our Regulatory Focus

Strengthening the preventative control framework

| | |
|------|--|
| WHY | Because a small number of industrial activities account for a considerably large share of Victoria's emissions to land, air and water, and because many activities have been permitted from poor land use planning decisions, with potentially significant impacts on community wellbeing. |
| WHAT | EPA will apply more proportionate preventative controls to a broader range of activities and sites via our new 3-tiered permissions scheme. We will oversee improved compliance and emissions reporting. We will work with local authorities and decision makers to influence strategic land-use planning decisions at the earliest opportunity, effectively applying environment protection standards. |
| HOW | <div></div> <p>We will:</p> <ul style="list-style-type: none">• Support to Comply: explain the new permissioning approach, expectations (monitoring and reporting) and timing to existing licence holders, and help them transition to the new permissions scheme• Set Standards: Revise standards and guidelines for planning, including assessing contamination potential• Monitor Compliance: at licensed sites, monitor compliance to ensure effective management• Enforce the Law: for non-compliance, require remedial action, pursue penalty or punishment• Partnerships: work with regulatory partners to ensure land-use decisions are informed by EPA expertise, and align inspections and auditing approaches at major hazard facilities |


Our Regulatory Focus

Equipping and working with our partners

| | |
|------|--|
| WHY | Because together with our partners in local government and other state government agencies and departments, peer regulators, and Traditional Owners, EPA has the best chance at delivering its best response to incidents of pollution and waste. |
| WHAT | EPA will partner with our peers by providing for broader powers to delegate our functions and make appointments to roles under our Act. We will help Councils to manage existing issues within their current roles, extend EPA's reach and effectiveness, and strongly support Councils as the new powers are gradually phased in. |
| HOW | <div></div> <p>We will act to support all elements of our 6-part 'Q' by partnering with:</p> <ul style="list-style-type: none">• OPLEs: work closely in partnership with our OPLEs and enhance how we respond to reports of pollution and non-compliant waste management practice and incidents• Local Government: work with councils to provide a sustainable approach to the regulatory oversight of residential construction noise and management of domestic waste water systems• Partner agencies and peer regulators: work with partner agencies to define roles and identify gaps in jurisdiction and opportunities to share skills, knowledge and align operational priorities |

Our Regulatory Focus

Enhancing our Capability

| | |
|------|---|
| WHY | Because we know there is a desire for an EPA with strong technical and scientific capabilities, able to exercise professional regulatory judgement, and confidently provide advice when incidents of pollution and poor waste management arise. To do this in the future, we need to enhance our capabilities. |
| WHAT | EPA will grow our analytics capabilities to deliver insights about duty holder risks and performance, and understand the contemporary practices of industry. We will develop our workforce that can be attuned to the interests, pressures and needs of priority industries. We will build engagement capabilities to better work with willing industry and leaders, and build on our existing considerable applied science expertise. |
| HOW | <div></div> <p>We will act to support all elements of our 6-part 'Q' as we:</p> <ul style="list-style-type: none">• Enhance and grow our capability: by applying rigour and best practice to all of our regulatory activities• Gather data, research information and knowledge: by utilising new powers for surveillance and information collection, improved monitoring and assessment, and developing a better understanding of risks of harm• Translate and transform data, research and knowledge: by supporting community, industry and government to understand environmental quality and promote actions to reduce impact or exposure to harm• Build a sustainable and capable workforce: by enhancing programs of learning and quality assurance for front-line roles and regulatory decision-makers |

Compliance and Enforcement Policy

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What is the Compliance and Enforcement policy?

- **Our intentions and commitments** in conducting compliance and enforcement work using an intelligence led and risk-based approach
- A **description** of the new **tools and measures** at our disposal to enforce the law and address non-compliance
- An **outline** of avenues for **review and appeal**



What is the Compliance and Enforcement policy?

Five key sections:

1. Purpose

2. Regulatory Commitments

3. Regulatory Approach (for C&E)

- Integrated and outcome focussed
- Risk based approach
- Dynamic enforcement response

4. Our tools to address non-compliance

- Information, education and advice
- Directing and requiring follow-up action to fix or remedy non-compliance
- Penalties and sanctions

5. Avenues for review and appeal

Our Regulatory Approach (for C&E)

Is simple:

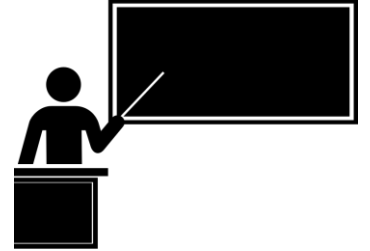
- 1. Integrated and outcome-focused**
- 2. Risk-based**
- 3. Dynamic enforcement response**



Integrated and Outcome-Focussed

Our framework, with GED as the cornerstone

- A. Helping people understand, own and address their impacts on the environment
- B. Working with partners to address complex problems with pollution and waste
- C. Holding those responsible to account
- D. Reviewing and refining our focus based on the impact we make.



Risk-Based

Our focus will be on...

- **Harm prevention**
 - by preventative risk management
- **Preventative Risk Management**
 - by focusing effort and resources after determining where the biggest risks are
- **Determining where the biggest risks are**
 - by using intelligence and modelling of:
 - Non-compliance with EP Act
 - Actual or potential harm to environment or human health
 - Impediments to our ability to do our job as effective regulator
 - Public interest and concern

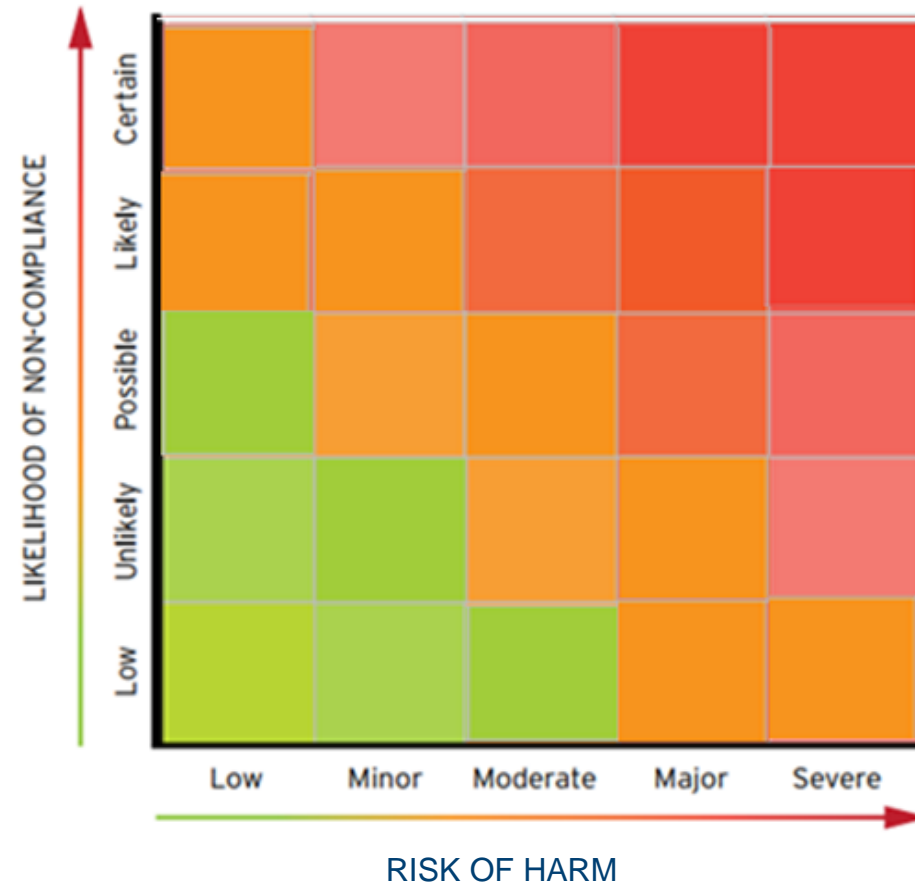


Figure 1 Model for risk-based prioritisation

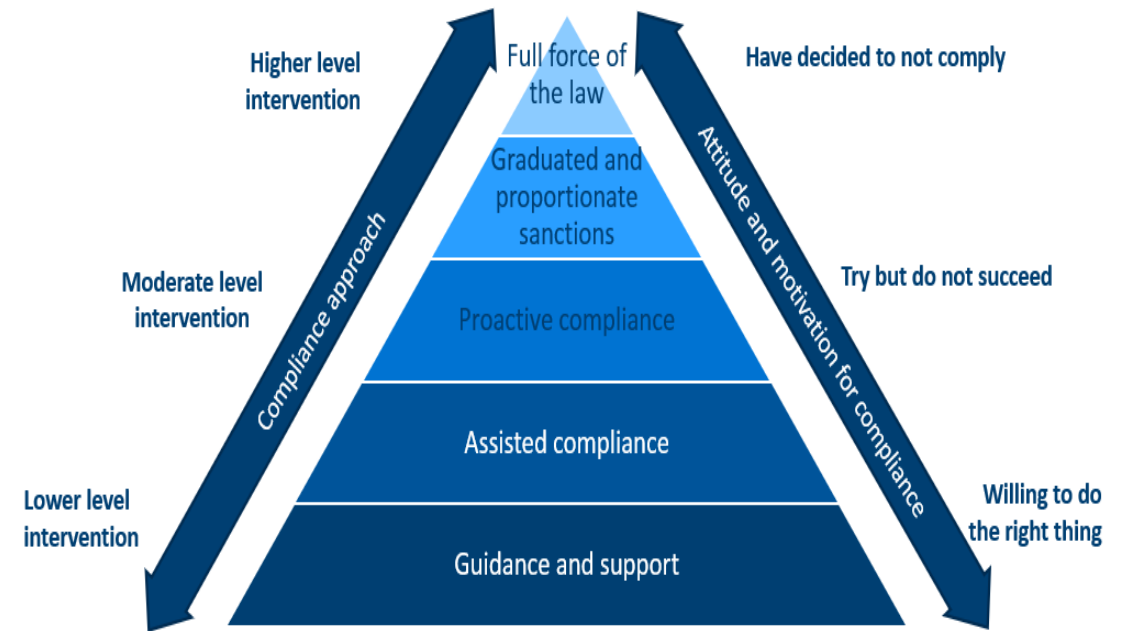
Dynamic Enforcement Response

Our enforcement aims are:

- Stop the harm and unlawful activity
- Raise awareness of law and consequences of non-compliance
- Ensure future compliance with law
- Make offenders accountable

We will consider:

- Nature and seriousness of the non-compliance
- Risk of harm from the non-compliance
- History and attitude of the person/s accountable
- Other relevant factors (eg public interest)



So...‘non-compliant’. What will EPA do?

Considered factors will include...

- Nature of non-compliance?
- Characteristics of the duty holder/alleged offender
- Other criteria
 - Pathway to justice – what’s appropriate? What’s best in the public interest?
 - Was the risk understood by the alleged offender? Is there evidence of reckless behaviour/deliberate harm?
 - How will the enforcement method deter re-offending (the alleged offender, plus others)?
 - Does EPA have a strategic priority at this present time?
 - Appropriateness of EPA’s response (eg is this better dealt with by another agency, eg Worksafe?)



Our tools to address non-compliance

Information, Guidance, Education, Advice

...but we also expect you to seek out information for yourselves



Direction to fix or remedy, plus follow-up

...normally first verbally, then followed up in writing

- Includes a range of notices (Improvement, Prohibition, Investigate, Environmental Action, Waste Abatement)

Penalties and Sanctions

- Warning letter, Infringement, Enforceable Undertaking, Civil Proceedings and Criminal Prosecution, Court Orders, Suspension/Revocation of Permission

Avenues for review and appeal

Internal Review

- To counterbalance EPA's expanded powers to issue remedial notices where harm has not yet occurred (under GED), everyone has a statutory right to seek internal review of an EPA Authorised Officer's decision to issue or amend a notice.

VCAT

- Providing fully independent avenue for reviewing EPA decisions.
- Hold EPA to account for core regulatory decisions affecting duty holders and other affected parties.

Permissions Scheme Policy

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Overview of Permissions Scheme

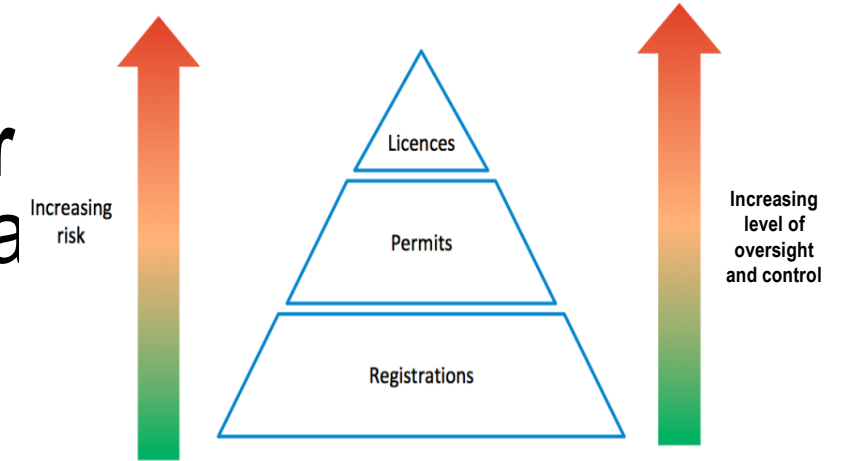
- A **description** of our new **Permissions Scheme** including:
 - the role of **permission tiers**
 - the **choices** EPA will exercise in assessing permissions applications
 - the **predictability** of our decisions and
 - how to **hold us to account** for the decisions we make
- An **explanation** of our high level considerations in assessing an application for a permission
- An **outline** of dependencies with the waste framework



Overview of Permissions Scheme

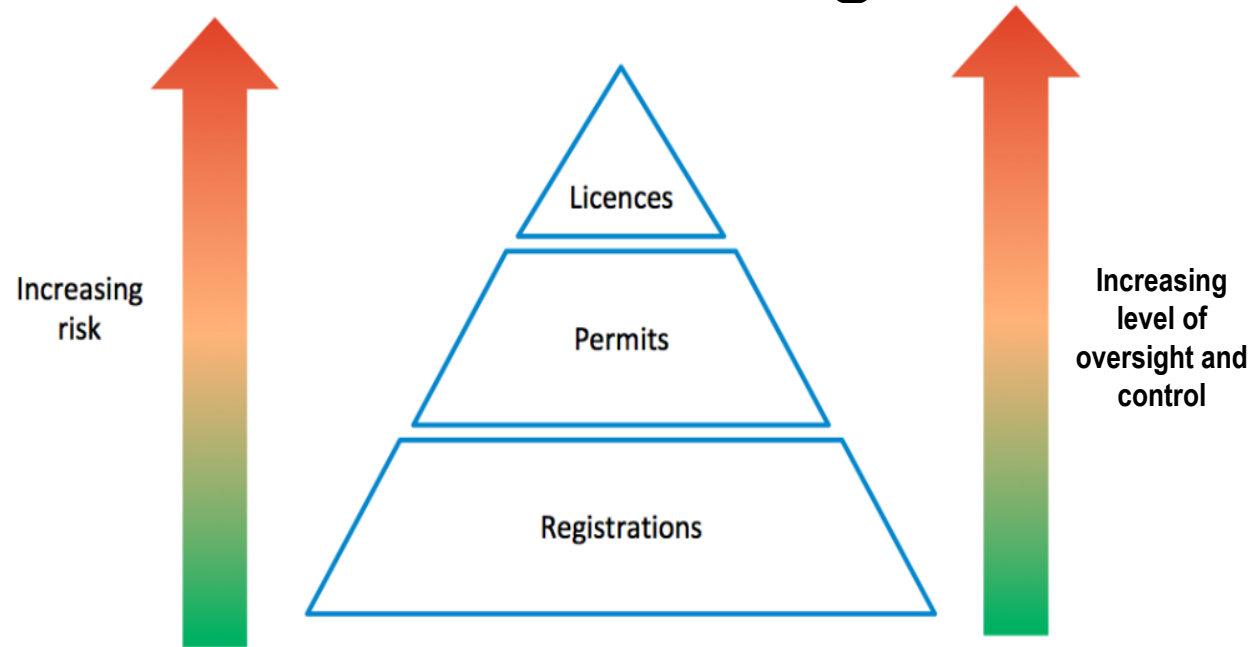


- **EP Act (2017)** creates **three broad tiers** of permissions
- **EP Regulations (2020)** specify **which tier is required** for each activity that requires a permission



Overview of Permissions Scheme

Tiered Permissioning Scheme



Permissions will be limited to circumstances where there is a need for:

- **Greater certainty of risk controls**
 - where the environmental and human health risks are highest
- Improved **targeting of higher risks** of non-compliance
 - eg \$\$ incentive, criminal history
- **Certainty** for business
- **Enabling the waste framework**

How? → **Via EPA's New Permissioning Tools**

Changes to Permissioning

Tim Faragher – Director, Development & Infrastructure

November 2019

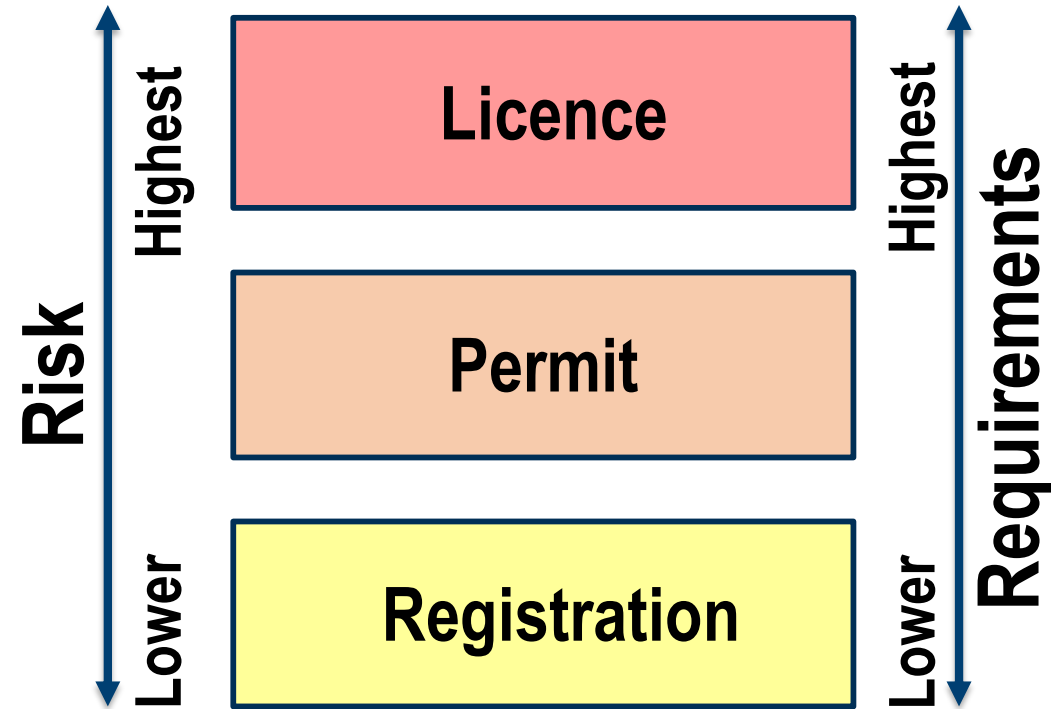


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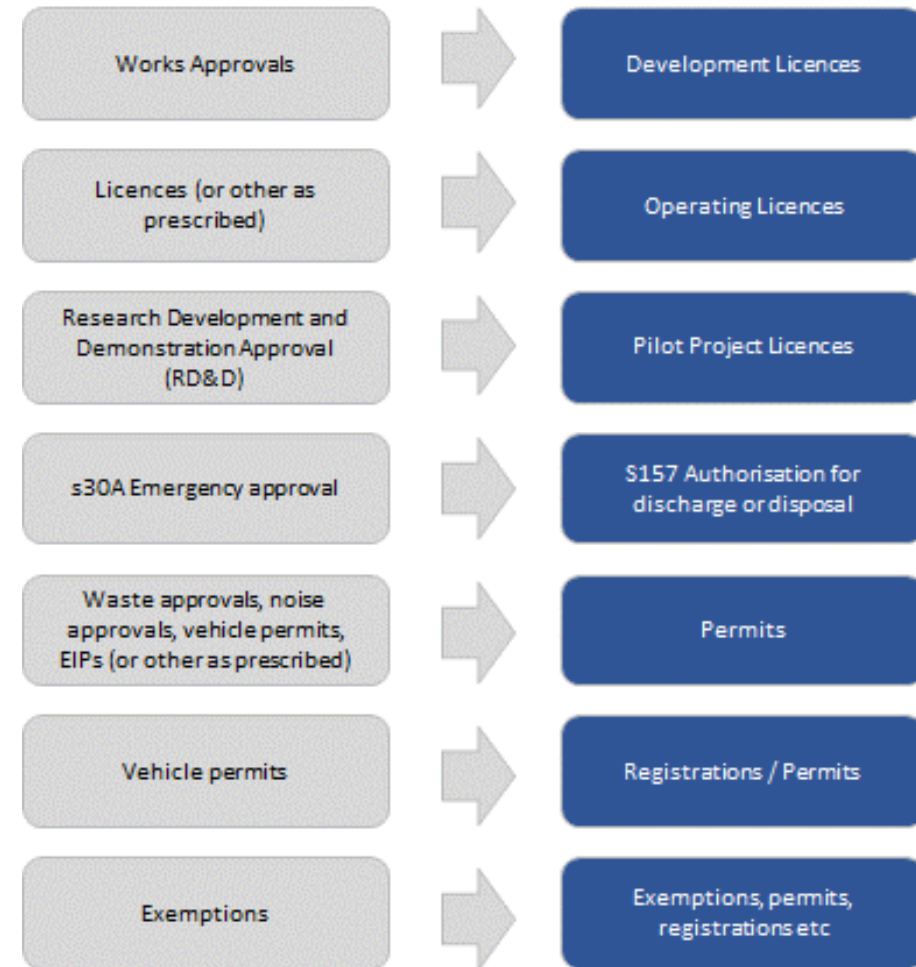
Permissions: Tiered framework

Regulations:
Chapter 3, Parts 8.1-8.5 and
10.2, Schedules 1, 2 and 11

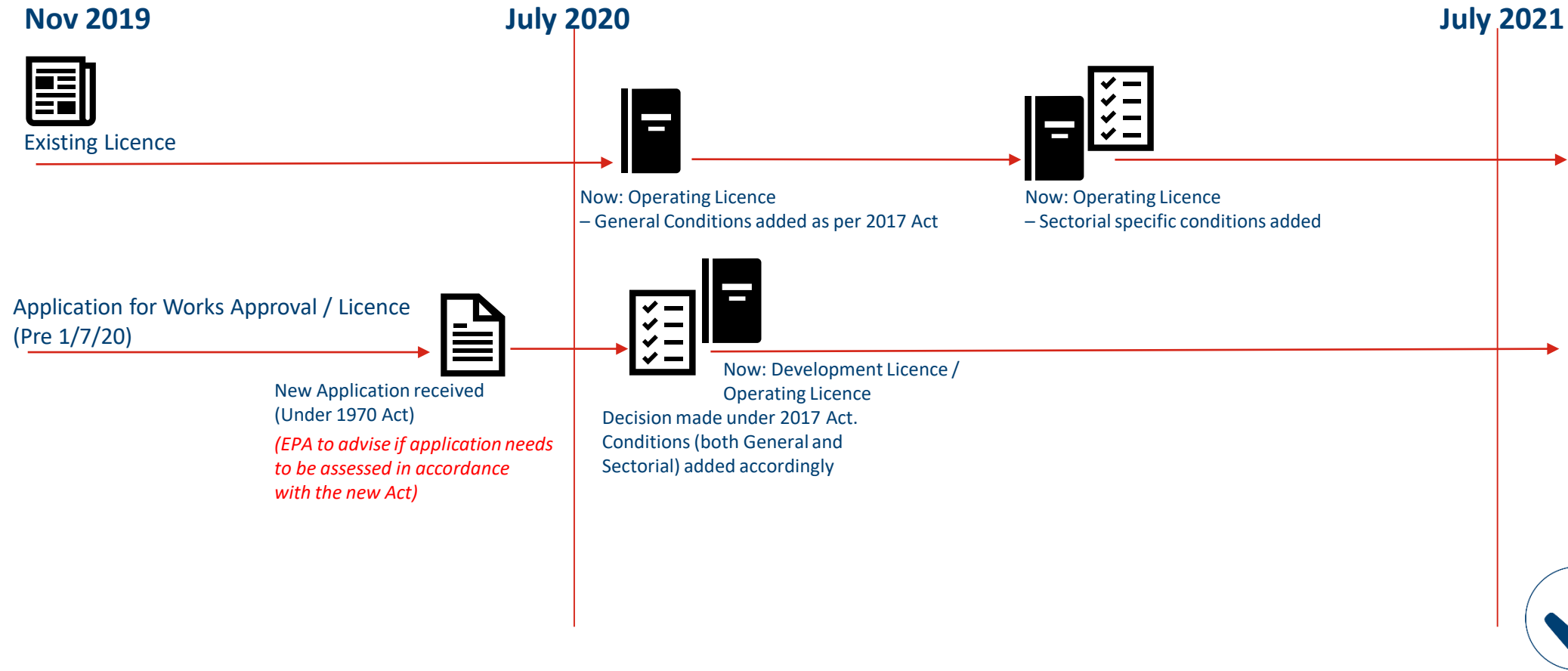


Transition – existing permissions

Current permissions to be automatically rolled over as a new permission under the new Act.



Licence Transition - timeframes



What's changing for Permission Holders in 2020

- There is no need to re-apply for your existing permission
- EPA will continue to periodically review licences
- Accredited Licences are not continuing under the new Act

Conditions:

- For current holders of Operating Licences and landfill works approvals – EPA may develop new conditions or amend existing conditions in the first 12 months
- Changes will be made to reflect the new framework
- You will be consulted on these changes



New Licence Conditions

- New licence conditions are being created – these will look different under the new framework as they work alongside the GED
- Intending to consult on draft conditions around Feb 2020
- We aim to make clear from July 2020 what the general conditions are and what conditions these replace
- Through 2020/21 licences will be amended to include all relevant conditions



Focus of Permissions work over the next quarter

Other things we are currently working on, include:

- Application system
- Performance reporting
- Fit and Proper Person and Prohibited Person requirements &
- External guidance – focussing on ‘how to’



Tools and Tech Showcase



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New EPA Website

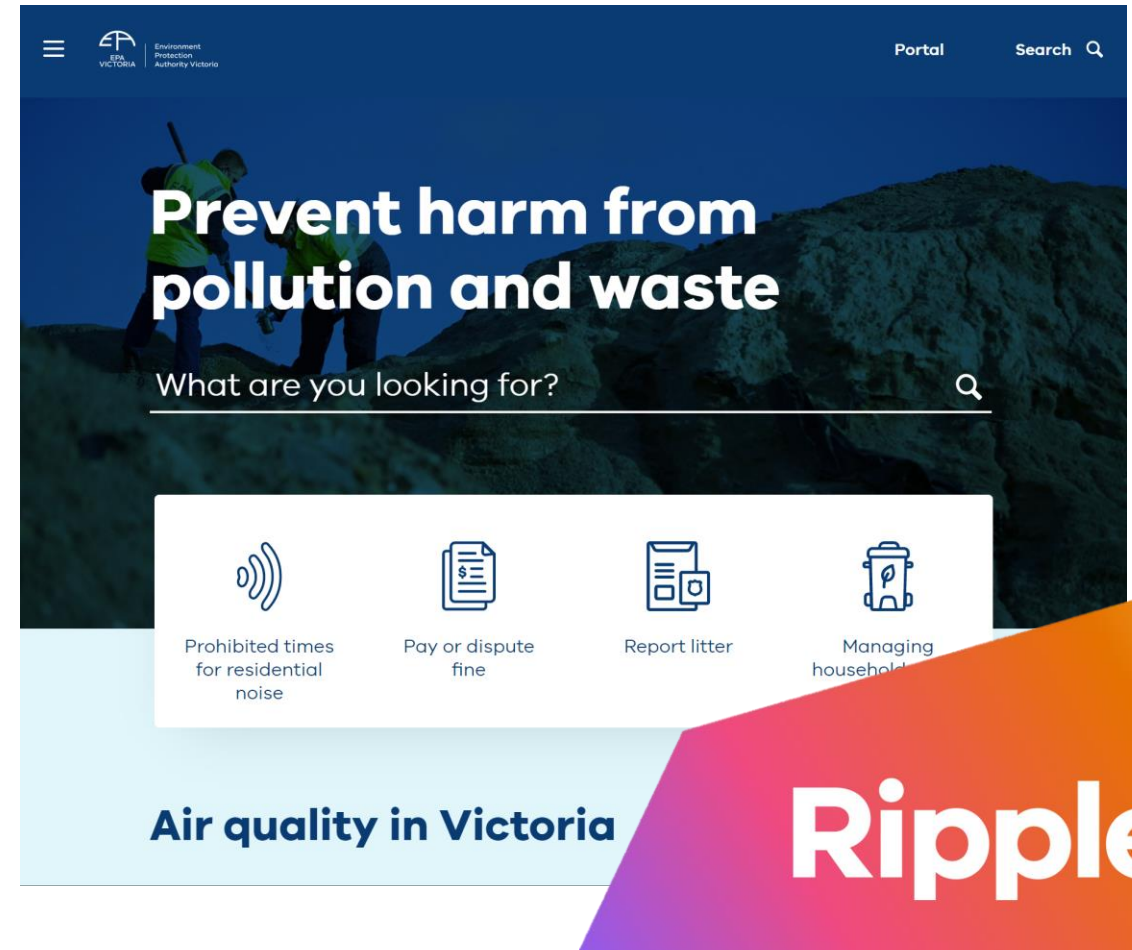


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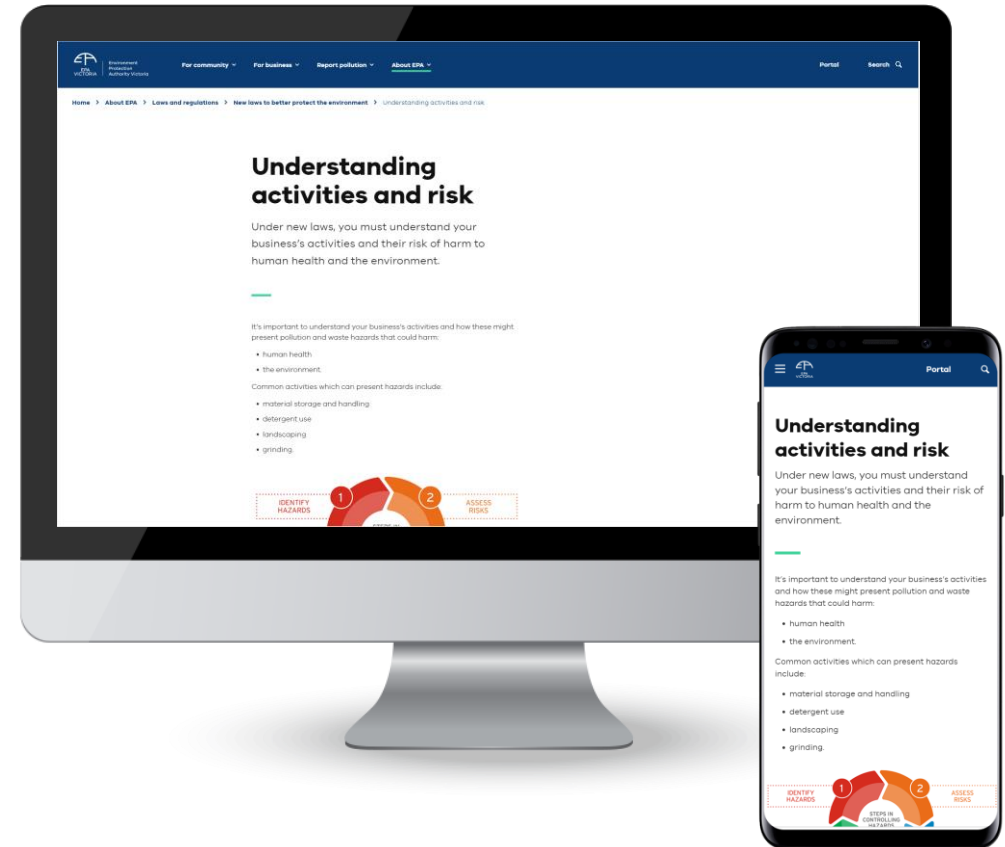
Project objectives

- Improved user experience
- Simplified goal-oriented content
- Consistent user-tested design



Outcome and future improvements

- Content specific to community and businesses
- 'Find your industry' section
- Tool for continual feedback



EPA Portal

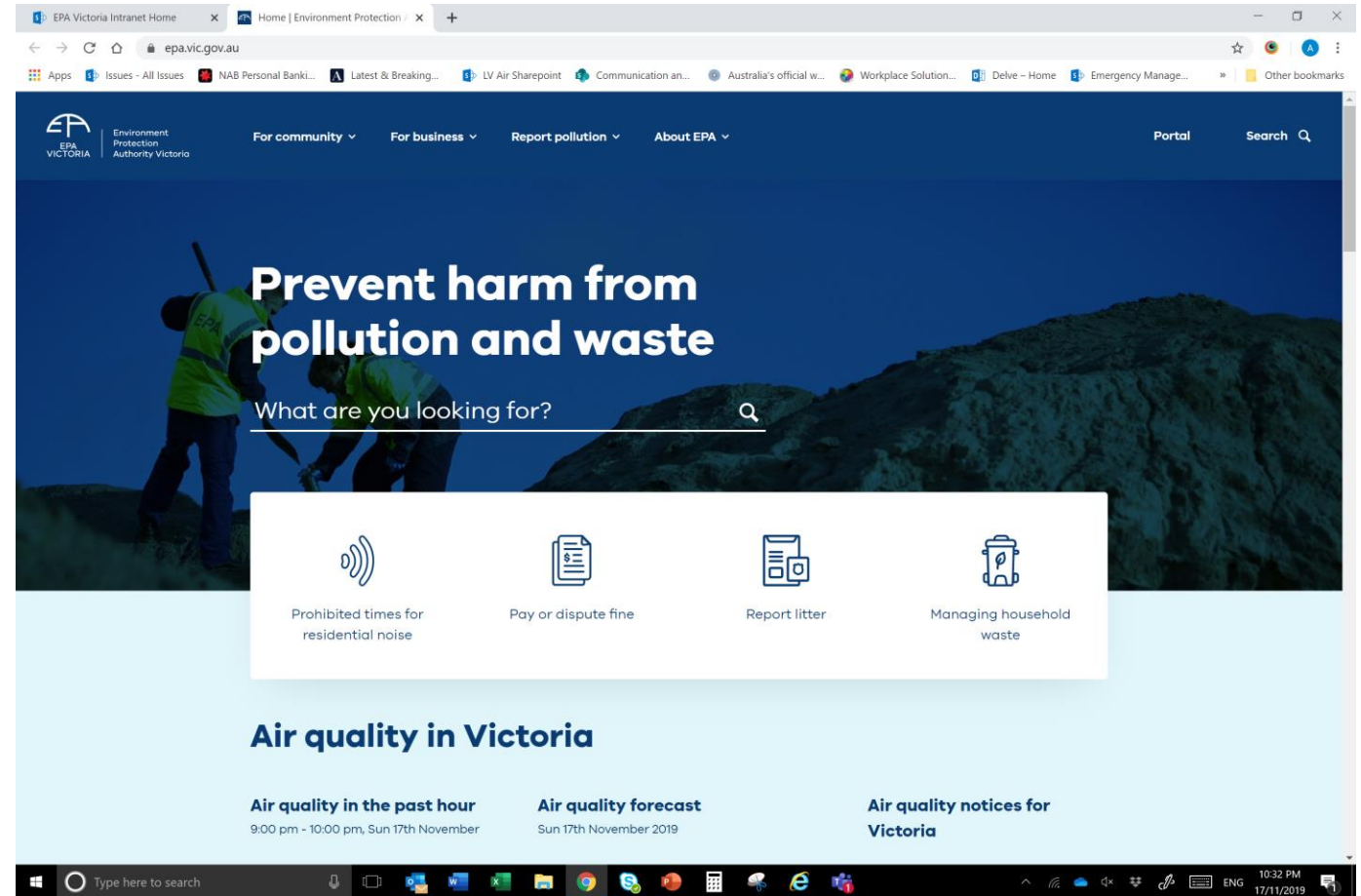


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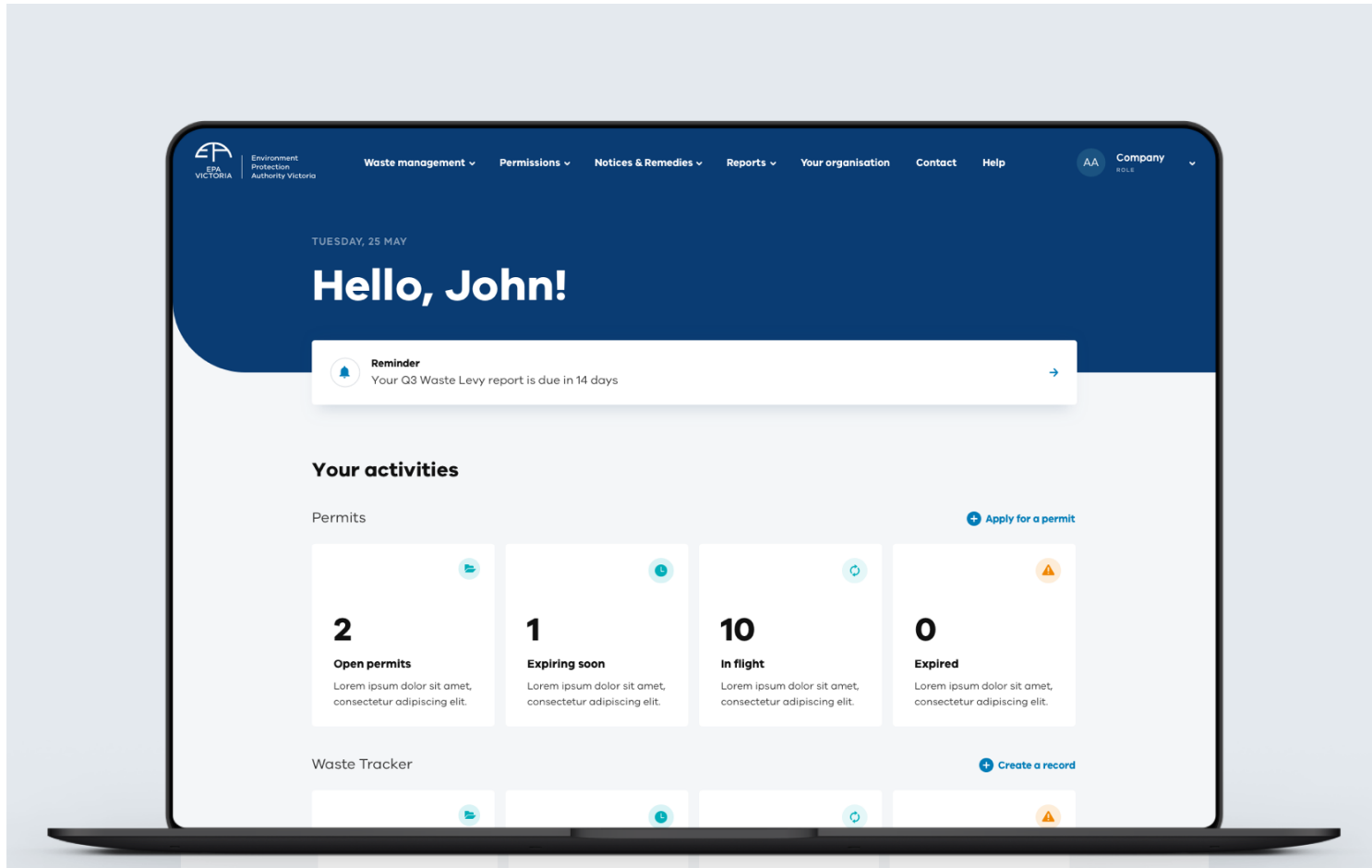


EPA Portal

- Purpose: to allow self-service for applications and notifications.



EPA Portal



- Apply for licences, permits and registration
 - See and amend notices
 - Submit reports
 - Edit your details
- What do you want to see?**

EPA's new Waste Tracker



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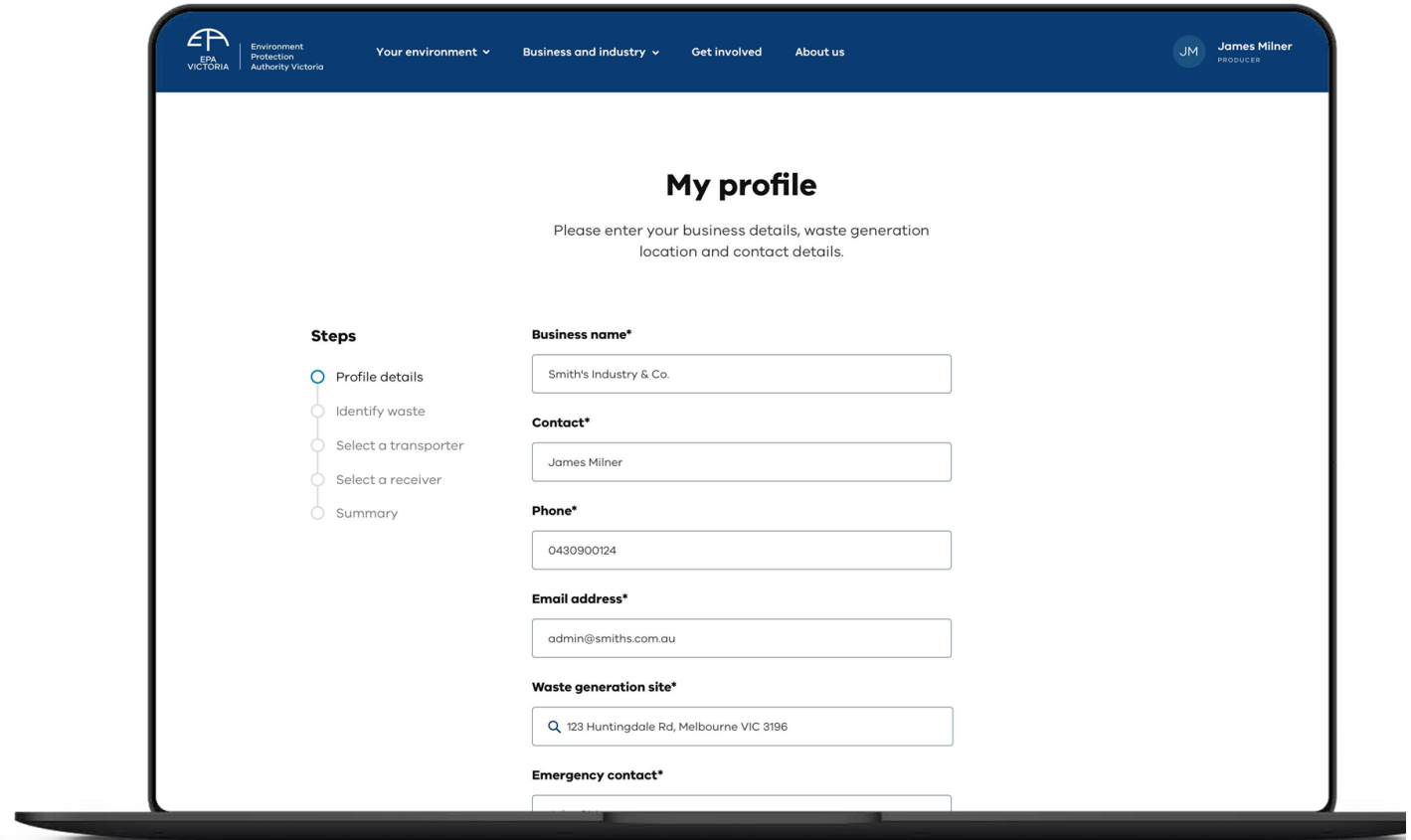


Purpose of the Waste Tracker

New legislation specifies
waste duties

Increase preventative action

Support businesses to meet
their duty



The screenshot shows a web browser displaying the 'My profile' page of the EPA Victoria Waste Tracker. The page has a dark blue header with the EPA Victoria logo and navigation links: 'Your environment', 'Business and industry', 'Get involved', and 'About us'. A user profile 'JM James Milner PRODUCER' is shown in the top right. The main content area is white and titled 'My profile' with a subtitle 'Please enter your business details, waste generation location and contact details.' On the left, a 'Steps' sidebar lists: 'Profile details' (selected), 'Identify waste', 'Select a transporter', 'Select a receiver', and 'Summary'. The main form fields are: 'Business name*' (Smith's Industry & Co.), 'Contact*' (James Milner), 'Phone*' (0430900124), 'Email address*' (admin@smiths.com.au), 'Waste generation site*' (123 Huntingdale Rd, Melbourne VIC 3196), and 'Emergency contact*'.

My profile

Please enter your business details, waste generation location and contact details.

Steps

- Profile details
- Identify waste
- Select a transporter
- Select a receiver
- Summary

Business name*

Smith's Industry & Co.

Contact*

James Milner

Phone*

0430900124

Email address*

admin@smiths.com.au

Waste generation site*

123 Huntingdale Rd, Melbourne VIC 3196

Emergency contact*

Waste Tracker will be

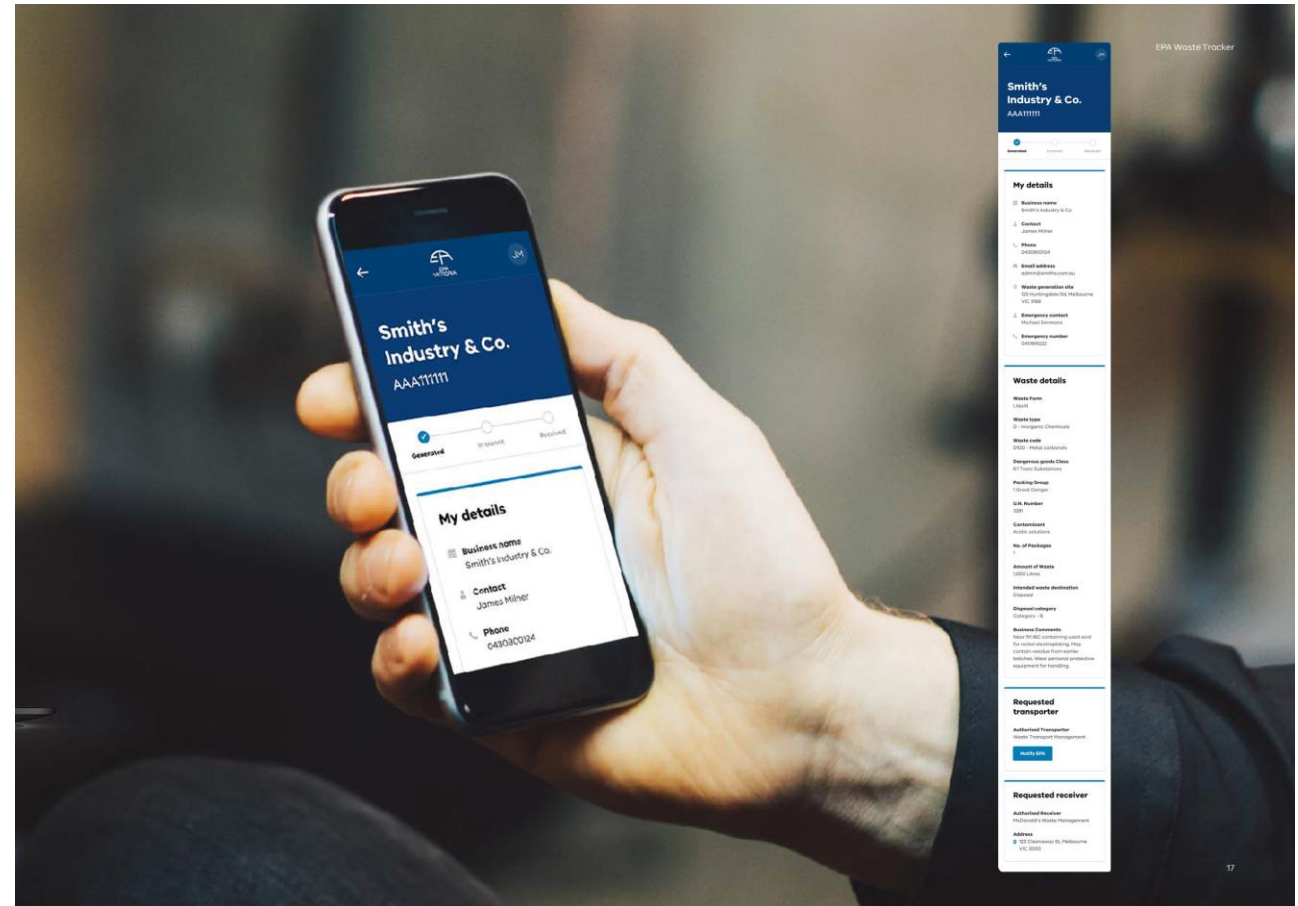
Web-based

Mobile friendly

App for transporters and
receivers

Tested with users throughout
early 2020

Ready for use with new
legislation on 1 July 2020



LUNCH BREAK

12:00 – 12:30



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Industry Guidance

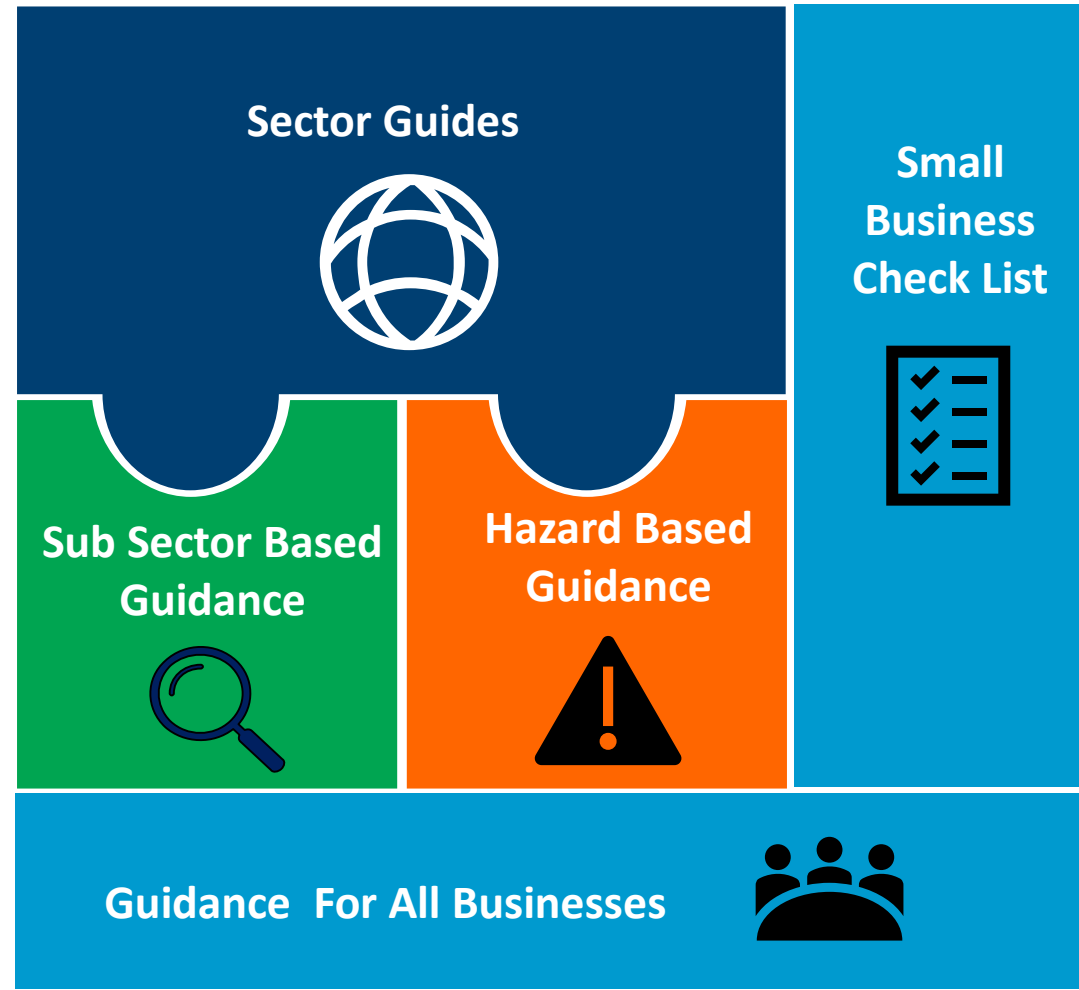
Jo Missen / Miranda Tolmer



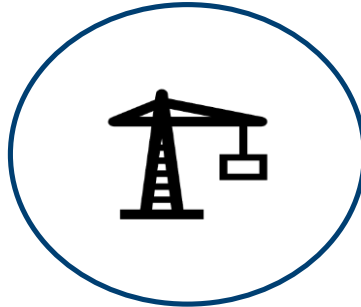
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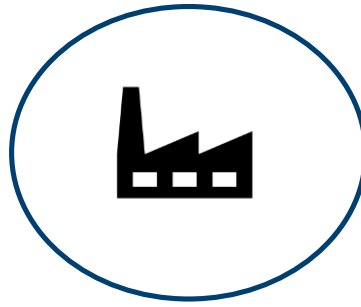
Prevention focused guidance model



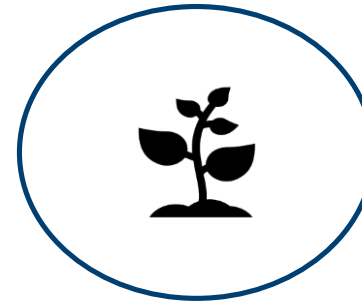
Sector guides



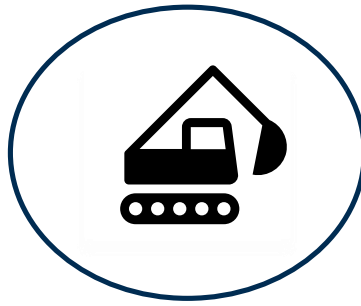
CONSTRUCTION



MANUFACTURING



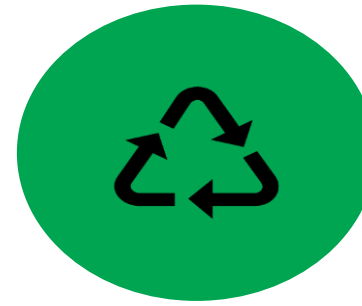
AGRICULTURE



MINING AND
QUARRYING

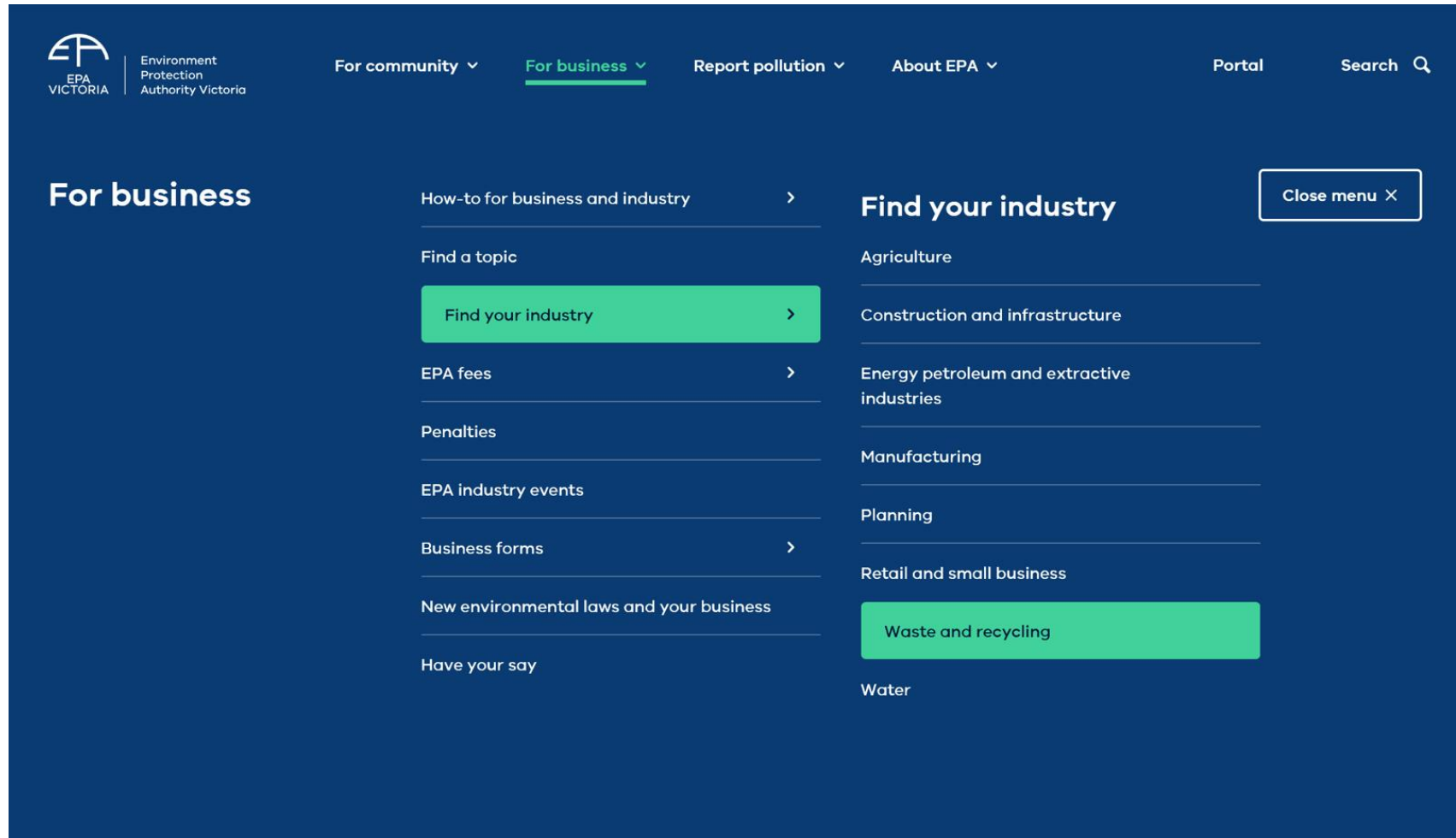


RETAIL



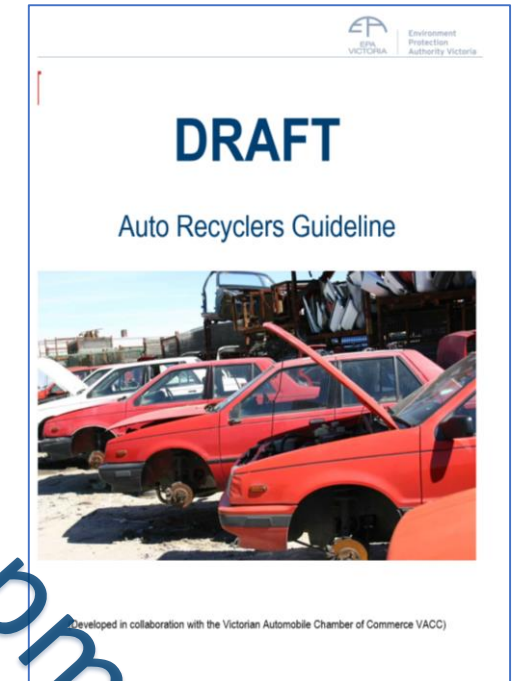
WASTE AND
RECYCLING

New industry web pages



Waste sub sector guidance under development

- Auto Parts
 - Developed with VACC
 - Consulting on final draft
- CRWM Case studies
 - Output of implementation workshops
 - Published during December



What are your needs



Proposed Subordinate Legislation under Victoria's new Environment Protection Act

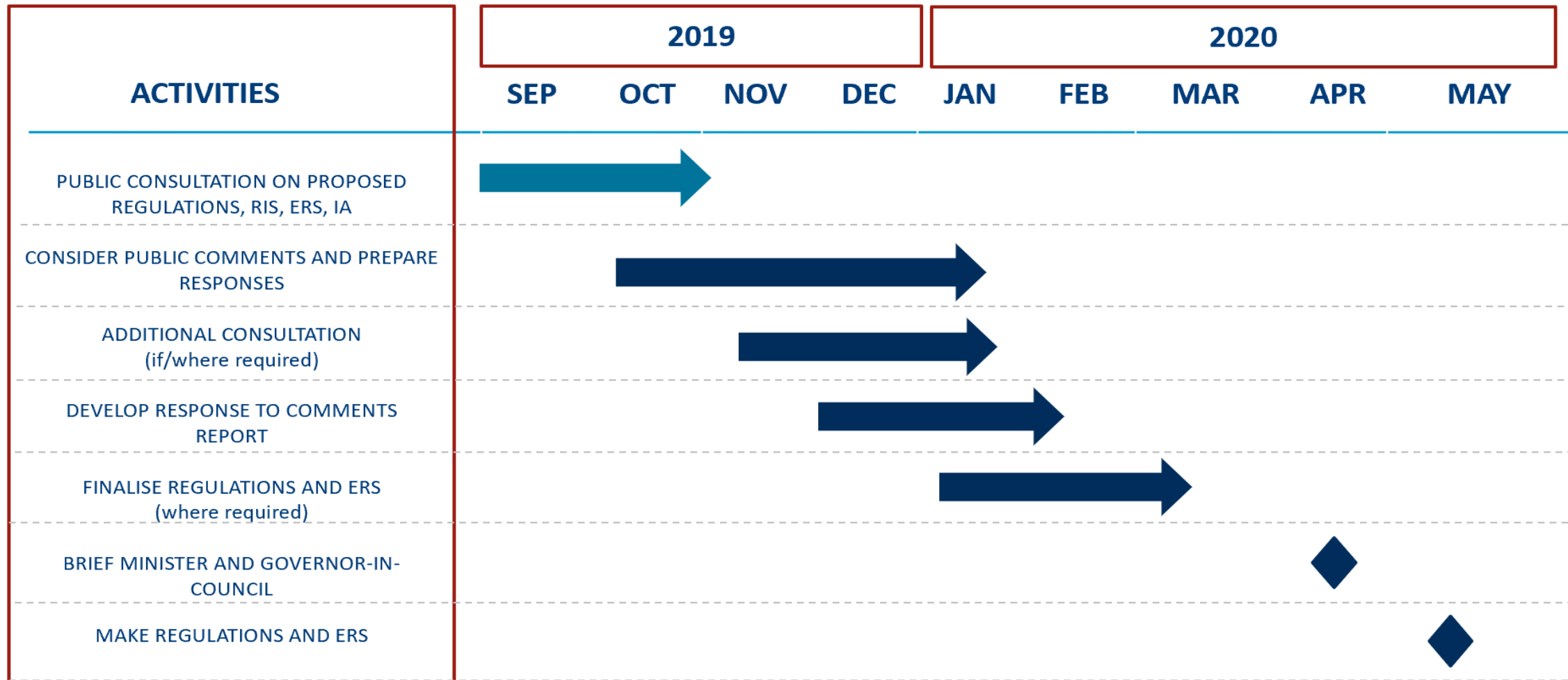


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Environment,
Land, Water
and Planning

Project timelines



Public Comment: Promotion (2 Sept – 31 Oct)

- Media releases EPA and DELWP
- Print advertisement in Herald Sun
- EPA and DELWP websites
- EPA social media reach +30,000
- DELWP social media
- Presentations at more than 60 engagement events
- Industry Association newsletters
- Engage Vic had 22,928 page views, 8,542 unique visitors and 156 page followers
- Direct emails to EPA stakeholder working groups
- Direct emails to EPA industry reference groups
- Direct emails to EPA newsletter subscribers had + 40% open rate

Public Comment: Submission snapshot (so far)

317 submissions received
Approx. 1700 issues

51% Individuals
49% organisations

65% submitted via Engage Vic
35% submitted via email

64% from metro
25% from regional Victoria
7% Rest of Australia
5% Unknown

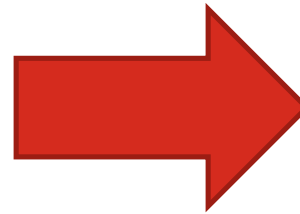
15% Waste
7% Air
10% Water
11% Noise
10% Septics
10% Contaminated land

Approx. 2/3 of comments on Regulations
Significant proportion relate to
implementation

Public Comment: Themes (so far)

- Waste - Declaration of Use, classifications and levy
- Contaminated soils – Classifications, transport and testing requirements
- Contaminated land – Clarification, thresholds and timeframes for duty to notify
- Onsite waste water management systems - Scope of permits, fee settings, reporting requirements, GED
- Noise – New noise sensitive areas, planning system connections, construction noise, ERS
- Air – Emissions standards and ERS
- Co-regulators – Roles and responsibilities, delegations
- EPA – Guidance, implementation, compliance and enforcement
- Duty holder readiness for compliance by 1 July 2020

Declaration of Use – Waste to resource



Glass sand



How to exit the waste framework



A Declaration of Use outlines:

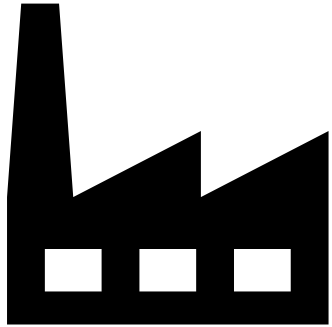
- the types of material and intended uses
- known limitations of use (possible risks)
- fitness for purpose (Specifications)



A receiver agrees the material is:

- able to be used as described
- intended for immediate use (not unnecessary stockpiling)
- subject to any limitations of use

Declaration of Use – Procedure



Keep records of
declarations

Provide to receiver

Declarations do not need to be:

- tracked or provided for every transaction
- submitted to EPA

Declarations need to be:

- provided and agreed initially
- updated for accuracy every 12 months or
- there has been a substantial change in process or feedstock. (for fill this may be site based)



Keep records of
declarations

Next steps

- **November 2019 – March 2019:** consider public submissions and draft response (including any further consultation)
- **April 2020:** Finalisation of regulations and ERS
- **May 2020:** Making of regulations and ERS
- **July 2020:** Intended commencement of new environment protection framework

Stay in touch

- New EPA website www.epa.vic.gov.au
- Subscribe to EPA newsletters and bulletins
- For **general** enquiries email contact@epa.vic.gov.au
- For **EPA engagement** enquiries email engagement@epa.vic.gov.au
- Phone: 1300 372 842
- See Engage Vic for the proposed regulations and standards for review:
www.engage.vic.gov.au/new-environmental-laws/subordinate-legislation

Other business



Environment
Protection
Authority Victoria



Environment,
Land, Water
and Planning



Thank you!