



COMMISSIONER FOR  
BETTER REGULATION

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19 September 2016

Mr Tim Eaton  
Executive Director, Knowledge, Standards and Assessments  
Environment Protection Authority  
200 Victoria Street  
Carlton VIC 3053

Dear Mr Eaton ~~Tim,~~ Tim,

I would like to thank the staff of the Environment Protection Authority (EPA) and the Department of Environment, Land, Water and Planning (DELWP) for working with our team on the preparation of the Regulatory Impact Statement (RIS) for the proposed *Environment Protection (Scheduled Premises) Regulations 2017*. These regulations are being proposed as the current regulations sunset on 26 June 2017.

Under section 10 of the *Subordinate Legislation Act 1994* (the Act), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of analysis presented in all RISs prepared in Victoria. In doing so, the Commissioner's role is to advise on the adequacy or otherwise of the RIS overall rather than the merits or otherwise of policy or regulatory proposals. To be adequate, the RIS must contain analysis that is logical, draws on relevant evidence, is transparent about assumptions used, and is proportionate to the proposal's expected effects. The RIS must also provide a suitable basis for public consultation, which is an important step in the policy development process.

I am pleased to advise you that the final version of the RIS received by us on 16 September 2016 meets the adequacy requirements of the Act.

The regulations are made under the *Environment Protection Act 1970*. Their objective is to minimise risks to the environment and human health by targeting significant risks posed by industrial activities. They are deemed to be high impact.

Our assessment of this RIS is based on the Victorian Guide to Regulation, which states that preparing a RIS for sunseting regulations requires:

- evaluating the effectiveness and impact of current regulations over the last ten years;
- assessing whether circumstances in which these regulations operate have changed over the last ten years;
- determining whether, ten years on, there are any new or alternative approaches that could better achieve the Government's objectives; and
- undertaking analysis of a level and quality that is proportionate to the scale of the impacts (with quantification of costs and benefits when the impacts are high).

As these regulations will sunset in the midst of the Government's broader reforms to environment protection legislation, DELWP and the EPA have proposed a two-stage review:

- the first stage of the review — presented in this RIS — proposes to largely re-make the existing regulations with incremental improvements, including to address emerging risks, clarify certain provisions and to reduce unnecessary obligations;
- the second stage of the review will be undertaken once broader reforms to environment protection legislation are finalised by the Government.

In this first stage of reviewing the regulations, EPA and DELWP have relied primarily on previous estimates of costs in determining the impacts of specific changes. Where these estimates involve substantial uncertainty (for example, in relation to compliance and delay costs), this has been acknowledged, and the effects of that uncertainty have been incorporated into the breakeven analysis.

The second stage of the review will involve a comprehensive review of all elements of the existing regulations, including the ones proposed in this RIS. This review will include an evaluation of the cost-effectiveness of the application of licensing and works approvals to regulated premises, and consideration of a broader range of options to determine the best approach for achieving the Government's objectives to protect the environment.

Stakeholder feedback on this RIS will therefore be particularly valuable in informing the EPA and DELWP's understanding of the actual benefits and costs of the proposed changes, and in contributing to the more substantive second stage. As discussed, we are looking forward to working with the EPA and DELWP on this review.

It is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin

**Commissioner for Better Regulation**