



Financial Assurance Review - PIW Facilities

22 March 2017

In April 2016 the Environment Protection Authority (“**EPA**”) released publication 1596 titled ‘Calculation of financial assurance for landfills, Prescribed Industrial Waste management (PIW) and container washing’ (“**2016 Guideline**”) following industry and community consultation.

The 2016 Guideline fundamentally alters the method of calculating the financial assurance for prescribed industrial waste management facilities, which may result in a substantial increase in the financial assurance quantum (in some instances an order of magnitude increase or more).

The new method calculates the financial assurance quantum on the assumption that the prescribed industrial waste with the highest disposal cost per unit comprises 100% of the design storage capacity of the facility.

Prior to this change the method required assessment of the normal operations of the facility and calculated the financial assurance on the disposal cost of the actual prescribed industrial waste composition in storage.

Significant increases occur where prescribed industrial waste with a high disposal cost makes up a small percentage of the waste accepted under normal operations. Many licences have added prescribed industrial waste codes to offer depth of service to customers and for other community purposes such as emergency response particularly in regional Victoria.

In February 2017 the EPA wrote to licensees requesting submission of a financial assurance proposal calculated on the method detailed in the 2016 Guideline.

The request relied on licence condition G6 (see below) and warned that failure to comply will be considered for enforcement with sanctions including licence suspension, fines and prosecution.

“You must maintain a financial assurance calculated in accordance with the EPA method.”

Concurrently, the EPA’s review of standard licence conditions proposes to amend this licence condition to insert the term “current”.

*“You must maintain a financial assurance calculated in accordance with the **current** EPA method.”*

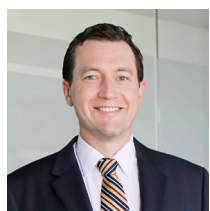
The EPA’s demand and warning of enforcement is beyond power, denies procedural fairness to licensees and is susceptible to legal challenge.

The EPA may lawfully amend a licence to require an increased financial assurance and the licence holder has the right to apply for merits review of that decision in the Victorian Civil and Administrative Tribunal.

The EPA’s current approach denies licensees this right.

Further, on the merits, the change to the method of calculation set out in the 2016 Guideline would appear to be unreasonable and contrary to the principles of environment protection.

If you would like further information please contact:



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