

Remedial notice review



Environment
Protection
Authority Victoria

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Policy

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Remedial notice review policy

1. Purpose

This publication gives an overview of how an individual or business who has received a pollution abatement notice (PAN) or a clean up notice (CUN) can ask EPA to review the notice.

This notice review process allows the notice to be reviewed by another EPA employee who did not make the original decision. The review looks at the original decision to issue the notice, and if there are grounds to change the notice.

For the remainder of this policy, PANs and CUNs may also be referred to as 'notices'.

2. Scope

This policy is designed for an individual or business who has received a notice (referred to as a 'notice recipient' or 'applicant').

This policy covers the review process for:

- PANs issued under section 31A of the *Environment Protection Act 1970* (the EP Act)
- CUNs issued under section 62A of the EP Act.

For further information refer to EPA's [Remedial notices policy](#) (EPA publication 1418).

This policy does not cover:

- authorised officer conduct complaints (refer to the [EPA website](#) for information)
- penalty infringement notices
- freedom of information requests
- minor work pollution abatement notices, sewage abatement notices and litter abatement notices.

For more information on the processes above, please contact EPA's Customer Support Team on 1300 EPA VIC (1300 372 842).

3. Background

EPA is a transparent and accountable regulator that gives notice recipients the opportunity to challenge EPA's decisions.

The notice review process was introduced as part of EPA's response to the *Compliance and Enforcement Review* (EPA publication 1368) to give notice recipients a timely and inexpensive way to have a notice reviewed within EPA. This may reduce the need for an individual or business to pursue an external review, such as through the Victorian Civil and Administrative Tribunal (VCAT), which can be expensive and time consuming.

4. Policy statement

Once the review application has been received, EPA will review a PAN or CUN which has been served to an individual or business.

EPA will only accept valid applications. An application is valid if the:

- completed application form is received
- notice exists to be reviewed
- application is received no later than seven calendar days from the date of issue of the notice
- person requesting the review is the notice recipient or is acting on behalf of the notice recipient
- notice has not previously been through EPA's notice review process.

The notice recipient can request a review if:

- the notice was issued to the wrong legal entity (e.g. the notice was issued to XYZ Pty Ltd instead of X Pty Ltd)
- the notice was issued to the wrong notice recipient (e.g. the notice was issued to XYZ Pty Ltd on the basis that the company owns the site, however the notice recipient confirms that XYZ Pty Ltd does not own the site)
- the recipient believes the notice compliance requirement is unreasonable
- the recipient believes the timeframe for completing the compliance requirement is unreasonable.

EPA will inform the notice recipient of the outcome of the review process within 14 calendar days from the date the notice was issued. This allows the notice recipient time to seek further review, for example through VCAT, if required. Refer to section 9 of this policy for further review rights.

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Important: The notice will not be suspended while under review, that is, the compliance requirement still applies, including the date(s) by which compliance must be achieved.

5. How to apply for a notice review

To apply to EPA to review a notice:

- 1: Complete the review application form, which is [available online](#) or from EPA offices around Victoria.
The notice recipient must provide EPA with enough relevant evidence and/or justification to support the application. Supporting information such as photographs, reports etc. can be attached to the application.
- 2: Submit the completed application using one of the following options as detailed in table 1 on Page 4.

Table 1: Options for submitting the review application form to EPA

Option	Details
Online	Submit the review application form electronically to EPA. This is the preferred option due to reduced processing timeframes.
Hand deliver	Hand deliver the review application form to EPA offices around Victoria.
Post	Post review application forms to: CONFIDENTIAL Manager – Operations Capability EPA Victoria GPO Box 4395 Melbourne, Victoria 3001

Note: EPA must receive applications no later than seven calendar days from the date of issue of the notice. This timeframe ensures that EPA does not delay a notice recipient's right to external review.

6. The notice review process

6.1 Key roles

The key roles involved in the review process are the 'reviewer' and 'decision maker'.

6.1.1 EPA reviewer (reviewer)

The reviewer reviews the notice and makes a recommendation to the internal review decision maker.

The reviewer:

- is an EPA employee
- did not draft or approve the original notice under review
- has a good working knowledge of EPA's remedial notice process
- is trained in this policy and associated EPA procedures.

6.1.2 EPA review decision maker (decision maker)

The decision maker reviews the reviewer's recommendation. The decision maker ensures the correct review process has been followed and endorses the recommendation.

The decision maker is the EPA field manager (or delegate) of the officer who drafted or approved the original notice under review. The delegate is another EPA field manager in the event where the original manager who wrote the notice is absent.

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6.2 Overview of the notice review process

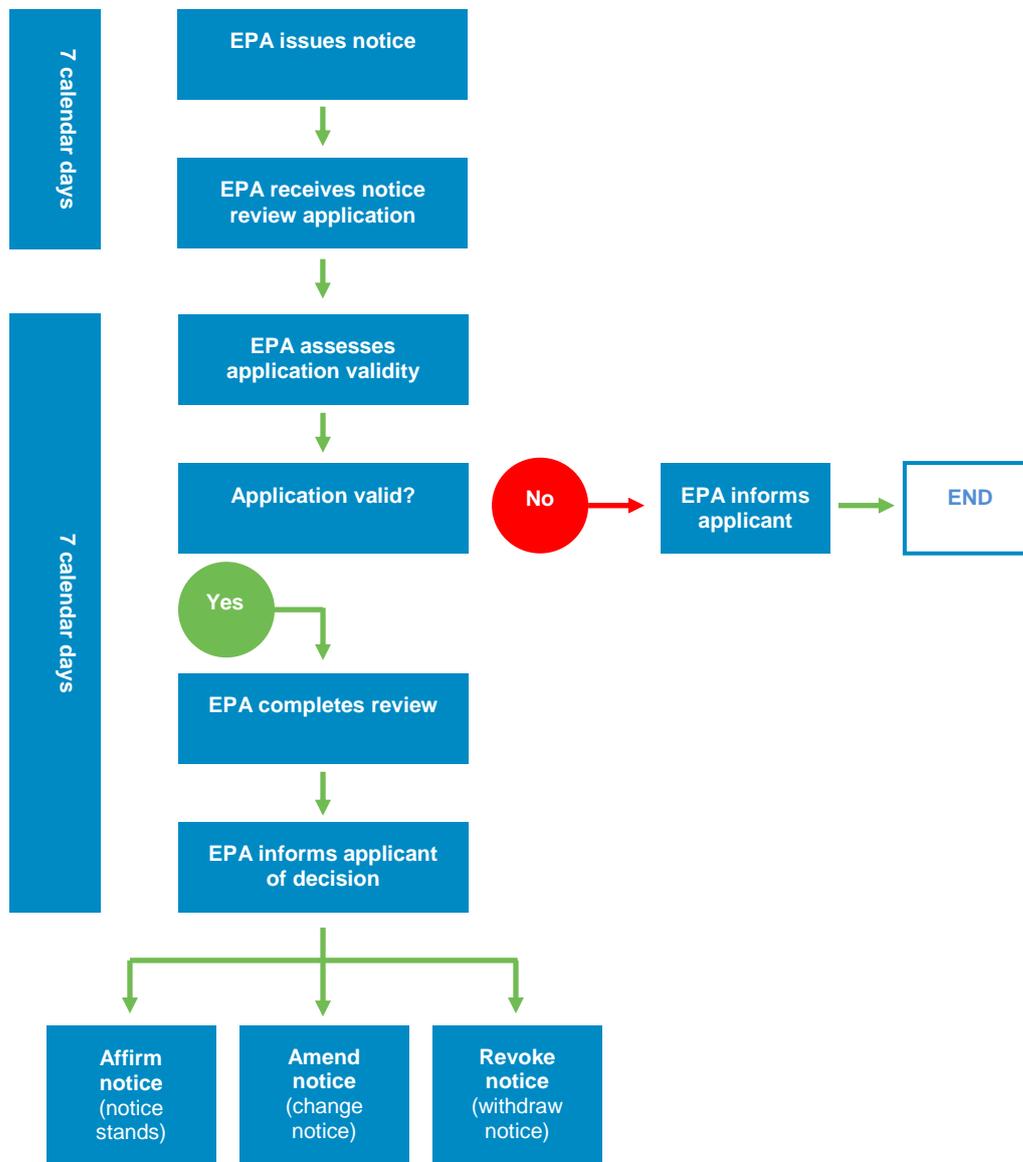


Figure 1: An overview of the notice review process

If the application is valid, EPA will complete the review within 14 calendar days from the date the notice was issued.

7. Communication to the applicant

EPA will keep the applicant informed throughout the review process. In particular, EPA will communicate:

- receipt of the review application
- outcome of the validity of the application (valid or not valid)
- outcome of the notice review (affirm, amend or revoke the notice).

8. How to withdraw a notice review application

If the applicant decides they no longer want a notice reviewed, they must tell EPA in writing through:

- an email to internalreviews@epa.vic.gov.au
- post (refer to details listed in table 1 of this policy).

9. Further review rights

The notice review process does not replace an external review (legal avenues for appeal) such as by VCAT. A notice recipient does not have to apply for EPA's internal review process before seeking an external review by VCAT or the Supreme Court.

EPA provides the review service as an inexpensive and timely alternative for individuals and businesses to an external review. It is up to the notice recipient to decide which option they prefer.

If a notice recipient is dissatisfied with EPA's notice review decision, they have the following external review rights:

- Recipients of a PAN may apply for a review in writing to VCAT within 21 days of the date of the original notice. For more information, contact VCAT on (03) 9628 9777.
- Recipients of a PAN may appeal VCAT's decision through an application to the Supreme Court of Victoria, but only on a matter of law.
- Recipients of a CUN may appeal a notice through an application to the Supreme Court of Victoria.

10. Further assistance

For further details on this policy, please contact EPA's Customer Support Team on 1300 372 842 (1300 EPA VIC).

11. Privacy statement

EPA is committed to respecting the privacy of the people it interacts with, as well as protecting any personal and sensitive information collected in the course of performing its functions under the EP Act. For further information please refer to EPA's [Privacy Policy](#).