



ENVIRONMENT PROTECTION ACT 1970 SECTION 31A

POLLUTION ABATEMENT NOTICE

Mr. Russell McKenna
RLX OPERATING COMPANY PTY LIMITED
Level 13 664 COLLINS ST
DOCKLANDS VIC 3008

TO: RLX OPERATING COMPANY PTY LIMITED ACN: 129 963 935

ADDRESS: Level 13 664 COLLINS ST, DOCKLANDS VIC 3008

PREMISES: 139 SUNRAYSIA HWY, MINERS REST VIC 3352

LEGAL REFERENCE: EP Act 1970 s.31A(1) Remedial notice required to address current or likely pollution, environmental hazard, or non-compliance

Who we are: Environment Protection Authority (EPA) Victoria is an independent statutory authority established under the *Environment Protection Act 1970* (the EP Act). Our purpose is to protect and improve our environment by preventing harm to the environment and human health.

Why we serve remedial notices: Remedial notices are served to prevent or remedy actual or likely pollution, environmental hazards and a range of non-compliances with the EP Act.

What you are required to do: Section 31A(2) of the EP Act requires you to comply with the requirements in this notice with one or more actions to prevent or remedy an actual or likely non-compliance. Under section 60A(1), if someone plans to take control of your premises, you must notify them of this notice and your progress towards compliance.

When this notice takes effect: 40 days from the date of issue below.

If you want compliance dates extended: An application to extend a compliance date listed in Section 3 of this notice must be received *at least 10 working days prior to the compliance date*. Application forms, available at www.epa.vic.gov.au/business-and-industry/forms must be addressed to the Manager of the EPA office listed on this notice with the subject line: "Notice amendment application". Your served notice remains legally binding until EPA advises of any change. Refer to the Remedial notices policy (publication 1418) for further information on amendment applications.

What happens if you do not comply: If found guilty of contravening a requirement of this notice, you may be ordered to pay a fine of up to 2400 penalty units (\$396,528) and an additional penalty of up to 1200 penalty units for each day the offence continues (\$198,264 a day).

What your review rights are: An application for review of this notice can be made to EPA and/or the Victorian Civil Administrative Tribunal (VCAT). Applications for an EPA review must be made within 7 calendar days from the notice issue date (below). VCAT applications must be made within 21 days of the notice issue date. Application forms for an EPA review are available at www.epa.vic.gov.au/business-and-industry/forms, or from our offices. For more information on your review rights, refer to the Remedial notice review policy (publication 1531) or contact us on 1300 EPA VIC (1300 372 842).

For the purpose of this notice 'You' means the recipient of this notice or your authorised representative and 'Premises' means the site at the premises address, as identified above.

DELEGATE OF THE ENVIRONMENT PROTECTION AUTHORITY

DATE OF ISSUE: 17/06/2020

NOTICE STRUCTURE

1 EPA OBSERVATIONS

This section details what was observed during the inspection.

2 REASONS FOR VIEW FORMED

This section interprets the observations and articulates why the authorised officer believes a pollution abatement notice should be issued in accordance with section 31A of the EP Act.

3 REQUIREMENTS - WHAT OUTCOMES ARE REQUIRED TO COMPLY?

Considering the view that has been formed, this section lists the requirements or actions to address the environmental risk(s) or impact(s).

4 AN EXAMPLE OF HOW YOU CAN COMPLY

This section provides an example of how you may achieve compliance with the requirements of this notice.

1 EPA OBSERVATIONS

1.1 An EPA officer conducted a desktop assessment of documents relating to odour from the MINERS REST premises of RLX OPERATING COMPANY PTY LIMITED (RLX) at 139 Sunraysia Highway known as the Central Victoria Livestock Exchange ('the premises').

1.2 Noted that in response to pollution reports in October and November 2019, EPA officers confirmed strong manure odour from the premises at in the township of MINERS REST.

1.3 Noted that on 3 December 2019, EPA issued Pollution Abatement Notice (PAN) No. 90010625 requiring RLX to supply to EPA a report specifying how the use of the premises as a saleyards will be modified or controlled so that it does not cause pollution, namely; changing the condition of the atmosphere so as to make, or be reasonably expected to make, the atmosphere offensive to the senses of human beings at residential receptors in Miners Rest.

1.4 Noted that on 20 April 2020 EPA received a report by RLX dated 20 April 2020 titled, 'Central Victoria Livestock Exchange (CVLX) RESPONSE TO PAN 90010625'.

1.5 Noted that one of the measures reduce odour from the premises proposed in the report to was the planting of additional vegetation buffers, as identified in a Landscape Plan provided at Appendix E to the report.

1.6 Noted that between 3 December 2019 and 1 June 2020 EPA received over 240 pollution reports from 67 different community members alleging offensive odour from the premises.

1.7 To conduct odour monitoring, EPA officers attended MITCHELL PARK and MINERS REST between 1000 hours and 1155 hours on Tuesday 2 June 2020. The officers:

1.8 Noted Bureau of Meteorology (BOM) observations for the nearby Ballarat Aerodrome indicated that wind conditions during the inspection were westerly 20-22 km/h.

1.9 Smelt no odour at the intersection of Dowling Road and the Western Highway, the intersection of Dowling Road and Pound Hill Road, Miners Rest Road, Miners Rest Primary School and McKellar Drive.

1.10 Smelt a strong, constant sheep / manure odour on Howe Street, MINERS REST at 1040 hours. This location was about 1.5 km East (downwind) of the MINERS REST saleyards premises boundary, and about 1.85 km East of the sheep yards.

1.11 Noted that this location was further away from the saleyards than many of the residential parts of the town.

1.12 Attended the MINERS REST saleyards premises of RLX OPERATING COMPANY PTY LIMITED at 139 Sunraysia Highway at 1105 hours.

1.13 Observed sheep in the open-air receivals yards on the eastern side of the premises. It appeared that most of the sheep from the day's sale had already passed through the receivals yards.

1.14 Observed sheep manure on the concrete floor of eight of the nine sheep receival pens. Only the southern-most pen appeared not to have been used that day.

1.15 Smelt a strong, constant sheep / manure odour along the eastern (downwind) side of the sheep receival yards. This odour was the same as that observed offsite, but stronger.

1.16 Observed that the sheep delivery yards on the western side of the premises were full of sheep.

1.17 Observed no odour on the Western (upwind) side of the sheep delivery yards.

1.18 Confirmed on the company website that there had been a sale of some 21,531 sheep at the premises on 02 June 2020.

2 REASONS FOR VIEW FORMED

Following verification by EPA officers of strong manure odour from the premises in the township of Miners Rest in November 2019, EPA served PAN 90010625 requiring you to supply to EPA a report specifying how the use of the premises as a saleyards will be modified or controlled so that it does not cause pollution, namely; changing the condition of the atmosphere so as to make, or be reasonably expected to make, the atmosphere offensive to the senses of human beings at residential receptors in Miners Rest.

The report you provided in response to that PAN proposed the planting of additional vegetation buffers, as identified in a Landscape Plan, as one of the measures that would be taken to reduce odour from the premises.

Since the previous PAN was served on 3 December 2019, EPA has received over 240 pollution reports from 67 different community members alleging offensive odour from the premises. On 2 June 2020, EPA confirmed strong sheep / manure odour from the premises on Howe Street, MINERS REST, about 1.85 km downwind of the sheep yards.


Strong odour with sheep / manure characteristics that change the condition of the atmosphere so as to make, or be reasonably expected to make, the atmosphere offensive to the senses of human beings amounts to pollution of the atmosphere in contravention of section 41(1)(a) of the Environment Protection Act 1970.

On this basis, and considering the observations previously stated, I have formed a view and I am satisfied that:

- a use of the premises

is likely to cause or has caused pollution, as per section 31A(1)(a) of the EP Act.

In order to address this, you must meet the requirements listed in this notice.



AUTHORISED OFFICER
EPA South West
EPA Victoria
DATE OF ISSUE: 17/06/2020

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REQUIREMENTS - WHAT OUTCOMES ARE REQUIRED TO COMPLY?

General Requirements

3.1 By 14 October 2020 you must take measures to reduce odour from the premises, specifically the planting of vegetation representative of the species, locations, and quantities identified as Plantations A to D and feature trees in the Landscape Plan provided at Appendix E of the report titled 'Central Victoria Livestock Exchange (CVLX) Response to PAN 90010625', dated 20 April 2020.

3.2 By 31 May 2021 you must take measures to reduce odour from the premises, specifically the planting of vegetation representative of the species, locations, and quantities identified as Plantations E to P in the Landscape Plan provided at Appendix E of the report titled 'Central Victoria Livestock Exchange (CVLX) Response to PAN 90010625', dated 20 April 2020.

Reporting Requirements

3.3 By 30 October 2020 you must, in writing to the authorised officer listed on page 5 of this notice, provide a progress report that specifies how the process, activity or use has been carried on or will be carried on, modified or controlled to achieve compliance with the notice requirements.

3.4 By 14 June 2021 you must, in writing to the authorised officer listed on page 5 of this notice, provide a report that:

a) specifies how the process, activity, or use has been carried on or will be carried on, modified or controlled to achieve compliance with the notice requirements, and

b) is signed by your managing director, most senior executive, or a person authorised to speak on behalf of the notice recipient.

4**AN EXAMPLE OF HOW YOU CAN COMPLY**

One way of achieving compliance with this notice would be to:

4.1 By the date specified in 3.1, Plant all vegetation buffers identified as Plantations A to D and feature trees in the Landscape Plan provided at Appendix E of the report titled 'Central Victoria Livestock Exchange (CVLX) RESPONSE TO PAN 90010625'.

4.2 By the date specified in 3.2, Plant all vegetation buffers identified as Plantations E to P in the Landscape Plan provided at Appendix E of the report titled 'Central Victoria Livestock Exchange (CVLX) RESPONSE TO PAN 90010625'.

4.3 By the date specified in 3.3, provide a progress report to EPA describing the works undertaken date and confirming the timeline for further works.

4.4 By the date specified in 3.4, provide a signed letter to EPA describing the works undertaken and including supporting evidence such as photographs and completion notice(s) from contractor(s).