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Independent Inquiry into the EPA
Ministerial Advisory Committee
State Government of Victoria
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Dear Ministerial Advisory Committee

SUBMISSION ON INDEPENDENT INQUIRY INTO THE EPA: DISCUSSION PAPER AUGUST 2015 'EXAMINING THE FUTURE TASK OF VICTORIA'S ENVIRONMENT PROTECTION AUTHORITY'

Thank you for notification of this inquiry and of the consultation sessions, that I was unable to attend, and for the opportunity to comment on this Discussion Paper.

GENERAL COMMENTS

Our new State Government has some welcome environmental initiatives, including this overdue independent enquiry into the role and function of the Environment Protection Authority.

I respect and value the EPA's role in protecting the environment regarding public health; however, as a conservation volunteer I see a need for the EPA to expand its role into protecting the environment for nature because all living things depend upon a healthy environment.

Contrary to popular myth, the environment does not look after itself—anything and everything impacts on the environment in some way. As population has increased so has activities that require regulation—the need for an effective environmental regulatory authority is greater.

Some of my comments are obvious and some may apply to other agencies but I include them for completeness. Otherwise, I comment as best I am able.

EPA INQUIRY: TERMS OF REFERENCE 'in order of priority'.

Comments: (1) Logically, to me, the Terms of Reference would set the scope of this inquiry and would appear before the issue questions in the Discussion Paper.

(2) The points under '*The Terms of Reference also direct the Inquiry to:*' are important and seem best included in the list of questions, rather than as less important footnotes or afterthoughts.

(3) See suggested points of order, clarification, change or addition in **bold type** or ~~strike through~~ below:

1. *The Inquiry is ~~also~~ required to consider the EPA's role in regulating greenhouse gas emissions[‡].*

Comment: reducing greenhouse gas emissions is a priority as it is the most pressing environmental matter affecting all life on earth.

2. *consider the best way to ~~combine~~ **prioritise** environmental protection ~~with~~ **over** economic viability and growing sustainable jobs in Victoria, including through improving regulatory efficiency and minimising regulatory burden; and...*

Comment: this wording should ensure environmental protection **is** prioritised, as it usually takes a back seat to all else.

~~3.~~ **3.** *the EPA's appropriate role in relation to public health issues, including at least: community concerns such as exposure to asbestos, chemicals and other pollutants; the prevention and management of site contamination, air quality, and water quality in rivers and other waterways;*

Comment: the EPA should have a more rigorous regulatory role in preventing pollution through inspections, as well as stepping in after a pollution event. For example, the EPA recently inspected industries that discharge to Mordialloc Creek and recommended improvements to three companies.

~~4.~~ **4.** *the Victorian community's and industry's expectations of the EPA as its environmental regulator;*

Comment, yes, expectation versus what actually happens does matter:

(1) Community and industry expectations of the EPA as an environmental regulator would depend upon their awareness of the role and function of the EPA.

(2) The EPA's methodology needs to be effective regardless of which officer handles a matter. For example, my husband had knowledge of the EPA in the 1980s through his work and found that regulatory effectiveness was somewhat determined by the officer handling a matter!

(3) Our expectation of regulatory help was distressingly dashed 1998-2004 when Council and the EPA would not protect us from being unduly smoked by our neighbours burning their solid fuel heater badly and refusing to burn it cleanly despite it worsening my husband's asthma and driving us away from our home for clean air.

~~5.~~ **5.** *the EPA's appropriate role in protecting the environment for people and nature;*

~~4.6.~~ *the ability of the EPA to ensure that the principle of environmental justice for people and nature is adhered to, the environment is protected for the benefit of both the natural environment ~~community~~ and society, and members of the community can be meaningfully involved in, and access fair treatment through, environmental regulation;*

~~5.~~ **7.** *the ability of the EPA's current governance structures and funding arrangements to enable it to effectively and efficiently discharge its powers, perform its duties and implement its required functions;*

~~6.~~ **8.** *the scope and adequacy of the EPA's statutory powers, and the effectiveness and efficiency of the suite of tools available to and utilised by the EPA, in enabling protection of the Victorian community and the natural environment, particularly in light of recent, new and emerging risks and issues; ~~and~~*

9. name to whom the EPA would be accountable and by what means, e.g. who 'watches the watcher' is missing in these points.

10. *seek the views of the community, industry and workers in related industries, local government and Victorian government agencies, as well as those of other relevant stakeholders; and*

~~7.~~ **11.** *any other matter/s reasonably incidental to these above matters.*

QUESTIONS

1. *What do you think are the key environmental challenges which will impact the EPA in the future?*

Comment: Global warming leading to climate change effects and the need for the EPA to be empowered to better prevent and regulate fossil fuel emissions.

2. What aspects of the EPA's work do you value and wish to preserve in the future?

Comment: Continued and improved regulation of atmospheric, air, water and soil pollution for both people and nature.

3. How can the EPA effectively work in partnership with other government agencies to meet the environmental challenges of the future?

Comment: (1) Identify which agencies are relevant to the EPA's work.

(2) Regularly share information and cooperative projects for real and improved environmental outcomes and thus avoid bureaucratic isolation.

4. How can the EPA's role in safeguarding the community against the health impacts of pollution be clarified or strengthened?

Comment: a non-polluting culture needs to be encouraged by:

(1) A general edict/premise/clause in law to not pollute by any means—the Environment Protection Act should be updated to include this.

(2) Right to know—legal public access to data about pollution that may affect them.

(3) Right to defend—public legally empowered to defend themselves against wilful pollution.

(4) Education and information—explain to all ages and sections of the community why all forms of pollution matter—visit schools, tertiary institutions, businesses, community groups, etc.

(5) Encourage and enable easy reporting of polluters.

(6) Larger fines as a deterrent.

5. How could statutory frameworks more effectively prevent future environmental risks and land use conflicts?

Comment: (1) Vic Planning to ensure clear rules and firm regulation of land use that avoid conflict, in consultation with the EPA.

(2) The EPA empowered to influence planning zones, permits and matters of land use.

(3) Ensure physical inspection by the EPA rather than desk-top accountability.

6. What role should the EPA play in emergency management?

Comment: (1) A firm advisory or policing role in conjunction with relevant agencies.

(2) Possibly a hands-on role should emergency services be unavailable or lacking.

7. How can the EPA better identify and, where necessary, address problems that are the result of past activity?

Comment: (1) Survey agencies or seek feedback on past problems to identify those matters that need future action.

(2) Create an accessible online database and tracking of these problems.

(3) More regulation of leachates or discharge from tips, mines and industry.

(4) More regulation of site rehabilitation.

8. What can the EPA do to avoid potential future problems?

Comment: (1) Identify potential future problems with the help of other agencies.

(2) Ensure adequate permanent or at-call resources and be prepared to act on known/unknown future problems.

(3) Expect the unexpected.

9. What role should the EPA play in improving environmental outcomes beyond those necessary to safeguard human health?

Comment: An advisory and/or regulatory role in the general environmental health of nature that we all depend upon.

10. What role should the EPA play in reducing greenhouse gas emissions?

Comments: (1) A firm regulatory role or a firm advisory role as appropriate.

(2) Actively encourage phasing out of fossil fuels in favour of renewable energy.

(3) Actively encourage carbon storage in nature, particularly wetlands.

(4) Greater regulation or changes:

(4a) Abandon prescribed burns to fulfil arbitrary burn quotas that devastate native flora and fauna habitat and is highly polluting; this is a one-size-fits all approach regardless of local conditions.

(4b) A ban on fracking for coal seam gas.

(4c) Actively discourage diesel emissions, particularly from ships that have poor emission controls.

(4d) A ban on solid fuel heaters in built-up areas—solid fuel heaters emit fine particles that are highly polluting and dangerous to those with respiratory problems, even modern and efficient heaters can be wrongly used—our neighbours had a modern heater but used it carelessly or deliberately to smoke us out of our home and exacerbate my husband's asthma but Council and the EPA did nothing to help us, fortunately those neighbours and their heater have gone.

11. How do you see environmental justice being applied to the work of the EPA?

Comments: (1) Environmental justice for people and all species in nature must be paramount in law and in action. The Environment Protection Act should be updated to include environmental justice for native species as well as people, and then the decline in native biodiversity might be arrested.

(2) Environmental justice in the work of the EPA correctly applies to things that affect the health of people. However, environmental justice could or should apply to the health of things in nature—the environments of native terrestrial, marine and aquatic species that make up ecosystems and overall biodiversity levels that are threatened by introduced pests, pollution or adverse climate events. This could be achieved through other agencies that deal with the state of affairs in nature with the EPA having an advisory or oversight role, or through a direct regulatory role, although the EPA could become inordinately large and cumbersome as a result.

12. What can we adopt from other regulators and regulatory models to implement best-practice approaches and ensure that the EPA can rise to key future challenges?

Comments: Unsure, sorry.

13. Are there any other issues relevant to the Terms of Reference that you would like to raise?

Comments: (1) The EPA needs to be funded other than from waste levies as, clearly, relying on waste levies is a built-in disincentive to tackling waste issues.

(2) Extraction of bore water is an environmental issue that causes depletion of groundwater, infiltration of saline water in coastal or low-lying areas, and can affect the health of soil and waters. The EPA may need to cover bore water matters.

(2) Raise public awareness of the role of the EPA as little is known about the EPA in the general community.

Thank you for this enquiry that may lead to healthier environmental outcomes for people and nature. I hope my comments are useful.

Yours faithfully

Nina Earl