

'GET INVOLVED EPA INQUIRY'

(NON-LOGGED IN SURVEY)

of

The Victorian Government's review of the *Climate Change Act 2010*

by

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EPA QUESTION 1:

'What are the key environmental challenges which will impact the EPA in the future?'

- (i) Climate change will be by far the greatest challenge as to how the EPA is able to operate with the necessary funded legislation to enforce regulations by which to mitigate adverse environmental degradation, e.g. impacts from unconventional gas extraction along Victoria's coastline, catchments, agricultural production areas and adjacent human residences; reserves (including Forest, Coastal Parks, and conservation, bushland reserves other than National Parks.)
- (ii) Recovering and restoring contaminated areas: land and sea (plastics, CO2 acidification etc.);
- (iii) Preventing further pollution problems: oceanic plastic contamination; landfill, industrial wastes; atmospheric, natural hazards (e.g. soil acidification in estuaries);
- (iv) Tackling diffuse source pollution in shared responsibility with other government agencies to reduce, eliminate, and control environmental degradation.

EPA QUESTION 2:

'What aspects of the EPA's work is valued and needs to be preserved into the future?'

- (i) The Victorian Attorney General's Office (2013/4) has given the EPA approval for the breadth and content of EPA 's management of existing environmental problems being adequately addressed within existing Acts and legal requirements. Without knowing each item addressed by EPA, it would appear common sense to continue with those areas already successfully practiced.

- (ii) The continuation of this work under progressive climate change, coupled with present economic growth ideology will require an expanded EPA department to be able to tackle the emerging problems whilst assessing and preparing for future problems.

EPA QUESTION 3:

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

- (i) There are several impediments to shared communication and responsibility, both within and between departments. One has been over the past decade or more of placing qualified managerial personnel into departments who have financial skills but little ecological knowledge. Political and funding efficiencies have driven policies (e.g., no net loss of environmental assets against the previous policy of increasing (i.e. recovering) net environmental values). Another aspect is that such departmental managers are beholden to the prevailing political persuasions and ideology. There has to be a change of management hierarchy, one in which skills must include a foundational understanding of ecological processes within their portfolio. So therefore there is a need to separate inordinate political control of departments advising their departments as to what is politically acceptable, to that of departments advising ministers of actual problems that need to be addressed. The environment cannot be any longer regarded as a convenient political football.
- (ii) Inter-departmental lack of knowing what the other departmental section is involved in needs to be addressed by bridging information and communication by liaison officers. Being kept informed is vital for effective co-ordination and co-operation to avoid overlap of or inappropriate projects. Best-practice approaches must be co-ordinated between different government regulators for tackling key future challenges.
- (iii) Adequate funding is a must for government agencies to work effectively e.g., inadequate funding to tackle weeds has allowed weed problems to accelerate and overwhelm landscape values and habitats. What funding that is applied is too little, ignores regional weeds and is money and effort wasted in terms of long-term management requirements. Shared responsibility between agencies can only work where adequate funding is available.

EPA QUESTION 4:

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

- (i) Needs an intense information awareness campaign to raise the capacity building knowledge of the public to pollution issues regardless of political cant (helping create 'Citizen Scientists'). This needs to be on a constant basis (e.g. EPA blogs, regular newsletters, Speakers for groups, media releases, campaigns joining in with Landcare groups on field trips etc.);
- (ii) The most important message is "Healthy Country, Healthy People" (Ngootyoong Gunditj, Ngootyoong Mara, 2014). Another is "There can be no economics without a healthy environment". People are celebrating the Spring equinox in our region. If we continue to alter Earth's interdependent open cycling systems but continue to create closed feed-back loops, seasonal changes will alter irreparably. The EPA is needed to enforce environmental standards to safeguard not only human health, but the underpinning life-forms that allow human existence to enjoy a high standard of living. Improved environmental outcomes are necessary to maintain human health and welfare.

EPA Question 5:

How could statutory frameworks more effectively prevent future environmental risks and land use conflict?

- (i) VAGO's August 2015 Report '*Unconventional Gas: Managing Risks and Impacts*' assessment has identified two key aspects that have to be addressed:
 - * 'the overlap and inconsistency between the Minerals Act and Petroleum Acts'
 - * 'inadequate environmental regulation.'
 According to VAGO, it states under the heading of 'inconsistent resource Acts' that: 'Best practice demands consolidation for legislative provisions for the regulation of earth resources from six (Victorian) Acts into one resource management act...reduce complexity and the overlapping roles and responsibilities of regulators, and would improve transparency. The 2014 *Earth Resources Statement* identified this as a key way to strengthen the regulatory system. DEDJTR (Department of Economic Development, Jobs, Transport & Resources – which administers the Minerals Act and the Petroleum Act for the Minister for Energy and Resources)...'. The figure 3B 'Assessment of Victoria's regulatory system against best practice (page 34 of VAGO Report) indicated that nearly all Best Practice elements are woefully inadequate, especially for shale and tight gas extraction, e.g., there is no mandated environmental impact assessment required for fracking and petroleum procedures, almost no community engagement, only partial transparency, almost nil third party independent oversight, little balanced exemption of land requirements or fair and equitable land access and compensation requirements and 'risks code of practice' poorly examined. "Risks to landscape values from unconventional gas

activities have not been assessed in Victoria” (page 27, VAGO Report).
Therefore, the referred-to Acts need to be amended or replaced to satisfy the dramatic changes taking place regarding development projects that have serious environmental impacts which by extrapolation, adversely impact upon communities in the longer term.

- (ii) In all statutory frameworks, the Precautionary Principle needs to be applied;
- (iii) Data collections need to continue, from CSIRO, BOM and other agencies to contribute to updated knowledge on climate change impacts as well as pollutants and potential hazards;
- (iv) Bond requirements from Mining corporations need to be re-examined. Restitution, restoration costs must be fully the responsibility of the companies involved. Risk Assessments must be made by independent assessors.

EPA Question 6:

What role should the EPA play in emergency management?

- (i) In dealing with issues involving fires, a shared responsibility with the CFA or MFB, with the EPA advising the involved brigades of any pollutants at risk of causing further contamination (procedure undoubtedly being practiced already);
- (ii) EPA must have governance structures, funding arrangements, adequate resources on hand enabling it to efficiently discharge its powers when dealing with pollutants, contaminants, in an emergency.

EPA QUESTION 6

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

- (i) Relying on Court actions to examine, determine past harms; order compensation where required and/or clean-up projects,
- (ii) Refer to, elicit support from records of, Environmental Law groups such as National Environmental Law Association (NELA), Environmental Defenders Offices, The Australia Institute, CSIRO and similar environmental groups who have collated and recorded data for decades.
- (iii) Liaise with community groups such as Coastcare, Landcare, Friends of Parks etc. which often enough have generational history of past contaminations and pollutants.

(iv) VAGO

EPA QUESTION 7:

What can the EPA do to avoid future problems?

- (i) Maintain an apolitical stance (difficult though it may be) free of ideological content;
- (ii) Adequate funding for future emerging risks (be prepared);
- (iii) Advocate higher penalties for polluters, including goal;
- (iv) Advocate for related Acts to be updated for full risk assessment (and on a continuing basis);
- (v) Having closer engagement and dialogue with communities in decision-making, especially in rural areas;
- (vi) Informing communities on a continuous basis of the work of EPA

EPA QUESTION 8:

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

- (i) What may appear beyond being regarded as necessary may be in fact inter-related in the web of life. The Butterfly Effect is an example. There are core elements that are instantly recognisable as essential, flanked by other elements that indicate interactions, even if only periodically, but the grey areas are those environmental changes that are not easily definable – until explained by ecological factors. For instance, climate change, habitat reduction, pollutants, are presently severely constraining evolutionary changes to all life forms. There is a need to retain, revegetate typical habitats, not only at local regional levels but at the national level e.g., Habitat141, which is a concept to create a continuous corridor of vegetation, including replicating all those regional habitats on a longitudinal level. The National Corridor Act has languished in limbo at the present and it's time to invoke this Act to budget for the necessary funding, whether through the Green Army efforts and or local volunteers such as Landcare Groups – but the concept needs support and the EPA can contribute its advocacy voice to the urgent need to get things moving to prepare for climate change impacts. Our remaining areas that filter and disperse catchment waters need to be conserved – at present areas such as the Moleside Catchment and the heathlands of the Kentbruck are poorly protected – the EPA could be instrumental in adding to the urgency to conserve the remaining biodiversity these unique areas still retain. Another is the retention of wetlands which are highly productive ecological value aquatic areas, for birdlife. The unconfined aquifers need to be monitored through remaining government bores to ensure

that human industry doesn't utilise or pollute all the available water at the expense of maintaining the health of wetlands.

EPA QUESTION 9:

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

- (i) A major role: a shared commitment with CSIRO in ensuring the latest scientific, peer-reviewed data is fed to EPA to allow EPA to be the major mouth-piece for advising, advocating human health and welfare in the face of climate change and all attendant risks emerging.
- (ii) The EPA is in a position to advocate for regulatory changes based on what the sciences tell it – there needs to be a fully-informed public to ensure climate deniers do not allow political expediencies of 'populism' to derail the urgent need to keep on track assessing and determining those changes likely to adversely affect the health of the nation.

EPA QUESTION 10:

How does Environmental Justice apply to the work of the EPA?

- (i) The Principle of Environmental Justice. Its distribution: the quality of being fair and impartial when dealing with limiting emissions which help to mitigate the impacts (P R Shukla, Chapter 9, *Justice, Equity and Efficiency in Climate Change: a Developing Country Perspective*, 1999, Earthscan Publications). D Schlosberg (2003), sees a moral and political reasoning in environmental justice concepts: "Reconciling equity, recognition, and participation in a political movement" – the very criteria for distribution will differ under different circumstances. Dumps and landfills are given as instances of equitable distribution in terms of seeing justice done. M.K Heinmann 1996 asks: 'Who pays for Clean Air?' as another example, 'The Cost and Benefit Distribution of Automobile (pollution).' Parks and reserves planning when and where and accounting for hazardous materials – the siting of locally undesirable land uses etc.
This is an area that creates dilemmas. The EPA does have to have a major input, but must include community participation, the equitable distribution of environmental risks and the need for using co-operation to repair environmental degradation. Thus the Principle of Environmental Justice is pivotal for the EPA in being fair and impartial when dealing with community and industry.
As already mentioned the existing environmental safeguards in existing legislation are woefully inadequate in considering the far-reaching environmental changes taking place. The EPA has more than to catch up once better legislation

is in place, but needs to be a step ahead – a monumental challenge. For the EPA to adopt other regulator’s rules, there is no way clearly forward until existing flawed Acts are brought up to par on the present situation. Everybody has to be prepared to meet key future challenges, and at present this is not possible with inadequate and inconsistent regulations covering a number of Acts as referred to by the recent VAGO Report on *Unconventional Gas: Managing Risks and Impacts*.

EPA QUESTION 11

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

- (i) The previous question 10 answers the dilemma faced by the need for updating present inadequate legislation in all relevant Acts that have a bearing on the work of the EPA into the future.
- (ii) Sensibly, the Best Practices carried out by other regulators would need to be examined as to whether they still fill the ultimate of best practice and risk assessment in today’s unfolding knowledge from climate change and impacts already observed and those trends in the pipe-line determined as confident of occurring.

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