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

Destruction of habitat and integrity of fragile ecosystems

Prevention of further extinction of Australia's unique flora and fauna

*Widespread perceptions that all development is progress. Progress, however, is change for the **better**. Change for the worse is regression. In many instances curtailing development in favour of environmental values would be greater advancement and progress.*

Increased noise levels

Increased population and the resultant expansion of road systems and vehicle use and urbanisation.

Population's increasingly limited connection with the natural environment, and understanding and appreciation of it.

Climate change: the resultant more fragile environment will require a strong defender

Environmental accidents – eg oil spills.

Protecting the environment against powerful industry lobbyists.

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

Advocacy for the environment

Preventing damage to the environment – application of the precautionary principle

Protecting environmental integrity for future generations

Holding environmental violators to account

Punishing those who damage the environment, particularly those who do so wilfully

Imparting information about best practice environmental management

Advocating environmental values

Raising awareness about environmental values and also the dangers and threats to the environment (eg cats, environmental weeds and garden escapees, foxes, rabbits, litter)

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

By being independent and stand alone, but collegiate

By having the power and resources to act.

By having strong in-house technical expertise and staffing consistency

*My experience is that though local government has caused considerable damage to the environment, the EPA has appeared to go to some lengths to protect local government rather than the environment. Round here, we have known the EPA as the GPA (Government Protection Authority). For example, despite turbidity levels emanating from the Drysdale Landfill being up to **seven times the maximum allowable by the EPA**, a Pollution Abatement Notice issued to the City of Greater Geelong (COGG) in 2014 granted them until **2016** to remedy the situation. In the meantime our creek has been rendered largely lifeless, stock drink filthy water and a Ramsar site is at risk. Despite stated EPA focus on prevention and “making good” nothing has been done to clean up the creek.*

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

By focusing on prevention and applying the precautionary principle: identifying areas at risk and proactively addressing issues rather than waiting for problems to occur and then dealing with them.

By greater transparency and sharing findings with all stakeholders

Stronger legislation protecting the environment

By giving the EPA more resources and power to punish offenders and to prevent environmental damage.

By requiring the EPA to follow through with punishing offenders. At present there appears to be a reluctance to enforce and punish industry and government offenders.

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

Stronger legislation protecting the environment

Removal of the draconian costs of legally pursuing offenders. At the moment these costs to the complainant effectively protect the offender.

By giving the EPA greater power and allowing the EPA to put environmental considerations above short-term economic and political imperatives. In the long term economic wellbeing can only benefit from environmental wellbeing.

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

Advocating for the environment

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

All current actions should comply with current good/best practice environmental management regardless of the date of the licence issued.

I think this is best illustrated by relating it to a case study of the EPA's actions regarding the City of Greater Geelong's (COGG's) Drysdale Landfill. The landfill, initially licensed in 1983, is situated in the catchment of Swan Bay, a Ramsar site in southern Port Philip Bay, whose ecosystem is suffering from ongoing environmental degradation emanating from the landfill operations. The landfill would not be licensed to operate there by current standards – (landfill should not operate on floodplains, waterways or in sensitive catchments), and these standards should be applied to current practice. In other words the operator should be required by the EPA to find another site that complies with current standards.

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

Be well informed about best practice environmental practice

Maintain ongoing relationships with organisations such as Ramsar and advocate their advice

Proactively apply the precautionary principle.

Identify risks and address them before they become problems

Consult widely with the community and stakeholders, but not treat consultation as an end in itself. Listen and act as well.

Be more transparent

Hold directors and CEOs accountable for environmental damage

Follow through with punishing offenders and thereby create deterrents.

Inform and educate about environmental values.

Be involved in planning decisions at local government level

Publicly shame offenders

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

Advocating for the environment

Protecting ecosystems, safeguarding ecological integrity and prioritising conservation

Imparting best practice environmental management principles

Safeguarding and enhancing habitat for native fauna

Safeguarding and enhancing conservation of native flora

Applying Ramsar advice

Educating new immigrants about the fragility of the Australian environment, the value of native flora and fauna, and the danger of some introduced species.

Generally raising awareness about environmental values

Discouraging the ownership of cats.

Addressing climate change by protecting, encouraging and enhancing wildlife corridors so that native fauna can migrate and adapt.

Addressing the source of litter and waste by discouraging industry packaging. This could be achieved through raising awareness, encouraging container refunds, and imposing a tax on packaging (to the producer).

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

Conscientious enforcement of standards

Advocating for improved legislation

*Raising awareness about best **and worst** practice*

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

The EPA should work collegiately and cooperatively with Environment Justice Australia.

Legislation protecting the environment should be strengthened. At the moment it protects the offender (eg the Drysdale landfill, where EJA has found many probable breaches by COGG to various Acts). However the offender is protected by draconian costs to the complainant defending the environment. This makes breaking the law effectively penalty free for the offender.

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?

In the USA the EPA appears to have a lot more power and to be unafraid to impose huge fines on industry wrongdoers. Even in China environment violators are being severely punished. Here the EPA seems to go out of its way to protect violators (eg the Drysdale landfill example).

In Europe, planning regulations seem to be less likely to be surrendered to development imperative. Environmental and quality of life values appear to hold their own against economic and political expediency.

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

The questions above are soliciting prescriptive suggestions on how to improve the EPA. This is fine and I have contributed to the extent that I have had time (very limited) to consider the questions. I do not profess to have the answers, but I do know what some of the problems are, and any analysis should, I

believe, begin with the problems one is trying to remedy. From my experience with the EPA over the last thirty years, I believe that it has **failed miserably in what I see as its core function – to protect the environment**. The following are what I believe are some of the problems. I have illustrated my points with examples from my own experience with the EPA.

1. There seems to be **a lack of commitment to prioritising environmental values** over economic and political ones. For example, environmentally speaking, it is quite clear that it is bad practice to operate a landfill on the floodplain of a creek which is part of a Ramsar ecosystem. It is also quite clear that destroying a part of that creek and operating a landfill on top of it is bad environmental practice. Yet the EPA spent years denying there was a problem with it and defending local government, (the City of Greater Geelong - COGG), rather than addressing the environmental issues and preventing damage which has now occurred.

2. The EPA also appears to practise **institutional bias**: a reluctance or an inability to prosecute and punish government wrong-doers. In my experience local government (COGG) has been accorded so much consideration of its wellbeing that the environment has suffered. In this case, the EPA obliges COGG to cease contaminated discharges by **March 2016**, even though we provided the Waterwatch turbidity results in March 2014, showing that the levels were well over the EPA allowed maximum. And the EPA still hasn't tested the contaminated discharge, despite the environmental values at stake and even though it is used for stock and is entering the human food chain. It appears to us that EPA has more concern for COGG's wellbeing than for "protecting the environment for future generations". Individuals concerned about the environment have been treated with patronising dismissal.

The waterway mentioned in (1) above, on which the landfill activities are being carried out, is part of the ecosystem of the Swan Bay Ramsar site. Swan Bay provides highly significant habitat for many species, particularly wetland birds and waders, as well as fish. It is an important breeding and nursery area for fish, crustaceans, molluscs and other marine organisms. 44 fish species occur in the Bay, which has significant sea grass beds. Resident and migratory waders and water birds use the Bay for feeding, roosting and breeding. This resource is critical for 45 migratory species from the northern hemisphere, listed in the international agreements JAMBA and CAMBA established for their global conservation. The Bay and its environs also provide essential shelter habitat for the Orange Bellied Parrot (OBP), with up to 40% of the world's population wintering there.

Ramsar advises an ecosystem-based approach and that

- catchment land uses should be consistent with wise-use objectives for the wetland itself,
- the natural flow regime can be considered the most important variable regulating ecological integrity,
- headwaters and upper catchments should be protected, and

- *wetland ecosystems depend on the maintenance of the natural water regimes such as flows, quantity and quality, temperature and timing to maintain their biodiversity, functions and values.*

From its various strategies, COGG clearly recognises all this, yet has persisted in operating the landfill so that it has encroached further and further onto the floodplain and even the bed of one of the two main waterways feeding Swan Bay. Despite much correspondence about the issue to COGG and the EPA, the degradation continued and worsened until the degradation became observable:

- *the turbidity levels of the creek increased from 10 NTUs to 730NTUs,*
- *water birds and waders, recently numerous and increasing, have all but disappeared from the creek,*
- *there is markedly increased sedimentation in water pumped from the creek for stock,*
- *there is markedly increased sedimentation in Swan Bay.*

Various community organisations, such as Bellarine Catchment Network, Bellarine Landcare Group, and Swan Bay Environment Association wrote letters about the issue over the years. However, landfill operations continued in the vicinity of, and on, the creek and the degradation has continued to worsen. The EPA has knowingly neglected to protect the environment in this case: it was made well aware of the environmental values at stake.

Our reading of the EPA's Compliance document suggests that such concern for COGG is misplaced. Some EPA determiners for the degree of sanction are

- *The degree of culpability of the offender. COGG is highly culpable. It was not ignorant of the issues, it just ignored them. In November 2009, for example, Bellarine Landcare Group met with COGG officers and Councillors and informed them of the environmental values at risk by their encroachment to the creek, and also of the costs of repair and restoration.*
- *Ease of remedy - any damage to the creek and Swan Bay would not be easily remedied.*
- *The harm to the environment - this could be extremely severe, even with international repercussions.*
- *The degree of community concern – the Bellarine Catchment Network letter of December 2014 was signed by representatives of about 1000 people in this community.*

3. *There is a huge **gap between the EPA's rhetoric, standards, controls etc and its actions.** Our experience has given us little faith in EPA and COGG assurances. Some we've had in the past have been:*

- *that the natural drainage paths would not be altered*

- that “visible particles” would not be discharged beyond the premises
- that no water would leave the site
- that landfill would not occur in the vicinity of the creek

Nor do we have reason to have faith in the EPA’s controls and standards. The EPA’s “rigorous standards” state that the maximum turbidity level allowable is 100 NTUs and the median 50. Yet the EPA has allowed discharge from the site of more than 400 consistently, over a long period of time. Levels of 730 NTUs have been recorded, over seven times the maximum allowable. Nothing has been done to “make good” the damage, despite a professed focus on prevention and making good. Meanwhile the creek remains lifeless. This is hardly protecting the environment.

The EPA has just approved yet another cell on the floodplain, claiming that it abides by its BPEM guidelines. However that document states

- there should be a 100 metre buffer between the edge of the nearest cell and surface waters
- landfilling must not occur in high value wetlands or on land liable to flooding
- landfilling should not be located in a 1% AEP floodplain.

In the light of this, and after the environmental misdemeanours that have resulted from the earlier ones, approving yet another cell just beggars belief. In so doing, the EPA is effectively ignoring its own and Ramsar’s best practice environmental management guidelines. Ramsar advises ecosystem-based approaches, catchment land uses consistent with wise-use objectives for the wetland itself, and protecting headwaters and upper catchments within wetland catchments.

4. The quality and independence of the **auditors** is questionable. The EPA believes in the professionalism of its auditors. However, in our example, those auditors are paid by the culprit, and they presumably approved the cells that created the dreadful turbidity problem in the first place, when it was clear even to the non-professional eye that those mountains of earth were unstable. We also wonder about the auditors’ terms of reference. Were they alerted to the existence of the waterway and its link to Swan Bay when they presumably approved the re-sculpting of the creek? The fact that the auditors have approved actions that are extremely bad environmental practice is an indictment on either the framework in which they perform, their independence, their terms of reference or their quality. In any of these cases, they do not serve to protect the environment. I believe that, as part of the auditing process, they should consult with stakeholders and that every step of the auditing process be readily and easily accessible to all.

5. It appears that the EPA **ignores the bigger environmental picture and narrowly focuses on contamination after the event.**

One must wonder whether the EPA has shown a lack of oversight regarding the Drysdale landfill, and whether there has been due diligence and duty of care. Why were the cells approved on the floodplain in the first place? Why was COGG permitted to fill in the waterway? Once this was done, with assurances as to the

environmental safety of the creek, the EPA failed to identify a turbidity issue. It was only after damage had already materialised and we provided Waterwatch results that the EPA acted. Even now “contaminated discharge” can presumably continue until March 2016.

What about EPA’s stated focus on prevention? It seems that the EPA has been ignoring the bigger environmental picture and narrowly focusing on contamination after the event.