

Glen Eira Environment Group submission to EPA Inquiry

To: info@epa-inquiry.vic.gov.au by 31 October 2015

The Discussion Paper

The Discussion Paper mentions the need for a review of the Environment Protection Act because it is 45 years since the passage of the original Act. The real problem is that the EP Act was never fully implemented. It was undermined by poor governance and corruption of process.

The Discussion Paper also places strong emphasis on population growth as creating the need for review of the EP Act, but we don't need to have population growth. In general, more people means more environmental destruction, as the Discussion Paper suggests.

It is absolutely irresponsible and a serious threat to continued human existence on this planet that our governments have decided to abandon biodiversity protection.

The Legislation

The EPA was set up originally as an independent authority, but “the ostensibly independent EPA has been brought directly under state government control. It has been used as a vote-catching ornament, and has not been allowed the necessary staff, funds, and powers to enable it to do its job properly.” (p.viii The politics of pollution. Peter Russ & Lindsay Tanner, Visa, 1978)

“Despite its apparent comprehensiveness, the new legislation contained weaknesses and omissions which proved crucial later. For one thing, the act was misnamed: the government seemed to equate environment protection with pollution control, thus furthering the popular misconception of environmental issues as being essentially waste disposal problems. Without power over land-use planning, energy and resource use, and technological developments, the EPA could only deal with effects and not with causes. The EPA as constituted was therefore something of a homeless hybrid: it was more than just a pollution control agency, but less than a fully-fledged environment protection body. And yet it was apparently expected to be both.” (p.5 The politics of pollution. Peter Russ & Lindsay Tanner, Visa, 1978)

Although the Environment Protection Act 1970 1C. (1) advocates use of the precautionary principle, the Act immediately undermines this by stating in 1C (2) (a) ... that serious or irreversible damage to the environment should be avoided wherever practicable; ... (my underlining).

Population

EPA 5-year plan 2011-2016 states on page 13 -

“2 Tackle current environmental issues

Population growth is increasing demand for urban renewal and fringe developments. ”

This extract makes it appear that population growth is an event thrust upon the State government that it unfortunately has to cope with. In fact it is the deliberate policy of Federal and State government to have rapid population growth in order to create financial profits and some employment. Part pyramid scheme and part economic stimulus, but certainly not due to public demand, or even public consent.

Population growth is one problem, and government has the power to manipulate it down as well as up.

The Victorian government has stated that Victoria can sustain a population of 10 million people, but has provided no evidence in support, or even evidence that the current Victorian population is sustainable indefinitely. Existing evidence suggests that it is not, because we are losing species at an increasing rate.

Biodiversity

“EP ACT 1E. Principle of conservation of biological diversity and ecological integrity

The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision making.”

There is far too little emphasis on biodiversity. The EPA is confined to ‘brown’ issues e.g. water and air quality, waste management.

Refer to EPA Governance Charter June 2015 which states “EPA’s vision is: “A healthy environment that supports a liveable and prosperous Victoria”.² The emphasis is on liveable for people and profitable for people, not on sustaining native environments. This indicates that the government has already decided what the outcome of the EPA Inquiry will be.

The Terms of Reference for the EPA Inquiry also emphasizes protection of public health and puts protection of environment – which presumably includes native vegetation and wildlife – as a secondary consideration. This separation of people and environment is neither logical nor practical. Humans are part of the surrounding biosphere. Polluted air and water flows through people, and the flora and fauna in our guts flow through us, our genes are augmented from the surrounding natural environment, and food from the environment flows through us. Our food supply is completely dependent on biodiversity. We should not be discarding biodiversity just because we do not understand it, or because it is inconvenient to business.

While government refers to environmental sustainability, the natural environment is not being sustained. The government’s own reports say so, even though grossly understating the degree of environmental and economic damage, and the loss of intergenerational equity. Biodiversity values are economic externalities in Victoria, as they currently are over most of the planet. Business interests run governments because they can buy them into power, and decide their agendas, as appears to be the case here.

C.f. Many of the environmental statutes that govern US EPA actions contain provisions that allow citizens to sue the EPA when the EPA fails to perform an act or duty required by the statute e.g. for discounting the dangers that a widely used herbicide poses to the declining Monarch butterfly population.

Biocides

The Australian landscape is drenched in biocides, and its people bathed in chemical products. There are thousands of biocides on world markets now, and hundreds are added each year. Testing for impacts on people and environment is largely in the hands of manufacturers. Increasingly biocides are being imported from China and other places where manufacturing standards are lax. There is little or no testing of biocides in Australia for impacts on humans or on the local flora and fauna. Long term and cumulative impacts are ignored unless the negative impacts can no longer be denied. Many biocides and other chemicals are released but subsequently found to be harmful e.g. DDT, Dieldrin, bromides, etc. etc.

Much of modern agriculture is chemical agriculture. This includes plantation forestry, where anything but the desired commercial species is poisoned. Native flora and fauna is deliberately wiped out over large areas, including threatened and endangered species. The biocide runoff goes into streams.

Lack of adequate testing for the full range of pesticides by water authorities means that pesticide residues remain unreported. The potential low dose impacts from endocrine-disrupting chemicals is not considered.

We believe that the EPA could be given a much stronger role in testing/managing/restricting the sale and use of biocides.

Impacts of pollution on Port Phillip Bay

Port Phillip Bay is the sink for the large urbanised and industrialised catchment that surrounds it. Within the next few decades the coastline of Port Phillip Bay will be almost entirely built over with suburbs and industrial development. Water turnover in the bay is very slow (about a year) as it has a confined entrance. Heavy metals, biocides, hydrocarbons, and every kind of drug, medication and chemical used by humans accumulate in the bay. This is on top of the nutrient runoff, sediment runoff, and habitat degradation caused by beach renourishment where heavy sand is used to replace the natural fine sand. There is also more or less constant dredging and the ever-increasing burden of introduced species.

Sand Flathead, a once common consumer species has almost disappeared from the bay and Australian Grayling, once a common amateur fishery in the Yarra, is an endangered species. No sensible person would eat shellfish from the intertidal zone in the northern part of the bay, that is if anything could be found that was edible.

If Melbourne's population is to grow to 8 million it seems certain that further degradation of the bay will occur, and its whole ecosystem could collapse.

The EPA could have a role in reducing the impacts to some extent.

Rivers & streams

The Yarra River had potable water as far as the rock barrier where Queen Street is now, but after Europeans arrived it quickly became a toxic sewer. It is still a sewer, but now has most of its water taken out as well.

The Werribee River, the other main river flowing to the bay has also had most of its water taken out. What water remains carries the effluent from farms and towns. It regularly has algal blooms.

The streams in urbanised Melbourne are in very poor condition, but there has been no consideration of improving them, apart from keeping them from death's door and a bit of cosmetic rubbish removal. Urban runoff continues to flow untreated to streams. This is 18th century water management.

Massive expenditure on improvements to the quality of urban runoff are needed and there could be a role for the EPA there.

Waste Management

Victoria has no container deposit scheme, and no state-wide plastic bag bans. There is still no national e-waste scheme. This is very irresponsible. If goods and packaging are not biodegradable or recyclable they should not be produced.

The Victorian EPA could be given a much stronger role in cradle-to-grave waste management. Prevention is better than the cure.

Transparency

The EPA should be a truly independent advisory body to government, and the advice to government should also be available publicly before any decisions are made.
The EPA website should contain details of all licences issued by the EPA, and all prosecutions and results.

EPA or Sustainability Victoria?

Ref. Sustainability Victoria Act 2005

- overlapping roles with other agencies

What is the purpose of Sustainability Victoria or the use of a toothless Environmental Commissioner? These offices should be abolished and the money saved put towards environmental protection.

Economics

Economic growth and financial profit should not depend on environmental damage.

Mine waste – ongoing public financial costs and environmental damage

Salination – ongoing private and public costs

Inherent Basic Cultural Assumptions of Current Decision-making

Money is the most important consideration

Economic growth is good and necessary (thus population growth, growth in consumption)

Short term considerations more important than long term

Development should proceed at any cost

People are more important than environment

Managerial governance

The Terms of Reference

1) **the EPA's appropriate role in relation to public health issues**

The role of the EPA is duplicated many times e.g. water monitoring is done by Melbourne Water, Water Boards, Parks Victoria, private consultants, and probably others. Some duplication may be necessary but there are also advantages in having a consistent, uniform and comprehensive database across the state for water quality in the hands of one authority. Ditto for soil and air pollutants. With an independent authority there is less likelihood of corruption and fraud.

2) **the Victorian community's and industry's expectations**

It is unclear why community and industry are to be treated separately. Why should industry be in a special class, if it is not to have special privileges? This runs directly counter to any notion of justice. In Australia people and corporations are equal under the law.

It is clear that the majority of Australians (including at least some industry) want a stronger role for the EPA in pollution control. In the USA citizens can sue the EPA, a government agency, when the EPA fails to perform an act or duty required under its statutes.

3) **the EPA's appropriate role in protecting the environment;**

The EPA could have a bigger role in planning, such as setting and enforcing rules for adequate permeable area for buildings, and controlling pollution runoff from building sites. These are things that local government does not do.

4) **ability of the EPA to ensure that the principle of environmental justice is adhered to ...**

The courts are the appropriate institutions for ensuring environmental justice is adhered to. There should not be any discrimination built into the EP Act, such as privilege for large corporations. Further, ordinary citizens should have the right to sue the EPA for non-conformance to its duties. Public transparency is part of environmental justice e.g. details of all licences, court cases to be published on the EPA website.

5) **EPA's current governance structures and funding arrangements**

The EPA needs to be independent of government (i.e. DELWP) in its role of protecting public health from pollutants, but it also needs better funding and more trained staff and equipment. More funding could come from increased fines for polluters, levies from industry. The problem with all funding is that it makes the receiver beholden to the giver. A way around this might be to impose a direct levy on the public via rates or some other direct tax to support a more effective EPA.

6) **scope and adequacy of the EPA's statutory powers**

The EPA's statutory powers need to be strengthened and widened. Mechanisms need to be built into the Environment Protection Act to enable ordinary citizens to sue the EPA to compel it to comply with its duties and obligations under the Act.

7) **any other matter reasonably incidental to these above matters**

As mentioned above, we see an urgent need to have effective protection of our indigenous biodiversity. At present there is no government agency that protects biodiversity. Potentially, this is a role the EPA could fill.

References

- * The politics of pollution. Peter Russ & Lindsay Tanner, Visa, 1978
- * Environmental Study of Port Phillip Bay Report on Phase one 1968-1971 Melbourne & Metropolitan Board of Works and Fisheries and Wildlife Department of Victoria
- * Port Phillip Bay Environmental Study Final Report CSIRO June 1996
- * Issues Regarding Melbourne Drinking Water & Pesticides. Anthony Amis, FoE June 2012
- * Water Quality Report South-East Water 2013-14
- * Typical water analysis data Melbourne Water 2015
- * Walking the talk? Implementation and enforcement of the Environment Protection Act 1970. Environment Defender's Office 2011
- * Ecological Imperialism 900-1900. Alfred W. Crosby 1986