

EPA Inquiry Submission – Planning Institute of Australia (Victoria)

Introduction

The Planning Institute of Australia (Victoria) (PIA (Vic)) is pleased to make this submission to the Ministerial Advisory Committee for the Inquiry into the Environment Protection Authority.

PIA is a national body representing planning and the planning profession. PIA currently represents approximately 4,800 members nationally and internationally. We are governed by a National Board of Directors and managed by a professional administration. PIA seeks to lead effective planning for people and places, by advocating for better planning, developing high quality planners and supporting the profession.

This PIA (Vic) submission focusses on the questions from the Ministerial Advisory Committee that are relevant to planning matters and where the Institute considers it can make constructive comment.

Questions:

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

The environmental issues of air quality, noise, land and groundwater contamination, litter, odour, waste, and water quality that the EPA has traditionally managed will continue to be issues in the future. These issues require continued strategic and regulatory oversight.

Emerging environmental challenges that will impact on the EPA in the future, include:

- Environmental health issues associated with the urban renewal process, including soil and groundwater contamination, as well as asbestos and other hazardous materials
- Heat island effect and thermal inversions, and the associated health risk of raised temperatures and concentration of pollutants
- Regional environmental impacts that arise from land use and human activity outside of Victoria (and Australia) and therefore beyond the jurisdiction of the EPA, but affect people or the environment in the state, e.g. climate change
- Indoor air pollution as people increasingly spend time indoors, including toxic pollutants and biological pathogens

Another environmental challenge that will impact on the EPA will be the ability to change from an approach of regulating industry and dealing with matters on a sector or issues-basis, to refocus and meet community expectations for rapid action and a place-based approach to environmental management.

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

The EPA's statutory independence and standing as an 'authority' is valued. The independence of the Environment Protection Board and the Authority under its Chief Executive Officer to impartially and objectively deal with environment protection issues is a key factor in its achievements to date and should be preserved in the future.

The EPA's work to control air, land and water pollution by setting standards, administering approvals, undertaking monitoring and enforcing non-compliance has been largely successful in Victoria. These 'basics' of the system to control point and diffuse pollution should be retained.

The environmental audit system, involving independent accredited auditors overseen by the EPA, which ensures land is suitable for a sensitive use, is generally sound. Although improvements in the timeliness and costs of the environmental audit system, and better integration with the land use planning system, can be made.

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

A place-based approach to addressing environmental protection and land use planning issues together would be an effective way for the EPA to work in partnership with other government agencies. This may be on a site, neighbourhood, catchment or regional level.

A place based approach enables the interaction between natural systems, land use activities and the built environment to be considered and addressed together. A place based approach also often accords with community experience, industry activity or government jurisdiction activities and enables partnerships across these sectors to be formed.

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

PIA (Vic) supports the Healthy Spaces and Places initiative and believes in the importance of the natural and built environment as a determinant of human health and wellbeing. Healthy Spaces and Places is a unique collaboration between the Australian Local Government Association, National Heart Foundation of Australia and the Planning Institute of Australia. It was funded by the Australian Government Department of Health and Ageing. Healthy Spaces and Places aims to:

- encourage the development of built environments that provide opportunities for physical activity and other health-related activities
- continue to improve health outcomes for all Australians through better-designed built environments
- raise awareness of the relationship between physical activity and the built environment, and
- contribute to a national policy setting

The quality of the environment and the impacts of pollution are key to human health and wellbeing and the environment protection and land use planning systems play an important role.

Clarifying the roles and responsibilities between the EPA and Department of Health and Human Services (including the Chief Health Officer), and other agencies such as WorkSafe, water authorities and local government (particularly building, environmental health and planning functions) would be beneficial to Victorian communities and industry. Examples where roles and responsibilities are unclear or fragmented across agencies include: waste water treatment, asbestos management, and noise.

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

There is significant scope, and a practical need, for better integration between the *Environment Protection Act 1970* (the EP Act) and the *Planning and Environment Act 1987* (the P&E Act), that is, between the environment protection and land use planning systems in Victoria. The EP Act features a principle of integrated environmental management⁷, but it is not explicit enough to require integration with land use planning. The EP Act and the P&E operate somewhat independently, which can be confusing for industry and community alike, and frustrating for planning and environmental professionals in administering each system.

The opportunities for integration of environmental protection and land use planning include:

- Clarifying, and giving clearer statutory effect, to State Environment Protection Policies and EPA issued guidelines as part of the planning system under the P&E Act
- Standardised and shared definitions of land uses, buildings and works
- The EPA being a statutory referral authority for certain types of land use, and a rationalisation of the scheduled premises provisions of the EP Act and clause 52.10 of the Victoria Planning Provisions
- Integration between the planning scheme amendment and planning permit processes with the works approval and licensing processes
- Division 1B neighbourhood improvement plans under the EP Act being coordinated, if not incorporated, with local area planning by planning authorities under the P&E Act
- Rationalisation of the provisions of Part IXD of the EP Act relating to environmental audits and Ministerial (Minister for Planning) Direction No. 1 – Potentially Contaminated Land and the former Department of Sustainability and Environment's 2005 General Practice Note on Potentially Contaminated Land, and the requirements of the Environmental Audit Overlay in the Victoria Planning Provisions. Many of the issues associated with the operation of these provisions were addressed by the Potentially Contaminated Land Advisory Committee in its 2012 report and its recommendations should be considered by the EPA Inquiry Ministerial Advisory Committee.
- Integration between compliance provisions of the EP Act and P&E Act, particularly in relation to Clean Up Notices, Pollution Abatement Notices and Enforcement Orders.

The EPA could have a role in carrying out a strategic environmental assessment of planning schemes in their preparation or amendment. This would assist in the location, management and design of land use and development being dealt with at an earlier stage in the planning process where potential environmental risks and land use conflicts could be avoided or mitigated.

Management and control of noise is currently fragmented and inconsistently administered by different agencies (primarily EPA and local government). As land use strategies and economic trends move increasingly toward higher density mixed uses, the regulatory framework for the management and control of noise needs to be updated accordingly. Noise associated with major infrastructure and associated activities are also administered in a fragmented and inconsistent manner (e.g. freight rail versus passenger rail).

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

PIA (Vic) supports improvements to the integrity and efficiency of the contaminated land and groundwater audit and management systems in Victoria. As noted above, although the basics of the system are generally sound, there is a disjuncture between the environmental audit provisions of the EP Act

(including the State Environment Protection Policies for the Prevention and Management of Contamination of Land and Groundwaters of Victoria) and the planning system under the P&E Act.

Improvements that could be made, include:

- Standardised and shared definitions of 'sensitive' and 'beneficial' uses, with land use terms used in planning schemes
- A risk-based approach to the investigation and management of potentially contaminated sites, which may avoid the need for a full environmental audit under section 53X of the EP Act being necessary
- More sophisticated approaches to dealing with multi-level development on contaminated sites
- Conditions of statements of environmental audit being included on land titles to ensure transparency of information in the property system and avoid the need for responsible authorities to use section 173 agreements under the P&E Act for the same purpose.
- Linking groundwater exclusion zones to the planning system to ensure land use and any buildings and works have regard to limitations that may apply.

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

PIA has an adopted policy on *Planning in a Changing Climate*, which is available from: <http://www.planning.org.au/policy/climate-change-0510>.

PIA accepts the scientific assessments of the Intergovernmental Panel on Climate Change that human activity is changing our global climate, that irreversible change is already locked in and that the planning profession must address the reality of a changing climate.

As a complex issue across multiple land systems and involving numerous agencies at all levels of government, the EPA's role in reducing greenhouse gas emissions should be part of a coordinated response to climate change. The statutory powers and technical expertise of the EPA should be focussed on managing greenhouse gas emissions, including its management oversight of landfills.

PIA recognises that planning decisions guide and influence land use, from urban areas, transport systems to agriculture. Planners also have a responsibility to integrate planning for climate change into their work and be proactive in the development of mitigation and adaptation strategies to avoid harm and negative impacts to present and future ecosystems, human and non-human populations.

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

The EP Act is almost half a century old and has been constantly amended over time. The act and associated regulations could be significantly re-written in order to simplify structure and improve its general readability.