

23 October 2015

Submission: EPA Inquiry

I support the views of Environmental Justice Australia, in particular the following.

1. **Embed environmental justice in the law.** We're very pleased that the review has been asked consider how environmental justice ought to be incorporated into Victoria's pollution regulation system. For us, at its most basic, this is quite simple – our environmental protection laws need to be fair and equitable in both in substance and process. So we think environmental justice needs to be incorporated as one of the objectives of the Environment Protection Act as well as being embedded in all aspects of the Act's administration.
2. **Introduce a general duty not to pollute.** You might be surprised to hear that there is no overarching obligation to avoid causing pollution in Victoria. Actually polluting air or water is an offence, but this 'after the event' focus is inadequate and limits the EPA in dealing with accidents that are waiting to happen. So we'll be strongly advocating for an enforceable general duty not to pollute.
3. **Regulate carbon pollution.** While climate change was not a core focus for a pollution regulator when the EPA was established in 1970, there is a clear community expectation that it should be now. The Act needs to make clear that carbon pollution is one of our most pressing pollution problems and the EPA needs a clear legislative mandate to deal with it.
4. **Right to know and access to information.** There are too many obstacles in the path of individuals and communities who want to get information about pollution that affects them and activities that might harm their health and wellbeing and the environment. We say that the default settings need to change – all information held by the EPA ought to be available to the public in an accessible form, with limited exceptions where these are fair and necessary. Data on environmental quality needs to be systematically collected and published by the EPA to inform the community about issues that matter to them.
5. **Legal rights for affected communities.** We should be able to trust and rely on the EPA to 'have our backs' and make sure that our communities and families are protected from pollution. However we also need to be clear that a lack of resources and lack of will are an unfortunate reality of environmental protection regulation. The solution is to ensure that affected communities have broad rights available to them to question decisions and enforce compliance with laws that are intended to protect them. It's everyone's right to be protected by our pollution control laws and we should never have a situation where this right is frustrated by a failure of the bureaucracy to apply the law.

6. **A more powerful role for the EPA in land use planning decisions.** Land use planning decisions are critical to the health and wellbeing of communities affected by both new proposals and existing developments. Yet the EPA is often marginalised in key decision-making processes – just recall the Cranbourne landfill debacle when residents in a housing development adjacent to an old landfill site were exposed to the risk of methane gas explosions. We need an EPA that is a strong champion for community in these cases, with the power to stand up to development interests by having much greater influence in zoning and permit decisions.
7. **Better clean up of dirty mine sites.** The toxic legacy of un-rehabilitated mine sites is an unfortunate reality, but we ought not be allowing these mistakes to continue. At the moment the EPA has virtually no say in rehabilitation standards and mine clean up. It's untenable to leave these issues solely to the department responsible for encouraging and facilitating mining. The review should recommend a much stronger role for the EPA to ensure the community is protected and mining companies are clearly responsible for mine site rehabilitation.
8. **A strong, independent and well-funded EPA.** How the EPA is governed and funded might seem boring but it is very important. We need an EPA that is accountable but strong and independent and the current governance arrangements need to be modernised to ensure that this is the case. Funding wise, the EPA relies for a large portion of its revenue on levies from waste. This clearly creates a conflict of interest and needs to be changed so that the EPA has the funding it needs to meet community expectations and retain the necessary technical expertise it needs to do its job. The funding model must also ensure that the EPA has the resources it needs to undertake major prosecutions without detracting from its day-to-day operations.
9. **A clearer role for the EPA on issues that affect our health and wellbeing.** Individual citizens have very little capacity to manage their exposure to pollution – that's why we need laws to protect ourselves and our families. Catastrophic pollution incidents like the Hazelwood mine fire demonstrate that the EPA needs a much stronger role when it comes to protecting human health in emergency situations. In day-to-day situation too, much greater clarity is required around who is responsible for protecting us from noise, asbestos exposure, and other things that affect our health and wellbeing.
10. **A strong focus on regulation and enforcement.** Last but not least, the EPA needs to retain a strong focus on what we think is its core purpose – effective protection of the environment on which we all depend, by regulation and enforcement of clear standards. While we are all for innovation in how these regulations work and we recognise the need for any regulatory system to work in a cost-effective manner, it's important that we do not lose sight of the core environmental protection function.