

Latrobe City Council Submission to EPA Inquiry



October 2015

Introduction

Latrobe City Council (Council) appreciates the opportunity to contribute to the Environment Protection Authority (EPA) Inquiry. Council engages with the EPA across a broad spectrum of fields, from land use planning matters and land capability assessments to landfill. In doing so, Council is involved with the EPA as a statutory authority, a customer and a community member. This submission responds to the relevant 'Submission Guidance' questions provided by the Inquiry as they relate to Council operations.

Response to Submission Guidance Questions

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

Council believes the key environmental challenges which will impact the EPA in the future are:

- Climate change
- Waste management and future planning
- Helping develop and plan for sustainable communities
- Water quality and availability
- Soil, noise and air quality issues
- The challenge of maintaining workable coal buffer zones
- Industrial diversification of coal use
- Contaminated land and its ability to be rehabilitated for residential uses
- Pressure from the community for up to date relevant information which will be closely scrutinised by the public
- Financial assistance required to manage legacy landfills due to the costs incurred by local government which are placing financial strains on communities
- Prevention of potential hazardous material releases by ensuring that EPA's role as a regulator is strengthened and the agency is resourced adequately to perform this function

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

Council values the EPA's presence in the region and the expert advice provided to officers on a number of matters. However both these aspects need to be strengthened with a more visible presence and greater involvement of the EPA when the expertise of the organisation is required. See Question 3 below.

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

The EPA can work more effectively in partnership with Council through having EPA officers readily available for council officers to communicate with. In recent times all calls to EPA are required to be directed through to the EPA call centre with EPA officers often

having their phones diverted to this call centre. Direct access to EPA officers is therefore limited which is a source of frustration as Council relies on the EPA for expert advice. This expert advice needs to be readily available.

It is apparent to Council that EPA officers with key expertise are based in Melbourne and not in regional areas and the EPA's organisational structure is such that higher level decision making is also undertaken in Melbourne. Whilst the EPA has a presence in Latrobe with an office based in Traralgon, officers with the relevant expertise and authorisation are not immediately available to Council. This has consequences particularly in emergency situations as EPA cannot respond immediately and time is wasted while waiting for non-local officers with the relevant expertise and experience to be at hand. Further delays are also experienced with EPA's delegation of decision making which can take too long to respond to an emergency.

Given Latrobe City houses a majority of the State's electricity resources it should be given priority with regard to safety and public health. The relocation of the EPA's Centre for Applied Sciences from Macleod in Melbourne to the Latrobe Valley would have benefits for both the EPA and the community as the EPA would have its expertise and equipment located in an area that requires constant scientific monitoring.

There is also some confusion as to what matters EPA addresses versus Council. Anecdotally the public are often directed to raise issues with local government when the EPA are the responsible authority e.g. noise from commercial sites or complaints in relation to odour or noise from primary production sites. Clearer information should be provided to the public with regard to the roles each agency plays.

The EPA must be visibly present to the community and take up opportunities presented to it to provide input into local government and community processes. The need to be at the coal-face interacting with the community needs to be valued by the EPA and be appropriately resourced to provide this approach. At present the absence of the EPA at community information sessions where EPA issues are being discussed is notable with the void often filled by Council officers. This is an unacceptable situation as Council officers cannot provide the technical advice asked for by the community and cannot speak on behalf of the EPA.

An example of this is a recent planning scheme amendment which involved an Urban Amenity Buffer around the Australian Paper processing plant at Maryvale. The buffer was a significant issue for Council, EPA, Australian Paper and the residents in Traralgon West, and there was a view from the residents that EPA did not make itself available to the community when there were community meetings.

This lack of engagement was an issue raised by the community and as a result of this perception, a recent Council meeting to determine the Panel Report to consider the Urban Amenity Buffer, among other things, was deferred until such time that further consultation could be initiated with all relevant stakeholders, including EPA.

In these situations, the community should not be expected to fund its own scientific investigations as this is not financially possible. Rather EPA should be providing credible independent and accessible advice to the public and be willing and available to meet community members to discuss issues of this nature.

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

The EPA needs to be led by personnel with strong scientific backgrounds and ensure it is resourced with experienced officers who can provide consistent advice. It needs to have a high level of understanding of the role of local government and engage itself with the community as an advocate and as an expert. The appointment of a new EPA Gippsland local government / community engagement liaison officer would assist with strengthening EPA's role and function.

The EPA needs to work from a more informed risk management approach before major issues arise and help communities, local government and others to be on the front foot in dealing with this issue.

Good quality accessible information to the general public is key to safeguarding the community against the health impacts of pollution. Information can be disseminated through the EPA's web site, media releases, community meetings, bulletins and newsletters. Improved and more regular media exposure such as a column in the local paper would also be beneficial.

The Hazelwood Mine Fire is an example where the EPA fell short of community expectations before, during and after the fire with little information provided to the community. The EPA's emergency response was sorely limited and information regarding air quality was lacking in detail and accuracy. The community suffered 45 days of intense toxic smoke cover with inadequate data on air quality provided to the Chief Health Officer by the EPA. It is noted that the second inquiry into the Hazelwood Mine Fire examined whether smoke from the fire caused premature deaths in the area and has come about partly as a consequence of the lack of information regarding air quality being provided to the public at the time of the fire.

Following the fire, air quality monitoring stations have been installed in the area however it is understood they are only temporary. Council requests that they remain a permanent fixture near all coal mines and power stations in order to provide 'on the ground' information to the community with regard to air quality. Council strongly believes permanent monitoring stations are also needed in Churchill and Moe. Equipment to monitor contaminated land and air pollution should be available at the EPA's Traralgon office so that it can be utilised as soon as a hazard has been identified. The ongoing dissemination of air quality monitoring information to key stake holders is also strongly encouraged.

With regard to the auditing of contaminated land, a basic level of competency should be introduced for those who undertake site assessments so that a professional approach that meets a suitable benchmark is able to be achieved, and the consumer can have some degree of confidence in the service they are accessing.

EPA is encouraged to become more involved with consideration of buffer zones for landfills, transfer stations and industry so that the buffers are not diminished by other factors such as planning scheme amendments and VCAT decisions. It is important that the EPA communicates with and provides guidance to councils managing waste facilities and industrial land uses so that these buffer zones are preserved and the future health impacts of the facilities are minimised. More assistance and guidance regarding mitigation issues surrounding existing land use conflicts is required by Council from the EPA.

It is suggested that the EPA could work in conjunction with other scientific organisations such as CSIRO and alliances could be formed to provide scientific information on issues such as climate change and air quality monitoring. This could only strengthen the EPA's knowledge base and credibility in the community.

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

The EPA needs to work more consultatively with Council when amendments to statutory frameworks are proposed.

As an example, the change in processes that the EPA announced last year in relation to septic tank wastewater permits and approvals is of great concern to Council. The EPA made a decision to remove certificates of approval for septic systems with limited or no consultation with local or state government agencies. This will place more pressure on Council officers to assess new systems that may be developed for septic systems as well as ensuring maintenance standards such as installation, water testing and servicing will be done as part of an appropriate program.

The EPA is encouraged to work with Council in order to have a consistent approach to circumstances when the EPA requires a property to apply to EPA for works approval permits for larger onsite wastewater systems. At present there is limited consistency and it appears to often be related to the EPA officer that takes the phone call. There have been a number of permits that Council has had to issue in relation to wastewater with the loads being well above 5000L per day, however EPA has determined that Council would be the better agency to monitor the system in ground. These decisions need to be made in consultation with Council in order to determine if Council has the expertise and resources to undertake the work.

There are also inconsistencies from EPA as to what information it requires for development application referrals and the types of conditions that are placed on planning permits. Furthermore, it is unclear which agency is to check compliance with permit

conditions. Council believes EPA planning permit conditions should be followed up for compliance by the EPA as it has officers with the relevant expertise.

EPA issued licenses should be more flexible in their approach. Where industry has existed prior to the introduction of certain regulations and then residential encroachments have occurred, it would be more realistic for the licenses to allow an increase in the number of complaints regarding fugitive emissions than mandate an unrealistic decrease in complaints which cannot be achieved. This would assist industry in regional areas to continue operating and continue providing employment in the area. The relocation of industry in a regional area is generally not an option financially. Industrial and residential uses therefore need to strike a balance where industry can operate near a residential area and still provide an acceptable level of amenity to residents. It is noted that the MAC's Discussion Paper raises the protection of agricultural land as an issue but does not discuss the protection of industry which is of paramount importance to Latrobe City.

The EPA also needs to be transparent about its methodologies as changes and inconsistencies in some cases have raised questions about EPA having preconceived outcomes. This objective would also help with the need for improved relationships with key stakeholders, particularly the community.

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

In an emergency situation there is an expectation that the EPA will provide immediate, accessible and accurate advice regarding potential threats (hazardous materials) to Emergency Management Agencies and communities so they can make sound decisions regarding their health and wellbeing. Information should be available in a range of formats to ensure it is accessible to all members of the community, and should be presented in a way that communities can clearly understand. The information should communicate the level of threat and what actions the community should take to minimise or eliminate any adverse outcomes.

During an emergency event the EPA must form part of the Emergency Management Team (EMT) established by the incident controller to provide information to enable sound decision making that has the community's interest as a first priority. An example of this is the Hazelwood Mine Fire where EPA did not provide sufficient expert information regarding air quality, etc. to allow other government departments provide the appropriate information on the possible health impacts of the fire on the residents of Morwell and beyond.

The EPA should also have a solid and consistent presence in the recovery phase following an emergency with the provision of advice and information.

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

There is a need for the EPA to more directly engage with communities and local government in order to address problems of past activity.

The EPA has changed the guidelines for the rehabilitation of landfill sites with the Best Practice Environmental Management approach to apply to all sites irrespective of environmental risk. This has a very high financial cost to Council as landfill fees charged by Council do not have the rehabilitation cost component at a sufficient level to fund this type of rehabilitation. With standards continuing to rise, the cost is fast becoming beyond reach for many councils. Council believes a more appropriate response to landfill rehabilitation would be a risk-based approach based on the level of environmental risk for each landfill site. Alternatively councils would welcome financial assistance to manage legacy landfills. It is questioned whether 60% of the landfill levy should be spent on EPA operations and this money could be more effectively used for landfill remediation.

Priority improvement projects could be identified and then grants provided to support the mitigation activities required. This could occur on a matching funding formula, similar to Regional Development Victoria grants. Seed grants (grants from the private sector used to support start-up or early stage social enterprises) could also be provided to support local community initiatives to improve the environment and encourage sustainability.

Where EPA approvals have been issued, constant monitoring and enforcement of the conditions of approvals must be undertaken by the EPA, with local government assistance only where appropriate.

A priority list of key past problems to be addressed should be developed with priority actions that should be communicated to the community.

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

The EPA must have appropriate resourcing in order to monitor and enforce conditions on EPA approvals. This will ensure that future problems are avoided as EPA has the expertise to assess the efficacy of systems and procedures put in place by landholders in response to EPA conditions.

The EPA should also proactively contribute more in supporting councils and developers with future planning and providing relevant information and ways to address issues. The provision of timely and relevant information to communities would also assist.

It is noted that existing EPA guidelines and licences are currently providing protection, however more open communication with licence holders and other relevant stakeholders should be undertaken to discuss issues to avoid inherent conflicts of the past.

Existing EPA guidelines are often not reviewed and updated in a timely fashion or conflict with other regulations (see Clause 52.10 of all Victorian Planning Schemes). This conflict

can give rise to future problems where decisions are made on old policy or where regulations are ambiguous that requires interpretation.

The role of the EPA as an advocate in the community as well as a regulator would assist in educating the community and would aid in avoiding potential future problems.

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

The EPA should be undergoing ongoing improvement in setting recommended standards in all areas of the environment and identifying and supporting ways to address issues. This will help to establish partnerships with community and industry.

The EPA should also be more active in education and community engagement and liaison, working through existing community, business, and industry structures and with local and State Government. It should play a more supportive role to assist all stakeholders to identify and respond to issues.

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

Landfill management, licence conditions, audits and Best Practice Environmental Management guidelines are considered to be sufficient and working well.

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

Whilst the current system seems adequate and enforceable under legislation, there is limited information about when environmental justice occurs. This should be publicised more widely including penalties and court action against polluters.

With regard to the Hazelwood Mine Fire, there is a belief in the local community that the operators of the Hazelwood Mine should have been held responsible for the release of hazardous material as a result of the fire. This view was not supported by the State Government and the EPA remained silent on the matter. Environmental justice did not appear to have been applied in this instance.

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?

No comment to be made.

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

The EPA needs to be better resourced and have stronger local links with other organisations and the community in order to be more effective. It needs to strengthen its powers to become a highly credible and informative organisation. This could occur

through its partnership with other organisations such as the CSIRO as well as being independent of government as a genuine regulatory body.

It would also be beneficial if the EPA had another arm that is more research and education based in order to assist in solving local, regional and State problems.

Conclusion

Council is involved with the EPA from many perspectives including emergency management, land fill, environmental health, and land use planning and acknowledges the important role the EPA plays in the community. Council relies on the provision of expert advice from EPA and would like to build on its relationship with the agency into the future. While there are examples where the EPA and Council have worked well together, regrettably there have been instances where the EPA has not provided sufficient support to Council and the community in the past.

Into the future, Council believes:

- the EPA should be better resourced in order to address the major challenges in the environment and public health that are ahead;
- have other arms to enhance the organisation such as research and education which could be undertaken in conjunction with other organisations such as CSIRO;
- have a stronger role in enforcement; and
- be independent of government as a genuine regulatory body which would report directly to parliament.

This submission provides an insight into Latrobe City Council's relationship with the EPA and its aspirations for the agency into the future. Council wishes to thank the Ministerial Advisory Committee for the opportunity to make a submission to the Inquiry.