



**Submission to the Inquiry  
Into the  
Environment Protection Authority**

October 2015



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## **Introduction**

Friends of Steele Creek was formed in December 1995. It is a not for profit community organisation dedicated to the care and management of Steele Creek, its water quality, landscape, flora and fauna. The Traditional Owners of the land through which the creek flows are the Wurundjeri.

The headwaters of Steele Creek are on Melbourne Airport land; it flows through the council areas of Hume, Brimbank and Moonee Valley until it reaches the lower Maribyrnong in Essendon. The creek is shot by groundwater and springs and can retain a low flow during severe drought.

Friends of Steele Creek works cooperatively with Moonee Valley, Brimbank and Hume Councils, we also endeavor to work with Melbourne Water, EPA and Melbourne Airport. We take an active role in planning matters in the catchment area.

## **Historic and Continuing Pollution of Waterways and Air.**

Unfortunately the EPA Act or the EPA itself has not protected Steele Creek's water quality. Melbourne Water also seems powerless to address long-standing issues of chronic pollution of waterways. VicRoads is still silent on retrofitting older roads with water sensitive urban design features. In the meantime, Steele Creek's water quality will degrade further. Our group actively advocates for stormwater policies that will prevent pollution and redress longstanding pollution issues. So far, local councils have implemented local stormwater policies, which now mandate water sensitive urban design features in private and industrial developments. Whilst welcoming those measures, in themselves they cannot redress the situation of poor water quality in our waterways. New freeways incorporate water sensitive design features but NO ONE is addressing the chronic pollution of waterways, which is the single greatest threat to healthy waterways. Why are our western waterways excluded from consideration?

Melbourne Water has rated Steele Creek's water quality as POOR for the past 20 years. The major sources of pollution have been VicRoads' freeways, Melbourne Airport, Essendon Airport, local industries & businesses, and local roads. This is now exacerbated by planning policies, which actively promote medium and high-density development in local areas. The area of sealed surfaces continues to increase, thus

further reducing soil moisture and groundwater flows, whilst increasing stormwater volumes.

In a natural water cycle 3% of rainfall flows immediately to the creek. Today, because of urbanization, 55% of rainfall flows immediately to urban creeks. These large, high velocity flows are eroding waterways, and causing turbidity events that last for up to eight days in Steele Creek. Forty years ago, these events lasted for hours or a day. Rain gardens and rain tanks will not resolve this problem. The velocity of water washes away plants in the creek bed and riparian zone.



Steele Creek after rain - Spring Gully Reserve Niddrie – East Keilor

**The heavy metal pollutants washing off our roads and runways is deposited on the silts, taken up by plants and is bio accumulating in animals, no life thrives when persistently exposed to copper, cadmium, lead and zinc.**

Forty years ago Steele Creek, although largely modified, had large, healthy populations of yabbies, frogs, native fish, damselflies and dragonflies in many of its reaches. That is not the case today. Steele Creek has small populations and a narrow range of aquatic life.

Moonee Valley residents prior to the formation of Friends of Steele Creek regularly called the EPA in the 1980s & 1990s and reported pollution of the waterway. The EPA usually failed to investigate but did manage to prosecute one small operator who was washing down his livestock transport trucks into the stormwater drains. **The EPA caught the operator in the act because of a report from a vigilant resident.**

The Environmental Protection Authority and Melbourne Water both claim an inability to address diffuse pollution. Ultimately residents and Friends of Steele Creek have concluded that the EPA is either incapable or unwilling to address the situation. Complaint fatigue has resulted and that means there are now fewer reports of pollution. On page 7 of the discussion paper *Examining the future task of Victoria's Environment Protection Authority* Figure 3 shows that pollution reports from Metropolitan area is 48% of reports - it does not reveal how many complaints, the locations or the nature of the complaints. The community perception in our area is that EPA is "a toothless tiger" and "money rules" - meaning EPA is deliberately under resourced by governments so that it cannot be a danger to the profits of industries or road authorities. Economic outcomes are valued above the health of the environment and community health.

We have also been dismayed by the inertia of EPA on matters of water pollution, noise pollution and air pollution caused by the aviation industry. The EPA has not even bothered to take up an advocacy role with the Commonwealth government in relation to the multiple adverse impacts of both Melbourne and Essendon airports. In spite of FOOSC's outcry, Melbourne Airport continued for decades, to get permission from the Commonwealth Environment Officer to exceed commonwealth standards for stormwater quality. At that time, Commonwealth stormwater standards were weaker than Victorian standards and Melbourne Airport discharged polluted stormwater into Steele Creek, Moonee Ponds Creek, Arundel Creek and the Maribyrnong River for decades, without any rigorous opposition by the EPA. Given the airports relied on state authorities for the supply of potable water there was a bargaining chip that should have been used to get their attention.

Issues related to Essendon Airport

Essendon airport is in a densely populated residential area and has no buffer. The distance from the end of runways to homes ranges from 100 m – 600m.

On some days, depending on wind conditions and how long planes are kept on runways, aviation fumes are drawn into nearby homes, via the air conditioners causing them to smell of aviation fuel. Residents a little further away regularly close their windows and doors to avoid the noxious odours and fumes from aviation fuel.

Small aircraft still used leaded fuels.

**FIGURE 1 DISTANCE FROM AIRPORT RUNWAYS TO HOMES**

***Airport West in line with Runway 08 (west)***

- Matthews Ave is 300m from runway 08
- Elstone Ave is 400m from runway 08
- Creswell Ave is 500m from runway 08
- Walters Ave is 600m from runway 08

***Essendon North in line with Runway 35 (south)***

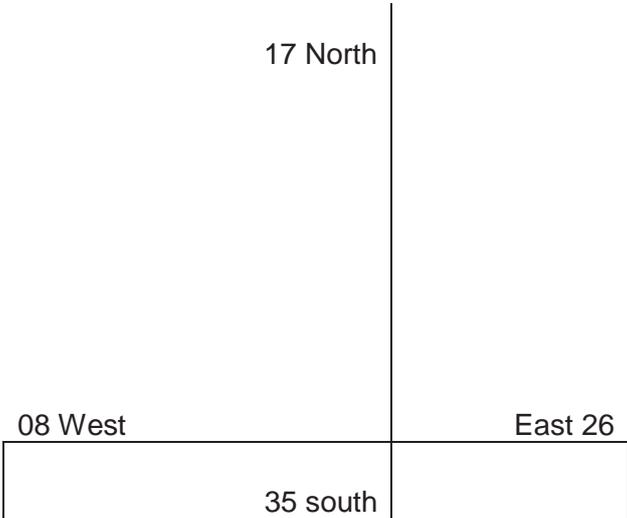
- Elm Grove is 100m from runway 35
- Salisbury St. is 200m from runway 35
- Kerferd St. is 300m from runway 35
- Duffy St. midway 400 m from runway 35

***Strathmore in line with Runway 17 (north)***

- Strathnaver Ave is 100 m east from runway 17 and 300 m north of it

***Strathmore in line with Runway 26 east***

- Fenacre St. is 200 m from runway 26
- Melissa St. is 300 m from runway 26
- Wendora St. is 400 m from runway 26
- Drama St is 500 meters from runway 26



Furthermore, the state government has, under its planning laws, compounded the problem by designating an area of Keilor Rd in North Essendon as an Activity Zone. So there will be an increase in the number of residents exposed to unhealthy noisy levels as well as toxic fumes. In an appeal to VCAT in October over a development under the flight path of Essendon airport, VCAT's response to our concerns was "...we only have to ensure development complies with state planning laws". It seems VCAT has no intention of coming to grips with the reality of noise and air pollution. Noise levels between 65 to 85dBa regularly waken residents. The World Health organisation recommends 45 dBa at night. Many European airports adhere to these recommendations.. Airports in Switzerland have fence line air quality monitoring, which is publically reported, and curfews protect resident right to quiet nights. Public health is clearly valued and protected there. ***Clearly one thing we need is another tribunal for dealing with environmental matters. Hopefully this would achieve standards that are more consistent and ensure that loopholes in legislation do not result in negative environmental and health impacts .***

Communities exposed to pollution should be able to rely on the EPA to stand up for our rights to clean air and healthy waterways. The EPA must be able to use its resources to gather relevant data to show polluters the extent of the harm they are inflicting. If EPA will not stand up for us who will? If the EPA just licenses pollution instead of actively PREVENTING it, it may as well change its name to Environment Pollution Authority – we would prefer to be protected.

All of these sorry experiences inform the suggestions we are making. We are pleased that an extensive review is being undertaken and we hope the government will act on them when they receive them.

**1. *The EPA's appropriate role in relation to public health issues, including at least: community concerns such as exposure to asbestos, chemicals and other pollutants; the prevention and management of site contamination, air quality, and water quality in rivers and other waterways***

The current EPA Act and the Authority do not achieve the necessary protection of our waters, air and land. This review must result in a stronger Act and a more effective authority that protects our environment - our life support system. **There must be no right to pollute but a duty on all to prevent pollution.**

The current tolerance of pollution means particular communities near pollution hot spots, e.g. toxic dumps freeways and airports, have poorer health outcomes because of pollution. **All waterways in the west of Melbourne have POOR river health. What an indictment of the EPA Act and the Authority.** There is no suggestion that the Maribyrnong River will ever get Heritage status and the ensuing standards that compliment such a status. The Maribyrnong and its tributaries are left degraded, ignored and severely threatened by climate change. Our roadsides are weed infested and the wind blown seeds threatens revegetation projects on private and public lands. No state department takes any effective action against VicRoads on this matter. Litter is not only unsightly but plastic pollution also degrades water quality. VicRoads seems to have been excused their obligation to protect waterways, eradicate noxious weeds, and prevent litter from their roads getting into waterways. Plastic pollution degrades in our waterways and Port Phillip Bay. It causes the death of birds and aquatic creatures ingesting it.

**We argue that the state of Victoria has every right and a duty to ensure all statutory authorities, Commonwealth facilities and agencies, businesses and industries must be subject to the laws of Victoria, including our environmental laws, which are supposed to protect all life and all ecosystems without exception.** We are not arguing that we can return to the environment that existed prior to colonization. **Any organisation, state or private, must be prosecuted and made to take remedial action when they pollute, as well as take restorative justice actions.**

**We also believe that no section of the Victorian community should be left with “legacy issues”. Poor past practices have left the west and north west of Melbourne with dying creeks, a heavily polluted Maribyrnong River and tiny remnants of the Victorian Volcanic Plains flora. The new act must include an obligation on EPA to develop strategies and timelines for the return to health of historically degraded waterways, reinstatement of our flora, greater protection for remnant animal populations and mechanisms for increasing habitat essential to their survival. It should ensure that there is greater collaboration between the EPA, VicRoads and Melbourne Water to restore polluted waterways to health.**

The natural systems and human communities in our lower socio-economic areas have taken the brunt of toxic air pollution impacts for decades. This must not only stop but be redressed. In our local community, the groundwater pollution, spreading out from Tullamarine toxic is of grave concern. Cleanaway’s reports detail how both the lower and upper aquifers are polluted with toxic chemicals migrating from the toxic dump. This groundwater contamination issue, first reported in 2002, has implications well beyond the dumpsite. Ultimately groundwater reaches Port Phillip Bay. The old Niddrie quarry reached a depth greater than 40m. and it is now a residential development. The Valley Lakes estate has a groundwater lake as a prominent feature. The groundwater, flowing from the north, (Tullamarine) seeps through the base of the northern cliffs and is collected in a trench, which leads to the lake. We are concerned that inaction on addressing the removal of toxic oils from the Tullamarine toxic dump will ultimately impact on our local groundwater. **The prompt remediation of the legacy issues must be addressed, it must not continue at the current snails pace.**

**The impact of climate change will further increase the degradation of the environment in the sunnier, drier north and northwest of Melbourne will be severe.** Our creeks will have lower flows and water temperature will rise and have adverse impacts on aquatic life. Our soils will dry out more. Canopy trees, so important in reducing the heat island effect, will only survive if additional water is diverted to nature strips. The urban forests we are so busily planting in our revegetation projects along waterways and in parks, are all at risk from the drier, hotter climate we can expect.

**The Environment Protection Authority must have the legal powers to force a higher rate of change to avoid catastrophic climate change.** It is also a matter of public health policy. Past heat waves have greater death tolls than fires. Therefore, Friends of Steele Creek argues that **legislation must be introduced to regulate emissions so that the take up of clean generation of power is accelerated. It must have timelines commensurate with this emergency. High penalties should be incurred by any energy authority for delaying the transition to renewable energy. Furthermore, the EPA must be able to direct real time monitoring of the toxic pollutants emitted from coal fired power plants.** A Victorian company has received two Premier Awards for development of real time air monitoring equipment and global marketing of it. If the EPA required such monitoring where it is clearly warranted to protect public and environmental health there would be an economic spin-off for Victoria.

Companies distributing false scientific information must be penalized for deliberately misleading the public. Given that Exxon is being pursued in the US courts for deliberately withholding information on climate change since the 1970s and embarking on a deliberate misleading campaign it must be made crystal clear **that in the state of Victoria, companies that set out to misinform and subvert the intention of our EPA Act will be prosecuted.** This is also relevant to companies promoting “fracking” as a “ clean” process. Given the hundreds of examples in the US of polluted groundwater Victoria cannot risk losing its clean food production status, or losing critical land for sustainable food production to short term, polluting mining activities. Preventing pollution, it is far better than trying to remedy it.

The use of our Victorian brown coal throughout the world has global consequences. These global consequences ultimately affect the sea level rise in Victoria and the frequency and intensity of heat waves and other extreme weather events. A drier, hotter climate impacts plants and animals, which need to migrate 1 km for every 1 degree of temperature increase. Therefore, the new EPA Act must, as a matter of urgency prohibit coal exports and provide mechanisms for transitioning from coal mining and coal fired energy generation. At the local levels, this would achieve a reduction in toxic air pollution for

community's adjacent two coalmines and power generation will decrease public health costs. **No community should have to sacrifice its right to clean air and the health of their children and future generations, or their local environment, for the economic benefit of the state and or industry.** What kind of a community are we if choose to turn a blind eye towards the health costs inflicted on some communities. Urgent action on climate change is an also matter of intergenerational equity.

We have been dismayed by the inertia of EPA on matters of water pollution, noise pollution and air pollution caused by the aviation industry. EPA has not even bothered to take up an advocacy role with the Commonwealth government in relation to the multiple adverse impacts of both Melbourne and Essendon airports. Recently Commonwealth standards for stormwater were improved they are now better than the Victorian stormwater standards. However, Friends of Steele Creek has not been able to get the results of water quality testing from Melbourne airport. If the EPA has those results, they have not shared them with us.

The Act must clearly direct EPA as to its obligation to advocate for the prevention of harm to Victoria's community and it must rigorously name and shame commonwealth facilities that break our laws.

**FOSC submits it is morally unacceptable to have some communities living in areas where they experience greater pollution, with no affordable and effective mechanism available to them to resource a legal defense of their right to clean waterways, air and quiet neighborhoods.**

## ***2. The Victorian community and industry's expectations of the EPA as its environmental regulator***

How the EPA operates, is governed and funded has been a concern to FOSC for decades. We have so often been frustrated by their inability to deal with matters. However, what has been particularly distressing to us is the EPA's internal culture that is committed to "working with" polluters and putting economic consideration ahead of protecting the environment. In spite of some changes brought about by inquiries of the Ombudsman and Auditor General, there has been no substantial change to the internal culture of the EPA; polluters can take their time on remediation, decades of pollution is not fined. We find the EPA is too close to industry, soft in its enforcement approach, inconsistent in applying regulations and always willing to grant exceptions based on their perception of risk. The EPA is forever willing to decide that the community's , waterway or groundwater can take the risk. We have no effective voice in determining the level of risk we want our families and our waterways and groundwater exposed to. We are adamant that the EPA IS STILL FAILING AS A REGULATOR.

Nor is the EPA able to demonstrate to us they have the expertise required to deal with the matters being encountered. The EPA relies on audits and is readily convinced of their adequacy and the reliability of the data. Yet we find serious flaws in the consultant's reports that the Auditor relies on. Auditors are licensed by the EPA but appointed by the company. The company has the right to read the report first and can request changes! This may be reported in the audit but it does not reveal how the report was changed. **We believe the EPA should appoint the Auditor and make him/her directly responsible to the EPA- the costs can still go to the company.** The Auditors are not on site frequently enough during audits and really rely on the consultant's reports. This means there can be an accumulation of errors. In one report we found an error in a reading for dioxin – the errors was out by a factor of 1,000,000. This meant the community was being exposed to an unsafe level of dioxin. We were told the Auditor noticed it and when we asked for a corrected copy it was never produced. No auditor should have a monopoly on a site. Whilst, it is important to build up a history of a site, particularly at landfills, to have the same auditor for 10 years is unsatisfactory. The **EPA needs a dedicated group of auditors for landfills, who can rotate throughout the landfill sites; we all know the value of fresh eyes at a site.**

We also have no faith in the EPA's license system. Although the EPA writes the license they do little to check on adherence to it and they are consistently failing to prosecute and insist on effective remediation. At Tullamarine it was up to the community to prove that the EPA had not even noticed Brambles Cleanaway had taken in twice the volume of waste that the license stipulated.

The EPA has not stood up for the disempowered communities trying so hard to get licenses enforced. They have not provided mechanisms for effective community consultation. When we are given information we have a right to know it is seen as consultation. We often have to prove to VCAT that we have standing in a matter. The victims of pollution are expected to mount their legal defence and find their OWN Scientific reports. Without the generosity of the Environment defender's office, now Environmental Justice Australia, as well as the Assistance given by the Western Region Environment Centre, we would have given up.

We have had so many disempowering and frustrating experiences with the EPA. Recent reforms have not delivered all that was promised. We participated in good faith in all the forums on Community Engagement, Environmental justice, Enforcement. What was the point of it all?

Friends of Steele Creek was not surprised when it was found that EPA had been monitoring the air quality in the wrong locations during the Hazelwood fire. Nor do we believe that air quality monitoring for communities adjacent to freeways and arterial roads is done adequately. We have no local air monitoring station. Given there is no safe level of exposure to PM 10 or PM 2.5 this is very worrying. We are also concerned that the introduction of "fracking" will lead to polluted groundwater, with serious consequences for agricultural production and the health of rural communities. The EPA ought to be out to protect the health of communities. The mines departments allows open cut coal mining which leaves the nearby communities with poor air quality and poor health outcomes. The EPA must have a veto over mining in such circumstances.

Everything we have said so far shows that we think EPA is ineffective and its interpretation of the Act is weak. It fails to apply regulations rigorously and

fearlessly. The idea that 72 full-time positions is an adequate staff for an organisation that is to protect our precious waters, air, land and public health - is absurd. For the EPA to be visible as an enforcement agency it needs far more officers.

Our experience of the EPA standards is that they rely on averages – that allows them to ignore or gloss over the spikes we encounter in water and air pollution as “one offs.” They only order action on large, high profile pollution events e.g. the copper compound spill to Steele Creek, while ignoring chronic waterway pollution from diffuse sources.

There seems to be no expertise within the EPA on toxicology! The assumptions seem to be no one in Victoria is at much risk or its only occurring in a few places. There are so many areas where they haven't bothered to set standards. Nor have they mandated that in the absence of a standard the default position should be either the USEPA Standard or European standard, whichever is the strongest.

**We need an EPA that:**

1. Is focused on preventing pollution, not licensing it and then trying to deal with the aftermath. **It must be made clear that everyone has a duty to prevent pollution.**
2. Has strong and enforceable standards based on world's best practice and World Health Organisation guidelines.
3. Can direct companies to provide affected communities with financial resources to get independent expert opinions so they can more effectively participate in consultations and decision-making processes.
4. Has sufficient expertise and highly qualified officers to:
  - Effectively evaluate the situations it deals with
  - Reduce their current over reliance on Auditors report and can effectively review Audits and track progress on the implementation of recommendations
5. Has the power to direct Vic Roads to come up with a strategy and a timeline to address its extensive polluting impact on our waterways. VicRoads should not be above the laws to protect waterways.

6. Is not undermined by contradictions between the EPA Act and other Acts. E.g. On the one hand we have the EPA Act and accompanying SEPPS stating objectives to protect beneficial uses of water and aquatic life. The Groundwater Act states we all have need to value and not pollute groundwater. But it then states groundwater under landfill can be polluted. **Both ACTS should be able to require those that pollute the groundwater remediate it.** It is possible to extract groundwater, clean it and reinject it. If we had regulations to that effect we might get better lining on landfills, it might also contribute to a better understanding of why we need to move away from landfills and get serious about converting waste to energy.
7. **Is led by a CEO that is an outstanding scientist** or a distinguished citizen, with a track record of public advocacy for the environment or public health. The leadership of the EPA is critical to its effective working. It needs a leader capable of telling industries and government not to interfere with or undermine its enforcement capacity and judgement or implementation of stronger regulations.
8. Can consider in its assessment if a community already has an unfair burden of pollution. In which case it ought to be free to determine that a facility be built elsewhere.
9. Can direct companies to assist with resourcing communities to enable their effective involvement in matters being considered e.g. contribute finances for independent reports is this the same as number 3?

### ***3. The EPA's appropriate role in protecting the environment***

We have already described our frustration at seeing the EPA missing in action on protecting our local waterway and this is not unique to Steele Creek. It is the common experience of communities, whose local waterway is rated as having poor water quality.

We believe the EPA must have broader powers to protect our waterways and our unique flora and fauna. It must be able to direct other departments failing in

their responsibility to protect vulnerable wildlife and flora, to do their job. We had an instance at the old Laverton RAAF base, where the last remaining flora community including pimela and orchids in the wild on our western plains, was threatened by development. The Environment Protection and Biodiversity Conservation Act theoretically protected the flora community but neither the state nor federal government departments invoked that protection when we requested it. **In such an instance, a community ought to be able to expect that the EPA will seek to have the law applied and upheld.**

We think there is a need to broaden the role of the EPA - it seems to us to be mainly a pollution authority. It is very frustrating to be working as volunteers on Waterwatch monitoring and see pollution unchecked. Weeds are prolific on public and private land and threaten hundred of hours of community revegetation work. Why can't the EPA enforce the laws on weeds and protection of flora and fauna – especially when the roads department responsible seems unable to enforce compliance? **There is a need at the very least for more collaboration and coordination between all state departments, and statutory authorities the EPA, to protect waterways, land and our flora and fauna.**

***4 The ability of the EPA to ensure that the principle of environmental justice is adhered to, the environment is protected for the benefit of the community, and members of the community can be meaningfully involved in, and access fair treatment through, environmental regulation***

We are only too well aware of how some communities take an unfair pollution burden for the “ common good” e.g. toxic dumps. Airports, landfills and industrial estates are too close to homes, yet our community health and the health of our waterways seems irrelevant. We know how hard it is to get the

attention of relevant authorities, to get status at VCAT on issues impacting on us. Add to that, the frustration that comes from dealing with complex issues of toxicology, and standards. We see new standards being introduced on recent built freeways but those WSUD features were not applied to our old roads. There is no plan for upgrading roads which would greatly improve the water quality of Steele Creek. When the Tullamarine toxic dump was capped it was given a cap that was constant with 2001 standards though it was being built in 2010. The EPA's 2010 standard for a putrescible cap was better than the cap built on TULLAMARINE, Victoria's largest and most dangerous landfill. Somehow, we weren't worthy of getting a contemporary standard. The EPA had granted a permit for cap in 2001. Our outcry eventually forced a review of that design by an international expert. The report stated it would not meet current BP stands and it would therefore require rigorous monitoring and a rigorous post closure regime. We have not seen any of that either! We are not the only community to be so burdened.

**The only way to prevent this environmental injustice continuing is to embed the principle of environmental justice in the Act. Given so many communities are already experiencing higher pollution burdens, the Act must also require the EPA to come up with plans to restore those degraded environments in a timely manner.**

The EPA has not stood up for the disempowered communities trying so hard to get licenses enforced and mechanisms for effective community consultation established. We're frequently in conflict with EPA! On one occasion the EPA requested the VCAT to consider issuing costs against the community if we lost the case. The tribunal Member emphatically reminded EPA that VCAT had been established to give a voice to the community without unnecessary financial burden. Unfortunately that can no longer be said as VCAT as much higher costs.

The victims of pollution are expected to mount their legal defence and find their OWN Scientific reports. There is no funding for community local or regional organisations. Our organisations have unpaid staff, small budgets and yet we continue to exist. **We need the right to resources so we can access independent experts that we can trust. Experts who are not aligned to any**

**companies. We need accessible information, not after a pollution event but during it. We also need a right to take polluters to court. We should not have to be living adjacent to the site to get standing in a matter; pollution moves off site.**

**Communities bearing the brunt of pollution should have permanent water quality and air quality monitoring. EPA ought to set specific reduction targets so we can see an end to the harm being caused.**

Polluted waterways don't attract the community, they repel them. Why can't our children have the a right to close encounters with nature - to see tadpoles grow into frogs, see a yabby in the waterway, not just on a screen, feel free to wade in a creek and eat fish from the Maribyrnong? That will never happen while waterways are so impacted by heavy metals. The waterways throughout the west need to become clean, and their valleys cool ,shady glades, attracting the community to be active and enjoy nature.

Without the generosity of the Environment Defender's Office/Environmental Justice Australia, we would have given up on many issues. They hear our concerns and know how to represent concerns within the legal framework. We gain greater skills and understanding of the law and its limitations through them. It is in essence though an unjust situation - designed to perpetuate the burden falling on those least equipped to defend them. Besides that, no reliable funding is available to EJA or EDOs to cover the cost of our representation and the work they do in support of the pro-bona barristers they enlist in our defence

**5. The ability of the EPA's current governance structures and funding arrangements to enable it to effectively and efficiently discharge its powers, perform its duties and implement its required functions;**

We have had so many disempowering and frustrating experiences with the EPA. Recent reforms have not delivered all that was promised in all those forums on Community engagement, environmental justice, and enforcement.

What was the point of it all! We need an EPA that is really independent, not captured by industry; it must be well funded, not dependant on levies.

New arrangements must be found to strengthen the capacity of the EPA to protect our environment, public health and flora and faunas. It must have a budget that allows it to:

- Attract and keep outstanding scientists,
- Have its own laboratories so that it can verify claims made about safe standards particularly of chemicals,
- An extensive library.
- A capacity to regularly collaborate with overseas experts
- Constantly train its enforcement officers
- Have high visibility in our communities
- Run effective community consultation. There is still a tendency in EPA to regard information sessions as consultation & give us short time lines!
- Deploy staff to hotspot areas and overburdened communities to develop and implement plans to restore degraded environments.
- Work more effectively with Melbourne Water and Catch Management Authorities to **prevent** pollution, particularly ongoing pollution.
- Be an effective advocate climate change and regulate, limit and reduce greenhouse gas emissions as a matter of urgency.

***6. The scope and adequacy of the EPA's statutory powers, and the effectiveness and efficiency of the suite of tools available to and utilized by the EPA, in enabling protection of the Victorian community and the environment, particularly in light of recent, new and emerging risks and issues***

Friends of Steele Creek has had numerous frustrating experiences where the EPA was powerless to intervene in land use decisions affecting our community's and environment health.

**MINING IMPACTS – Quarrying**

- Our experience with the Niddrie quarry site made us aware that rehabilitation of mining sites does not occur. The EPA was powerless to order the state's rehabilitation and clearly the mines department didn't bother to insist on its

rehabilitation. So for 20 years the over burden from that quarrying blocked the food plain of Steele Creek causing floodwaters to back up and threaten priorities in Goble Street Niddrie. Other mine sites throughout Victoria pose even greater threat as we saw during the fire at the coal mine Hazelwood fire.

- In another case the EPA actually permitted the use of contaminated soils for the building of a firewall in the Bacchus Marsh coalmine site. What will the local community be exposed to if that firewall catches fires over the coming decades?
- A currently operating quarry in Keilor has been placing overburden and **imported soil** to heighten the ridge above the Maribyrnong River (Melways Ref Map 14 K1&2) The slope on that ridgeline is unacceptable and it's unsightly. Even worse is the fact it is located above a significant archaeological site – the Keilor skull. If this unstable slope collapses it could impact on the archaeological site below. The stormwater from Melbourne Airport is also eroding the same site. Yet the EPA cannot act to order Melbourne Airport to contribute to the cost of protecting the riverbank, which is also an important Victorian archaeological site. Where else in the world would such a significant site be so neglected? Is it because it is black history not white history?

## PLANNING

At Steele Court in Keilor Park Map15 F6 due to the EPA the land owners filled in the escarpment and constructed a terrace, which is now weed infested and threatening our numerous revegetation projects in our catchment

Too many industrial estates were placed along the banks of Steele Creek. One large company constructs illegal connections to the creek. We reported the pollution. One EPA officer resigned when he found our assertion of an illegal connection was true but was PREVENTED from intervening by a more senior EPA officer. It was eventually corrected 15 years after our reports started.

Following the Brooklands Green fiasco the EPA decided to revise their regulations and determined that type, two & three landfills maintain their buffer zones for 30 years post closure. The EPA has omitted to do the same for type

1- prescribed hazardous waste landfills. This inconsistency is frustrating and worrying given the chemicals in the Tullamarine dump will, according to the Environmental Auditor's reports of 2004 and 2007 be active for hundreds of years. The gas extraction system cannot capture all fugitive gases, especially the ones that are omitted from the groundwater contamination plume. That plume has spread well beyond the landfill, is under the buffer and at the border of the buffer zone and the residential area. Although the local community is concerned that there are gases under their homes, the EPA has still not bothered to order Cleanaway to determine the full extent of the contaminated groundwater plume.

Currently the second rezoning application for the buffer zone of the toxic dump is proceeding. The 53X Audit considered soil contamination issues of the buffer zone but without due consideration being given to the potential harmful impacts from toxic fires or toxic fugitive gases from the adjoining leaking landfill. How are local planning officers supposed to understand the full range of threats? They are trained in planning matters not environmental law, toxicology standards or environmental management. If the EPA publications state that buffer zones are required for upset conditions, why is not that true for a prescribed landfill site? Is the assumption in this case of Tullamarine there will never be upset conditions? Yet, this landfill has no base liner and no liner on the lower sides, where toxic liquid and toxic waste were deposited for 17 years. This dump is known to have a mound of water at its base on which toxic oils float and dissolve into the water. These chemicals also generate fugitive gases.

Given the fugitive gases include odourless carcinogenic chemicals, we have to hope that common sense will guide the planners to decide not to increase the anxiety level of the community by putting factories and warehouses on the border of the dump so close to their residential area! FOSC has already written two submissions opposing rezoning and we wonder how many times we will have to do so as it seems the planning law permits the company to keep applying for rezoning. We are on perpetual alert! Or are we supposed just to give up because of complaint fatigue! The final insult was delivered just a few weeks ago when the EPA, as a referral authority, made no objection to the proposed use of the buffer zone.

The mines department shows no interest in Environmental Management so it's ridiculous to expect the department that licenses mines will ever take responsibility for the clean up and rehabilitation. This authority must be given to EPA.

Planning authorities are ill equipped to deal with chronic pollution situations and the EPA fails to be our champion on the few occasions when they could.

We believe that the EPA must be able to order mining companies, all state and local government departments and any industry operating on leased land in Victoria to respect and protect our Victorian Environment. No one should have an exemption from the laws of this state. The EPA management must start to advocate on behalf of the health of Victorian communities who are exposed to pollution from any facility in this state. Those of us who have tried to get the EPA to advocate for residents adjacent to airports in Tullamarine or Essendon know only too well that the EPA has declined to even undertake air quality studies with real time monitoring results being available to the public. Surely it is not too hard for the EPA to order airport leases to conduct fence line, real time monitoring of emissions to check they are not using Victoria as a dumping ground for their pollution.

### ***7. Any other matter reasonably incidental to these above matters***

Friends of Steele Creek is also concerned that new products are constantly coming on to the market without any need to prove the chemicals being used have no harmful effects on human health or the environment. **We believe that no product should come onto the market for use until it is proven there is no harm from the product. Inventors and industrial chemists and chemical engineers should also understand that they have a duty not to pollute and expose people and the environment to harm. Where they cannot prove it is safe then the precautionary principal should be invoked to ban a product.** This is also relevant in the mining industry, which seems to have the license to use very harm chemicals in its extractive processes. We ask you to seriously consider this matter as allowing the release of untested new or old chemicals seems to us be contrary to the intent of the Act. There is ample evidence

constantly emerging from overseas that "fracking " is not safe. Our Act should specifically ban the practice.

We may live in Melbourne but we have great sympathy for those that endured the Hazelwood fires it is easy to understand their concerns, anxieties and sense of abandonment by the EPA - let it not happen again! The EPA must be more effective in such emergencies.

We have participated in this inquiry into the EPA in the hope that this government will act to strengthen the Act and resource the Authority to ensure that it is effectively dealing with challenges confronting us and repairing the outstanding " legacy issues " of the past far more effectively than it does now. We hope that the future ACT means we will be far better protected.