

# Community Over Mining



## NEPM AAQ variation 2014 submission

Submitted via email  
10 October 2014

### Overview

[Community Over Mining](#) is a Gippsland community action group advocating for mining reform in Victoria to protect the basic rights of landowners and communities for their well-being and future prosperity.

Our major issues of concern are:

- Poor regulatory frameworks and ability to ensure mining industry compliance and enforcement of breaches
- Health implications from mining
- Ambiguous and ineffective legislation
- Inadequate buffer zones separating toxic emitting industries and residential zones

The emphasis of this submission will be on the person's right to clean air and the ongoing lack of resources and integrity from State Government regulators and industry to manage risks associated with mining to improve the health outcomes of Latrobe Valley residents and reducing economic cost burdens for the taxpayer. This can only occur if government and agencies are proactive about preventing increased poor health outcomes rather than being reactive to.

### *Do you agree with the introduction of an annual PM10 standard, given the apparent adverse health effects of coarse particles and their prevalence in some regions?*

I fully agree that an annual standard for PM10 be established with WHO guidelines noting  $20 \mu\text{g}/\text{m}^3$  as an annual mean.

As noted in the impact statement it is particularly relevant for short-term exposure for cardiovascular and respiratory effects which was the concern with the February 2014 Victorian Morwell Mine Fire where the immediate and broader community were exposed to 45 days of significant air pollution. This has now resulted in a public health crisis from the smoke and coal ash for the regional town of Morwell due to inadequate monitoring, lack of a lead agency and reluctance of Victoria's Department of Health (DHS) to adopt the precautionary principle and advise residents to evacuate the area to limit exposure to particulate matter.

### *Do you support upgrading the current AAQ NEPM advisory reporting standards for PM2.5 to compliance standards?*

Advisory reporting should be upgraded to the lowest level.

Latrobe Valley is an industrialised area and is exposed daily to particulate matter released to the air due to industry and mechanical disturbance of the earth with coal mining, secondary

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particles from chemical reaction with Major Hazards Facilities (MHF) and irregular episodes of natural particles from bushfires and burn-offs. The major concern is that we have some major industry but poor monitoring stations and reporting.

The following is information from ***EPA Victoria's submission to Senate inquiry into the impacts on health of air quality in Australia 2013.***

## ***Victoria's future air quality***

*EPA is currently working on a project with CSIRO to look at trends in Victoria's air quality over the next few decades. A computer model was used to predict air quality impacts in the future. The project used the EPA Victoria 2006 emissions inventory as a baseline year to input into the computer model. A medium impact (most likely future) scenario was developed (including an emissions inventory) for 2030 as an input into the computer model. This scenario was developed by carefully examining trends in population, industry and transport. The final report will be released shortly.*

*With regard to particles as PM2.5 the study found that:*

*'we expect:*

- significantly reduced particle emissions from diesel engines, but this is somewhat offset by growth from domestic, commercial and industrial activity.*
- Emissions of particles from industry are expected to grow slightly through long term economic growth. Most particles from industry are emitted from tall stacks or away from residential areas, however some emissions occur close to where people live. Some of these emissions are from small to medium sized industries **that are too numerous to manage through EPA licenses.***

If Victorian EPA has already stated that they will have problems with management of licences, how is the public to have confidence that our health will not be further compromised?

As such, the annual average PM2.5 compliance standard of 6ug/m3 is more appropriate rather than the advisory standard. This is particularly relevant if monitoring is to maintain its location protocol that is *the average position for the average reading for the average person*. So, by definition, those that are closest to the source and most impacted are the least protected which is in contradiction to the whole basis of determining that PM2.5 is bad for your health. Therefore, actual risk is in context to what - controlled low level management over ethical and moral obligation to those most vulnerable?

If the key objective of air quality management and establishing a standard is to protect the life, health and well-being of humans then it should be incumbent on the NEPC to make the lowest possible level to achieve protection to all which should rightly include high management risk for the minority of the population. Only then would you achieve the maximum health benefits and cost burdens borne by the taxpayer.

***Do you support the preferred numerical values for new/revised 24-hour and annual PM2.5 and PM10 standards? Which value for the 24-hour PM10 standard do you consider to be the most appropriate, and why?***

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The 24 hour PM2.5 compliance standard of 20ug/m<sup>3</sup> can be achieved given table ES5 states both options and the 24 hour standard for PM10 to 40 µg/m<sup>3</sup> can be improved.

The same reasons apply as previous question but also because the Victorian Government is proposing to increase mining across all areas of Gippsland. Compound this with mining being exempt from protective provisions of the Planning and Environment Act 1987 and a mine buffer can be as little as 100mts with a power station at 1km buffer. Consequently, existing legislation lawfully allows industry to impact the health of a person. However, the main relevance here for PM10 is that Gippsland is prone to major bushfires and significant burn-offs are conducted regularly where smoke with visibility of 1km and less is regular. These episodes extend well over a 24hr period- 2 weeks with air quality warnings required.

This data reporting and notification to affected persons enables precautions to be implemented to reduce exposure.

*Do you agree with the preferred form of the exposure-reduction framework under which an exposure index based on monitoring would be used to track population exposure for major urban areas?*

**An exposure reduction framework** is needed to maximise health benefits with long term targets to decrease exposure needed and should be included in the draft NEPM. This should also coincide with improved and reformed frameworks for state planning schemes, alignment of state policies to ensure consistency for compliance and enforcement by State Regulators and improved resources for monitoring to protect community health.

As previously stated with the focus to expand mining in Victoria a time frame of up to 10 years to implement the NEPM (Part 2 section 6) is totally unacceptable and makes no economic sense given the health argument acknowledged on page 1 of the impact statement and associated health costs to the community.

**Commencement of the NEPM** should, therefore, be a priority of all jurisdictions so the variation must be finalised as soon as possible. This would give those communities improved monitoring and data collection which should be binding on State Regulators to report and provide public available data access. The objective is to improve the health outcomes of those most impacted by air pollution.

Existing State and Territory air quality monitoring and reporting continue to be adhoc with implementation of any standards problematic due to conflicting and varied planning schemes and exemptions. Economic contribution by industry sets inconsistent standards and responses under regulatory monitoring by EPA rather than a standard framework of national protocols.

Therefore, **“additional performance monitoring stations may be needed”** (p.9) should not be left to the discretion of state regulators rather a criterion based system should be

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provided under the NEPM to ensure the goal of exposure reduction, regardless of community size, is achieved.

For Morwell, the **location of air monitors** have never been positioned where the most vulnerable persons are impacted so no true readings can accurately determine the extent of real exposure and to the health impacts. Licence conditions are based on modelling of potential air pollution where modelling can predict the emissions but it cannot control the weather which disperses the pollutants.

Our right to clean air is slowly eroding with government legislation prioritising industry over the health of the person. There are currently more protective measures to prioritise and protect the environment and biodiversity in an EES process than there is to argue a case that any proposed mining development will be harmful to a person's health.

Additionally, monitor location is relevant to consider to ensure industry have not breached licence conditions. (Acknowledged that it is not part of the NEPM impact statement)

Under the Environment Protection Act 1987, a company could be liable for pollution to the environment due to breaches with discharge, emissions and deposits from a coal mine. However, because Victorian EPA has inadequate monitoring, the actual evidential proof to prove industry to be liable as to the severity of the air toxics is greatly diminished.

This means that EPA, the supposed pre-eminent authority to assess pollution and to their impacts, has greatly undermined their own ability to:

- make correct and appropriate public warnings to protect human health, and;
- determine breaches by industry and to their severity.

## Buffer zones

My concern with the 100m buffer rule in Victoria is the ongoing potential for health implications in spite of the proposed NEPM. The distance from any industrial development needs to be reviewed in regards to appropriate separation distances.

Under the Mineral Resources Sustainable Development Act a licensee is not to work within 100m of a dwelling, however under Sec 46 the Minister may authorise works near a dwelling house with consent of landowner.

Additionally, mining is exempt from the State Planning Policy Framework (SPPF) of the Planning and Environment Act 1987 (P&E Act) and its corresponding protective objectives and policies.

Under an Environmental Effects Statement provision has to be made for an *'adequate buffer area to ensure adverse environmental effects, nuisance or exposure to hazards does not affect existing and future residents.'* What health standard would determine adequate buffer distance between industry and residential and what distance would that be? It appears that a native plant has more rights than a person has.

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**Establishing a national framework** for both monitoring of air quality and responding to critical incidents based on appropriate data is now appropriate and morally ethical given the intrusion of resource mining into rural and regional communities Australia wide. With the potential for more serious events to impact our communities' in Gippsland, consistent and binding measures would ensure management within the EPA agency and public health regulator is proactive and more effective.

The draft variation NEPM does reflect the objective to protect human life but its implementation would be dependent on a number of factors. A national standards system will go some way to providing protocols but if the monitors system is inadequate to inform those residents most impacted and vulnerable, then the full potential of these goals cannot be achieved.

Additionally, if the planning schemes in Victoria continue to exempt mining from appropriate buffer distances then the monitors will provide no protection.

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