Nature Conservation Council The voice for nature in NSW

Environmental Justice Australia

Submission

in response to

National Clean Air Agreement Discussion Paper

prepared by

Environmental Justice Australia

and

Nature Conservation Council of NSW

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INTRODUCTION

Thank you for the opportunity to comment on the proposal National Clean Air Agreement. Environmental Justice Australia (formally the Environment Defenders Office Victoria) has been providing advice to communities on air pollution for 20 years. Last year we released a report analysing the problems with air pollution regulation in Australia and recommending solutions - *Clearing the Air: Why Australia Urgently Needs Effective Air Pollution Laws*.[1] We also organised the National Air Pollution Summit in conjunction with the Nature Conservation Council of NSW and Doctors for the Environment Australia with 60 attendees including heath, law and air pollution experts, peak conservation organisations and communities affected by air pollution. In April this year we publicly released the results of our extensive analysis of key air pollution data from the last five years of the National Pollutant Inventory, which showed significant increases in some sources of pollution, particularly from coal mines.

The Nature Conservation Council of NSW (NCC) is the peak environment organisation for New South Wales, representing 130 member societies across the state. Together we are committed to protecting and conserving the wildlife, landscapes and natural resources of NSW.

Over 3000 Australians a year die from air pollution-related illnesses[2], and the health costs of death and disease runs into billions of dollars every year.[3] Despite this, the ongoing lack of action from State governments indicates that they believe that air pollution is not a problem and the Federal Government appears reluctant to do more than give general encouragement to the States to take action. All governments must recognise that air pollution is a real and growing problem in Australia, end the delays of the last two decades of air pollution regulation and treat this issue with the priority it deserves. In particular, governments should begin the process to move towards a new system of national laws that effectively regulates air pollution for the health of all Australians and the environment.

We welcome the commitment of State, Territory and Federal Governments to creating a National Clean Air Agreement ("Agreement") and hope it signals a shift towards real regulatory action on air pollution.

Current state of air pollution regulation in Australia

It is well accepted that air pollution regulation is failing to protect the health of Australian communities. The 2011 review of the Ambient Air Quality NEPM ('AAQ NEPM') conducted by the National Environment Protection Council ('NEPC') found that 'there are significant health effects at current levels of air pollution in Australian cities' and that the current standards 'are not meeting the requirement for adequate protection of human health'. [4]

The economic reasons for reducing air pollution levels are clear and undisputable, as recognised in the *Economic Analysis to inform the National Plan for Clean Air (Particles)*[5] ('Economic Analysis'). The economic benefit of implementing national pollution abatement measures was estimated to be $8.8 billion. A similar scale of economic benefit is described in numerous Australian and international analysis of

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[1] Available at http://envirojustice.org.au/major-reports/clearing-the-air-why-australia-urgently-needs-effective-national-air-pollution-laws

[2] Begg S, Vos T, Barker B, et al. The burden of disease and injury in Australia 2003, Australian Institute of Health and Welfare, Cat. no. PHE 82, Canberra (2007), p234

[3] See for example Australian Medical Association submission to the 2013 Senate Inquiry 'Health Impacts of Air Pollution'

[4] National Environmental Protection Council, *Ambient Air Quality NEPM Review*, Adelaide (2011) p 28, available at http://www.scew.gov.au/resource/national-environment-protection-ambient-air-quality-measure-review-review-report.

[5] Pacific Environment Limited and Marsden Jacob Associates, *Economic Analysis to inform the National Plan For Clean Air (Particles)* Final Report - Volume 1, Main Report, August 2013. http://www.environment.gov.au/system/files/pages/dfe7ed5d-1eaf-4ff2-bfe7-dbb7ebaf21a9/files/nepc-economic-analysis-final-report.pdf

air pollution reduction. In those countries where air pollution has been reduced (temporarily or permanently) the economic (i.e. health) benefits have been immediate.[6] Therefore we can be confident that a reduction in Australian pollution levels would have the same impact.

Continued vigilance is needed in reducing Australian air pollution levels. As the Impact Statement for the 2014 AAQ NEPM Variation noted - "Where PM concentrations have historically been below air quality standards/goals, there is no guarantee that this will continue in the future, especially given that the projections in state inventories show that PM_{10} and $PM_{2.5}$ emissions are likely to increase under a BAU scenario, in spite of controls on emissions from several sectors".[7]

The current system of non-binding national standards via NEPMs, and inadequate State regulation is clearly no longer adequate to deal with the problems we are facing.

SUMMARY OF RECOMMENDTIONS

The current State laws and national standards for air pollution are not adequate and are failing to protect the health of Australians. Federal and State Governments must make human health a priority and commit to immediate measures that will reduce pollution levels, reduce the exposure of communities to pollution, and significantly reduce the health burden that air pollution places on the Australian community. The National Clean Air Agreement should identify measures that can be implemented immediately to reduce health impacts on Australians, and begin the process of moving towards national clean air laws.

- The Agreement must include a logical and justifiable framework for prioritising action on air pollution reduction, that is commensurate with the nature of the problem and its impacts on human and environmental health.
- The goal of the Agreement should be changed to: "The *continuous* reduction in air pollution and exposure for all Australians *in order to achieve* health, environmental *or* economic benefits".
- The Agreement principles must prioritise action on human health rather than considerations about the burden on polluters. Priority should be given to the pollutants and pollution sources that create the greatest health impacts; and pollution sources that create a disproportionate and unfair burden on certain communities.
- The facilitating framework and principles for the Agreement must be re-written to require governments to give priority to pollution sources which are the greatest contributor to pollution levels and/or have significant impacts on human or environmental health.
- The facilitating framework should also make it clear that the Agreement can include actions to implement national regulatory approaches, and improve institutional arrangements or regulation implementation at the State or national level such as ways to improve enforcement of State air pollution laws.
- Cost benefit analysis should not be used to delay action on priority issues, but should be used as a tool to determine which pollution control measures will provide the greatest reduction in pollution for the money spent.
- Governments must include clear measures in the work plan before the Agreement is finalised that will result in significant reductions in pollution levels in Australia to protect human health.
- Governments must end delays of the measures already announced and implement them as a priority.
- Measures for non-road diesel engines, wood smoke and shipping should be conducted at a national level.

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[6] Barnett, A. Its safe to say there is no safe level of air pollution, *Australian and New Zealand Journal of Public Health* 2014 Vol 38 no 5.
[7] Impact Statement p.53

- Governments should recognise the inherent problems in our current approach to air pollution regulation, including the NEPMs, and begin to move towards a system of national clean air laws.
- States should commit to amending their regulation so that in populated areas where air quality exceeds or is expected to exceed NEPM ambient air quality standards, further development that will add to those pollution levels cannot be approved.
- The Agreement should include a commitment for the NPI to be strengthened and appropriately resourced to ensure all significant sources are reported including coal stockpiles, coal transport and wood heaters.
- NPI data must be available in such a way that it can be properly utilised and understood by the community, as was its original intention.
- The Agreement should include a commitment by the Commonwealth to publish an annual report that analyses trends apparent from detailed analysis of each year's NPI in light of previous years, highlighting industries and facilities that have significantly increased or reduced emissions, and substances that have been emitted in significantly greater or lesser mass.
- The Agreement should commit to implementation of the recommendations from the Ambient Air Quality NEPM Review and the Senate Inquiry 'Impacts on health of air quality in Australia'.
- States should commit to ensure free, timely and coordinated access to ambient air quality monitoring throughout Australia. Data should be current (real time or as close to it as possible). The Commonwealth should be responsible for establishing and maintaining the web interface for this air pollution monitoring website.
- Appropriate funding and resources must be committed to tackling air pollution by all Australian governments.
- All governments must give air pollution the priority it deserves, end ongoing delays and commit to measures to reduce the most significant sources of pollution as a priority as part of this Agreement.

OVERARCHING COMMENTS

While we support the concept of a National Clean Air Agreement, we are concerned that the current proposal for the Agreement will do little to address the issues identified above, in particular the health burden on Australians. This is for two reasons:

1) The proposed Agreement does not contain a framework that will result in measures being adopted that will address the most problematic sources of pollution in Australia. This is discussed in detail below.
2) At present there appears to be very little commitment from Governments to take regulatory steps to tackle air pollution. The work plan for the discussion paper for the Agreement confirms this, with no new significant measures identified. At present the Agreement largely re-states commitments that have been announced many times already and/or have been underway for some time. We understand that the Federal Government is largely leaving it to State Governments to propose measures to be included in this Agreement, and that State Governments have not been particularly forthcoming in proposing measures. It is the responsibility of ALL governments to address air pollution. However if States are unwilling to take on this task the Federal Government should compel it. A weak Agreement is further evidence for the need for national clean air laws which will require concerted national action on air pollution.

1. DO YOU AGREE WITH THE PROPOSED GOAL, PURPOSE, PRINCIPLES AND SCOPE AS A BASIS FOR THE NATIONAL CLEAN AIR AGREEMENT?

The current proposal for the Agreement will do little to address the issues identified above, in particular the health burden on Australians. The facilitating framework provides no basis for prioritising action on air

pollution, and will be of no assistance to Governments in deciding what action and measures should be adopted under the Agreement. Suggestions in this regard are made below.

Recommendation 1:

The Agreement must include a logical and justifiable framework for prioritising action on air pollution reduction, that is commensurate with the nature of the problem and its impacts on human and environmental health.

Goal of the National Clean Air Agreement

The proposed goal of the Agreement is "The sustained reduction in air pollution and exposure for all Australians, with associated health, environmental and economic benefits."[8]

This should be changed to: "The *continuous* reduction in air pollution and exposure for all Australians *in order to achieve* health, environmental *or* economic benefits".

'Sustained reduction' would be satisfied if pollution levels were only reduced slightly and then maintained. As there is not safe level of exposure[9] for many pollutants including $PM_{2.5}$, the aim should be a continuous reduction in pollution. In addition it's important that the wording of the goal is not used as an argument against measures that have *either* environmental, health or economic benefits (as opposed to needing to fulfil all three). If measures to reduce pollution fulfil any one of those objectives they should be the capable of being included in the Agreement.

Recommendation 2:

The goal of the Agreement should be changed to: "The *continuous* reduction in air pollution and exposure for all Australians *in order to achieve* health, environmental *or* economic benefits".

'Regulatory burden' and prioritisation of polluter concerns

At present the principles of the Agreement have a significant focus on 'reducing regulatory burden', 'allowing for sufficient lead in times' and 'minimising disruptions that may result from policy changes'.[10] Further the discussion paper states that regulation should be a 'last resort'.[11] It is inappropriate for these considerations and messaging to dominate the Agreement.

Regulation is particularly important in controlling air pollution. Individuals cannot readily control the extent to which they are exposed to harmful air-borne pollutants. They rely on governments to implement and enforce good regulation to protect their health. Polluters will pollute to the maximum amount allowed by law (and often more when enforcement is lax as it is with air pollution). Although regulation that is ineffective or completely unnecessary is not desirable in any field, this should not be confused with regulation that is merely undesirable to industry or imposes costs on industry. As the OECD has found, despite environmental regulation increasing significantly in OECD countries over the last 20 years, productivity has not been impacted.[12] Instead they found that environmental regulation "may translate

[8] *Working towards a National Clean Air Agreement* Discussion paper March 2015, p12
[9] Barnett, A. Its safe to say there is no safe level of air pollution, *Australian and New Zealand Journal of Public Health* 2014 Vol 38 no 5
[10] Discussion paper p14
[11] Discussion paper p14
[12] Albrizio, S. *et al.* (2014), "Do Environmental Policies Matter for Productivity Growth?: Insights from New Cross-Country Measures of Environmental Policies", *OECD Economics Department Working Papers*, No. 1176, OECD Publishing. http://dx.doi.org/10.1787/5jxrjncjrcxp-en

into a permanent increase in productivity levels in some industries"[13] They encouraged countries to adopt stringent environmental regulation, finding that "stringent environmental policies should not be expected to have detrimental effects on productivity, in particular if policies are well-designed"[14]

Many of the popular arguments about the unnecessary regulatory burden from environmental laws are spurious and the Federal Government's attack on environmental regulation is misguided. Environmental regulation is a useful and beneficial tool that governments should use to manage polluter behaviour for the benefit of all. Rather than regulation being labelled a "last resort", it should be readily considered as one of the most appropriate and efficient ways to reduce pollution levels and, as the OECD notes, drive innovation.

With respect to the principles of 'allowing for sufficient lead in times' and 'minimising disruptions that may result from policy changes' these should not be core principles that trump the need for immediate action to reduce pollution levels to protect human health. As noted above, in those countries where air pollution has been reduced - temporarily or permanently - the health (and economic) benefits have been immediate.[15] Therefore instead, the principles should encourage rapid action to bring down those costs as soon as possible. Preventing unnecessary death and disease from air pollution should be more important that minimising disruption to polluters.

Human health should be prioritised

The principles should instead require governments to prioritise actions that protect human health. As is clear from the significant health costs associated with air pollution, prioritising human health will also have significant economic (and environmental) benefits.

Environmental Justice Considerations

Although air quality is adequate for many Australians, there are numerous communities for whom air pollution is very bad, and in some cases worsening, and these people unfairly bear the impacts of Australia's polluting activities.

Two recent studies have shown that particular groups suffer significant environmental injustice from industrial air pollution in Australia.[16] Communities within one kilometre of industrial pollution sites are characterised by social and economic disadvantage.[17] A study published in 2014 stated:

> This national level quantitative assessment of environmental justice has found significant and systemic inequities in the social distribution of industrial air pollution in Australia. Regardless of how air pollution was measured; facility presence, emission volume, or toxicity, our analysis

[13] Albrizio, S. *et al.* (2014), "Do Environmental Policies Matter for Productivity Growth?: Insights from New Cross-Country Measures of Environmental Policies", *OECD Economics Department Working Papers*, No. 1176, OECD Publishing, p34

[14] Albrizio, S. *et al.* (2014), "Do Environmental Policies Matter for Productivity Growth?: Insights from New Cross-Country Measures of Environmental Policies", *OECD Economics Department Working Papers*, No. 1176, OECD Publishing, p34

[15] Barnett, A. Its safe to say there is no safe level of air pollution, *Australian and New Zealand Journal of Public Health* 2014 Vol 38 no 5.

[16] Chakaraborty and Green, *Australia's first national level quantitative environmental justice assessment of industrial air pollution***,** Environmental Research Letters 9 (2014) 044010; Higgenbotham et al, *Environmental injustice and air pollution in coal affected communities, Hunter Valley, Australia,* Health & Place 16 (2010) 259–266.

[17] Chakaraborty and Green, *Australia's first national level quantitative environmental justice assessment of industrial air pollution***,** Environmental Research Letters 9 (2014) 044010.

indicated a consistent and disproportionate impact on indigenous and socially disadvantaged communities.[18]

It is unjust that certain communities bear the impacts of pollution significantly more than others. Current air pollution laws do not adequately protect these communities. Although it is important to prioritise measures that will create health benefits for the greatest number of people, it is also important to target the disproportionate health impacts placed on some communities and address this environmental injustice.

In determining which human health impacts to prioritise, the principles should require:

a) Prioritisation of the pollutants and pollution sources that create the greatest health impacts; and
b) Implementation of 'environmental justice' principles whereby pollution sources that create disproportionate health impacts on certain communities, resulting in those communities bearing an unfair burden from pollution, should have targeted action, regardless of whether the number of people affected is at a smaller scale (e.g. lead-affected communities)

Recommendation 3:

The Agreement principles must prioritise action on human health rather than considerations about the burden on polluters. Priority should be given to the pollutants and pollution sources that create the greatest health impacts; and pollution sources that create a disproportionate and unfair burden on certain communities.

Setting priorities for action.

The priorities for pollution control strategies should reflect the relative contribution of various pollution sources, and the health impacts of those sources. The Agreement's facilitating framework and principles should require governments to prioritise those pollution sources which are the greatest contributor to pollution levels (particularly those which create environmental harm) and/or have significant impacts on human health.

For example, the discussion paper notes that particle pollution (PM) is a significant problem. Measures to reduce $PM_{2.5}$ emissions are especially important. A 2013 Senate Inquiry heard evidence that $PM_{2.5}$ emissions are "the most health-hazardous air pollutant, responsible for 10 to 20 times as many premature deaths as the next worst pollutant, ozone". [19]

However the discussion paper does not propose any framework or requirement to identify the most significant sources or those that have the most significant impacts on human health. This will allow governments to include a grab bag of measures in the work plan that are politically acceptable but that will not necessarily result in any significant impact on human or environmental health. This is clearly evident from the current work plan which proposes to prioritise lawnmowers and outboard motors for example, but contains no specific measures to tackle PM emissions from many of the biggest sources of pollution, that have the biggest impact on human health. For example, coal-fired power stations are responsible for 31% of total national $PM_{2.5}$ emissions and coal mines for 23%. Coal mines are responsible for 46% of Australia's total PM_{10} emissions - 30 times as much as all of Australia's motor vehicles. And yet there is no mention of coal mines or coal-fired power stations in the Agreement.

[18] Chakaraborty and Green, *Australia's first national level quantitative environmental justice assessment of industrial air pollution*, Environmental Research Letters 9 (2014) 044010.
[19] Senate Inquiry 'Impacts on Health of Air Quality in Australia' 16 August 2013 http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2010-13/airquality/report/index

The facilitating framework should also make it clear that the Agreement can include actions to implement national regulatory approaches, and improve institutional arrangements or regulation implementation at the State or national level such as ways to improve enforcement of State air pollution laws.

Recommendation 4:

The facilitating framework and principles for the Agreement must be re-written to require governments to give priority to pollution sources which are the greatest contributor to pollution levels and/or have significant impacts on human or environmental health.

The facilitating framework should also make it clear that the Agreement can include actions to implement national regulatory approaches, and improve institutional arrangements or regulation implementation at the State or national level such as ways to improve enforcement of State air pollution laws.

Cost-benefit analysis.

The facilitating framework for the National Clean Air Agreement should be based on a rigorous and transparent assessment of the costs of pollution and the benefits of pollution reduction. Pollution sources, substances and problems should be assessed according to their social, environmental and economic costs, and potential solutions and strategies should similarly be assessed according to their benefits. However cost benefit analysis should not be used to delay action on reducing the pollutants or pollution sources that have been prioritised as requiring action, particularly for human health. Rather, once those priority pollutants or pollution sources have been identified, it should be used to assess which pollution control measures will produce the most benefit for the investment.

For example, Greenhouse gas abatement measures are often assessed using the 'McKinsey cost curve'.[20] The benefit of this systematic approach is that it readily differentiates between pollution control approaches that will have greatest 'bang for the buck' and those that - while popular or politically acceptable - will have minimal benefit in reducing pollution levels.

Recommendation 5:

Cost benefit analysis should not be used to delay action on priority issues, but should be used as a tool to determine which pollution control measures will provide the greatest reduction in pollution for the money spent.

WHICH HIGH PRIORITY AIR QUALITY ISSUES SHOULD BE ADDRESSED THROUGH THE AGREEMENT?

Measures to be included in the work plan

As noted above, the Agreement should prioritise actions that will address the biggest sources of pollution and/or the sources that are creating the greatest environmental and human health impacts. It should also prioritise institutional or regulatory reform that will result in air pollution regulation being more effectively implemented such as proper enforcement. In light of this, the proposed work plan needs to be significantly improved. The work plan currently includes measures that have already been announced and/or are underway, and has not been developed with any regard to what measures need to be prioritised to reduce Australia's pollution levels to protect human and environmental health. Australian

[20] See www.mckinsey.com/insights/sustainability/a_cost_curve_for_greenhouse_gas_reduction (Exhibit 1)

governments must no longer ignore the most significant sources of pollution, and those which are having the biggest impact on human health.

Governments must include clear measures in the work plan before the Agreement is finalised that will result in significant reductions in pollution levels in Australia to protect human health.

Problems with the current work plan

Most of the measures in the work plan have been discussed and delayed for years. The community is fed up with the same measures being announced year after year, followed by inability of governments to agree on and implement measures. For example, despite the substantial benefits of reducing wood smoke (estimated health costs are $24 billion), and the readily available solutions, this major source of harmful pollution has still not been addressed. Governments must end the delay, deal with those issues as quickly as possible and focus attention on other sources of pollution that are the most significant.

Recommendation 6:

Governments must include clear measures in the work plan before the Agreement is finalised that will result in significant reductions in pollution levels in Australia to protect human health.

Recommendation 7:

Governments must end delays of the measures already announced and implement them as a priority.

Problems with the current federated approach

The Discussion Paper notes[21] that states and territories have primary responsibility for environmental management and proposes no significant measures to strengthen nation-wide strategies. At present, Australian state and territory governments are failing to control air pollution.

For example, the discussion paper proposes to leave each jurisdiction to deal with emissions from non-road diesel engines, wood smoke and shipping. This approach has already failed for decades and a strong national approach is necessary. Most companies contributing significantly to these emissions operate nationally, so a consistent national approach is necessary.

Current non-binding national air pollution measures are not assisting in reducing pollution levels. The National Environmental Protection (National Pollutant Inventory) Measure ("NPI") ensures a consistent approach to reporting toxic emissions, but does nothing to prevent emissions increasing. Likewise, the National Environment Protection (Ambient Air Quality) Measure sets nationally consistent standards for six pollutants and ensures a more or less comparable approach to monitoring air pollution concentrations in Australian cities but does nothing to ensure that polluters comply with these standards or that community members can access monitoring data. In some states (especially Western Australia) even accessing monitoring data is difficult. The existing cooperative approach of using NEPMs to develop national air pollution standards is clearly no longer working or adequate. The Federal Government must do more.

The current view of how air pollution is to be regulated in the Australian federation is not the only option. The Federal Government has the power to play a greater role in the regulation of air pollution.

Governments should recognise the inherent problems in our current approach to air pollution regulation, including the NEPMs, and begin to move towards a system of national clean air laws.

[21] Discussion paper p5-6

While the Australian Constitution does not contain an explicit head of power for air quality, there is no doubt that the Commonwealth has sufficient constitutional powers via its other heads of power to substantially regulate the sources of air pollution and improve ambient air quality.

A truly national system of air pollution laws would combine the strengths of the Commonwealth Government, and the strengths of State Governments, to create an integrated and effective system of national air pollution regulation. Federal laws would provide a broad framework for binding national standards and actions, which the States would then implement via their own laws and policies. In most instances States and territories would continue to have responsibility for licencing, data collection and enforcement. There would be no duplication of systems at State and Territory level.

Numerous benefits would flow to both Commonwealth and State Governments if effective national laws were in place, not least the billions of dollars saved in health costs. All governments should consider the benefits that national clean air laws would bring and begin to explore this option.

Recommendation 8:

Measures for non-road diesel engines, wood smoke and shipping should be conducted at a national level.

Recommendation 9:

Governments should recognise the inherent problems in our current approach to air pollution regulation, including the NEPMs, and begin to move towards a system of national clean air laws.

Failure of State regulators to protect community health from cumulative impacts

As mentioned above, in addition to including measures to address specific pollution sources, the Agreement should also include commitments to take national action to improve ineffective or inadequate State regulation where that problem exists in a number of jurisdictions.

One such regulatory failure is the ability of state governments to continue to approve developments in locations where air quality already exceeds or is expected to exceed the NEPM ambient air quality standards. For example, the air quality impact assessment for the Maules Creek mine in NSW clearly predicted that ambient particle pollution concentrations would exceed the annual and 24 hour standards with the additional emissions from the mine. The assessment states:

> "The modelling indicates there are a number of residences that are predicted to experience maximum 24-hour average PM_{10} concentrations above the NSW Office of Environment and Heritage criterion of 50ug/m3 based on the impacts from the Project alone. Cumulative impacts were also assessed, however the analysis indicates that the residences most likely to experience cumulative 24 hour $PM2_{10}$ impacts are those that are already predicted to be impacted from the Project alone."[22]

The consultants further acknowledge that "there are 15 properties that are predicted to experience dust impacts on more than 25% of their land area for the maximum 24-hour average PM_{10} concentration (project alone) and four for the cumulative annual average PM_{10} concentration."[23]

[22] PAE Holmes, 2011, Air Quality Impact Assessment: Maules Creek Coal Project, p.iii

[23] PAE Holmes, 2011, Air Quality Impact Assessment: Maules Creek Coal Project, p.89

In recognition of the serious and costly health impacts on communities in these regions, regulation should prevent states from approving further development that will increase the pollution levels in those airsheds. This is clearly in the interest of the whole community and will prevent further death and disease in pollution affected communities.

Any State reluctance to adopt such a requirement is further evidence of the need for national air pollution prevention laws to ensure all jurisdictions have air pollution regulation that protects the health of the Australian community.

Recommendation 10:

States should commit to amending their regulation so that populated areas where air quality exceeds or is expected to exceed NEPM ambient air quality standards, further development that will add to those pollution levels cannot be approved.

Implementing recommendations of recent reviews

The discussion paper makes no reference to two recent government reviews, or the recommendations they contained to strengthen Australia's approach to pollution control. We recommend that the Agreement include a commitment to implementing the 23 recommendations of the 2011 Ambient Air Quality NEPM Review[24] and the 13 recommendations of the 2013 Senate Inquiry 'Impacts on Health of Air Quality in Australia' which included covering coal wagons.

Recommendation 11:

The Agreement should include a work plan for the timely implementation of the recommendations from the Ambient Air Quality NEPM Review and the Senate Inquiry 'Impacts on health of air quality in Australia'.

Strengthening and enhancing the National Pollutant Inventory

The NPI is Australia's most comprehensive database reporting emissions of toxic substances to air, land and water. Unlike emission reports and estimates managed by states and territories, the NPI provides comparable, timely and systematically organised data for significant pollution sources.

The desired environmental outcomes of the NPI are:

(a) the maintenance and improvement of:

(i) ambient air quality; and

(ii) ambient marine, estuarine and fresh water quality;

(b) the minimisation of environmental impacts associated with hazardous wastes; and
(c) an improvement in the sustainable use of resources.[25]

The logic of the NPI is that companies will be motivated to reduce their emissions if they are reporting transparently to regulators, competitors and customers. In reality, the NPI is failing to achieve that objective, partly due to gaps in data, and partly due to preventable shortcomings in the NPI website.

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[24] National Environmental Protection Council, 2011, Ambient Air Quality NEPM Review, available at www.scew.gov.au/resource/national-environment-protection-ambient-air-quality-measure-review-review-report
[25] *National Environment Protection (National Pollutant Inventory) Measure* 1998, cl 5

To achieve its purpose, the NPI requires improvements such as:

- The inclusion of particle emissions from uncovered coal stockpiles (at export terminals) and uncovered coal wagons. In communities such as Newcastle, Mackay, Brisbane and Gladstone, these are potentially significant sources of PM_{10} and other toxic substances.
- The inclusion of emissions from coal mines in the Latrobe Valley and other locations where the managers of coal-fired power stations also operate mines. Currently, mine emissions are incorporated into estimates of emissions from the coal-fired power stations they fuel rather than being separately reported. The NPI cannot improve emission reduction if it conflates pollution sources.
- The inclusion of $PM_{2.5}$ emissions from wood heaters which are - in some airsheds - the dominant source of fine particles.
- The capacity to generate reports that track emissions from multiple sources over multiple years in order to identify trends over multiple years for selected substances, facilities and industries (sources), and restore the NPI mapping function.

Some relatively simple improvements to the NPI's web interface could significantly improve its functionality and its impact. For example, the map function needs to be fixed. This important element of the NPI's design has been broken for several years. It should be straightforward to show trends. In fact, trends are arguably the most important function of the NPI. Cleaner production is indicated by a downward trend. But to show the trends in emissions from a single facility requires multiple 'form' searches for each year, downloading several csv files, then opening and formatting them in Excel and creating a chart. To track the trend in emissions from multiple facilities or from all facilities associated with a specific industry requires an even more laborious process, going through these steps multiple times.

Recommendation 12:

The Agreement should include a commitment for the NPI to be strengthened and appropriately resourced to ensure all significant sources are reported including coal stockpiles, coal transport and wood heaters.

Recommendation 13:

NPI data must be available in such a way that it can be properly utilised and understood by the community, as was its original intention.

Recommendation 14:

The Agreement should include a commitment by the Commonwealth to publish an annual report that analyses trends apparent from detailed analysis of each year's NPI in light of previous years, highlighting industries and facilities that have significantly increased or reduced emissions, and substances that have been emitted in significantly greater or lesser mass.

Access to monitoring data

Access to monitoring data is critical for all stakeholders: for community members in order to understand their exposure to harmful pollution; to regulators in order to inform assessment, licencing and enforcement actions; and to industry in order to inform management practices.

In November 2014, we attempted to collate ambient air quality monitoring data for all Australian states for 2010-2014 inclusive. We found that access to ambient air quality monitoring varies considerably from state to state and that the task of collating a full data set was almost impossible.

NSW has the best system. It's simple to download data sets that include any or all of the pollutants that are monitored at any or all of the monitoring locations for any specified period. By contrast, it is not possible to download monitoring data from the state government agency websites that purport to serve this purpose in Western Australia, Queensland, Victoria or South Australia.

W.A.	https://web.archive.org/web/20141016131029/http://www.dec.wa.gov.au/pollution-prevention/air-quality/air-quality-data.html
QLD	http://www.ehp.qld.gov.au/air/
Vic	http://www.epa.vic.gov.au/our-work/monitoring-the-environment/monitoring-victorias-air/monitoring-results
S.A.	http://www.epa.sa.gov.au/environmental_info/air_quality/air_monitoring_and_modelling/monitoring_information/monitoring_data

Instead, it is necessary to make direct contact with the staff responsible for air quality management and request data. In some instances, we waited up to three months to receive any response to requests for data, and needed to follow up several times before receiving any response. When we requested data from the Western Australian Department of Environment Regulation ('DER'), we were obliged to agree to the following conditions:

> *Data is chargeable at a rate of $110 per request plus $33 per parameter per site per month. Prior to any data transmission, your agreement will be sought to the total data costs. Data files will be provided as space delimited text files. The data will be provided on the basis that you and/or your company accept full responsibility for its accuracy and for the use to which it is put. The Department of Environment Regulation accepts no responsibility for the accuracy of the information or its suitability for your work. Any reference to the information in documents produced by you or your company must be accompanied by a statement of your acceptance of responsibility along the above lines. The data remains the property of the Department of Environment Regulation and must not be forwarded or sold to a third party without the written consent of the Senior Manager, Air Quality Services, Department of Environment Regulation*

We requested monitoring data for three pollutants at nine locations for five years. According to the DERs advertised rates, our data request would have cost approximately $4,500, and the department would have given no commitment to the accuracy of the data.

Recommendation 15:

States should commit to ensure free, timely and coordinated access to ambient air quality monitoring throughout Australia. Data should be current (real time or as close to it as possible). The Commonwealth should be responsible for establishing and maintaining the web interface for this air pollution monitoring website.

IMPLEMENTATION ISSUES TO BE CONSIDERED FOR THE AGREEMENT

Uncertain funding

Air pollution kills more Australians than motor vehicle accidents, and costs the health system billions. But the Discussion Paper is silent on how pollution control measures will be funded, beyond citing two

irrelevant programs. The $2.55 billion in Commonwealth Government support for the Emissions Reduction Fund [26] relates to CO_2 emissions and is not relevant to a strategy that aims to reduce toxic air pollution. Environment ministers must commit appropriate funds to pollution control, reflecting the significant costs of pollution on the community, and the significant economic benefit that States can achieve from reducing pollution levels via reduced health costs.

Recommendation 16:

Appropriate funding and resources must be committed to tackling air pollution by all Australian governments.

Delays in addressing air pollution

In 2011, the Council of Australian Governments (COAG) identified air pollution as a "priority issue of national significance" and agreed to develop a national action plan by the end of 2014. This Plan (now the 'National Clean Air Agreement' is now not due to be finalised until mid-2016. As mentioned previously, many of the measures identified in the Plan, or running concurrently have faced significant delays or have stalled completely. It is clear that reducing air pollution must become a higher priority for Australia's environment ministers to receive the attention it warrants.

Recommendation 17:

All governments must give air pollution the priority it deserves, end ongoing delays and commit to measures to reduce the most significant sources of pollution as a priority as part of this Agreement.

[26] Discussion paper p.3