

Australia: Labor seeks to block pollution documents

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In more than a week of legal hearings, the Labor government in New South Wales has sought to block the release of vital documents relating to its approval for the reopening of a copper smelter in the heart of Port Kembla, one of the most polluted centres of the industrial city of Wollongong.

Responding to a challenge by local resident Helen Hamilton under the state's Freedom of Information Act, lawyers for the Carr government's Environment Protection Agency (EPA) argued that the parliamentary system of government precluded the handing over of the 217 documents.

Barrister Josephine Kelly for the EPA, when questioned by District Court Judge Anne Ainslie-Wallace as to where the case was heading, said the government was elected by the people and was responsible only to parliament. She accused Hamilton's barrister Tim Robertson of seeking an extreme 'participatory democracy where everyone has a say in everything' as opposed to the system of 'responsible and representative democracy'.

Premier Carr has taken a particular interest in the smelter, having produced 11th hour legislation last year to halt Hamilton's previous legal challenge to its reopening. Carr was then guest of honour at the ceremony to mark the commencement of construction work.

In the current case, Hamilton is seeking the release of EPA documents that were subpoenaed for last year's challenge but not able to be made public once the challenge was blocked. The documents include private e-mails between EPA officials.

Hamilton's barrister told the court the documents showed that senior scientists had criticised the EPA's licensing conditions for the smelter. He also revealed that Rio Tinto, the smelter's previous owner, paid out

\$7 million in compensation to residents for burns on childrens' faces, ruined washing and other effects of acid rain. In some instances, the EPA had withheld information from the official inquiry conducted into the smelter's reopening.

As soon as the case opened in Wollongong last week, the EPA attempted several legal manoeuvres to prevent even the judge from reading some of the documents, arguing that the rules of evidence made them inadmissible in court. It then argued that the public release of the documents would harm the efficient running of government. It said they could only be handed over if they affected public safety and were 'meaningful and valuable'.

This line of argument is a further indictment of the Labor government. How can information relating to the true pollution records of a smelter that is known to contribute to ill health not be 'meaningful and valuable' and relevant to public safety? The copper plant is within a few hundred metres of three schools and its giant chimney overshadows the homes of hundreds of working class families.

Last year's Workers Inquiry into the Wollongong Leukaemia and Cancer Crisis, initiated by the Socialist Equality Party, found the smelter to be one of the most likely major causes of the high incidence of leukemia and cancer deaths in the Wollongong region, especially among young people.

The case has wider implications for democratic rights. The logic of the Labor government's position is that working people have no right to challenge dangerous or life-threatening industries in their neighbourhoods, and no right to even know the true risks involved.

The Public Interest Advocacy Centre is conducting Hamilton's case. The judge is due to hand down her

rulings on the interpretation of the Freedom of Information legislation late this week or early next, with a final decision in the case not due until mid-August. Both sides have indicated that they will appeal to a higher court. In the meantime, construction work on the smelter is proceeding, with the resulting dust already threatening residents' health.

See Also:

Test case in Australia

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