

**REPORT OF THE CHAIRPERSON OF THE EPA SECTION 20B
CONFERENCE HELD IN RESPECT OF THE LICENCE APPLICATION
RELATING TO AUSTRALIAN NATIVE LANDSCAPES PTY LTD (ANL),
COMPOSTING FACILITY, COLDSTREAM**

Date of appointment of Chair:-

Appointed on 1 February 2008

Chairperson:

Peter F. Davies

Section 20B hearing venue:-

Coldstream Community Centre

Margaret Lewis Reserve,

Kelso Street

Coldstream

Date of Section 20B conference:

18th February 2008

Date of Chairperson's report:

23rd February, 2008

Declaration

The Chairperson of the Section 20B Conference for a Licence Application by Australian Native Landscapes Pty. Ltd (ANL) for a composting facility located at 527-529 Maroondah Highway, Coldstream hereby submits to the Chairman of the EPA this conference report.

This report has been compiled to provide a review on the Section 20B conference at which the Chairperson was required to:-

- preside over a conference held pursuant to Section 20B of the Environment Protection Act 1970;
- provide a report to the Authority outlining the discussions and any resolutions;
- include in the report, any recommendations based upon the proceedings of the Section 20B conference.

Peter F.Davies, Conference Chairperson

(Appointed a Chairperson on 1 February, 2008)

23rd February, 2008

FUNCTION OF THE SECTION 20B CONFERENCE

Under the provisions of Section 20B, the EPA, as it deliberates upon an application, if it

... is of the opinion that a conference of persons concerned in any matter under consideration by the Authority may assist in a just resolution of the matter, invite all or any of the interested parties to a conference.

As indicated on the cover of this report, such a conference was held in a meeting room of the Coldstream Community Hall in regard to the licence application from Australian Native Landscapes Pty. Ltd relating to their composting facility located at 527-529 Maroondah Highway, Coldstream.

The EPA received 224 submissions in respect of the exhibited Licence Application and following notification of the conference and responses by persons wishing to be heard at such conference, the conference involved the persons listed in Appendix A.

The conference generally followed a distributed program as detailed in Appendix B of this report.

This conference report, as outlined in the following sections, reviews:-

- background details, as extracted from the EPA web site, that have led to the Licence application;
- review of operations and proposed management improvement programs provided by the proponent;
- issues raised in lodged submissions and a range of community views expressed in the course of the conference;
- recommendations brought forward by the Conference Chair for consideration by the EPA as it appraises the conference proceedings in conjunction with the lodged licence details.

TABLE OF CONTENTS

1. SUMMARY	1
2. BACKGROUND DETAILS THAT HAVE LED TO THE LICENCE APPLICATION	3
2.1.1 Investigation of background odours from Compositing facility at Coldstream	3
2.1.2 History	3
2.1.3 Details on Audit undertaken on 1 October 2007	4
2.1.4 EPA update provided on 14 December 2007	4
2.1.5 2 January 2008 – receipt of Licence Application	5
3. RECEIVED SUBMISSIONS	6
4. REVIEW OF COMPOSTING OPERATIONS, MODIFICATIONS TO DATE & PROPOSED UPGRADING AS PRESENTED BY THE PROPONENT	7
5. SHIRE OF YARRA RANGES COMMENTARY	10
5.1 Council submission	10
6. ISSUES RAISED BY SUBMITTERS	12
6.1 Submitters' concerns	12
6.2 Panel commentary upon submissions and additional remarks provided at the conference.	13
7. SUMMARY	15
7.1 Overview	15
8. RECOMMENDATION	17
8.1 Recommendation	17
 APPENDICES	
A. Persons appearing at the Section 20B conference	18
B. Conference program as scheduled	19
C. Details of submission made by Shire of Yarra Ranges	20

1. SUMMARY

The licence application under consideration has been lodged by Australian Native Landscapes Pty. Ltd (ANL). It relates to a composting facility that is currently operating at 527-529 Maroondah Highway, Coldstream.

The facility has been operating since 2006 and the licence application has arisen as a result of new regulations which required all existing composting facilities with the capacity to process more than 100 tonnes of waste per month to apply for an EPA licence by 31 December 2007.

Shortly after the commencement of the facility, community complaints in regard to adverse air emissions arose. Since that time significant community opposition to the project has been generated because of ongoing concerns with air emissions.

EPA has issued 2 Pollution Abatement Notices (PANs) and the Shire of Yarra Ranges has filed an application for an enforcement order at VCAT as a result of ongoing public concerns. The proponent has also been fined by the EPA.

The operator, ANL, has undertaken a range of management modifications as a result of the PANs, allied with consultant input.

Both the Council and EPA have been active in endeavouring to ensure that community concerns are addressed. Currently there are a range of matters before VCAT on the facility, including the applicant seeking a review of the failure of the EPA to issue a licence.

The Section 20B conference has revealed continuing community opposition to the facility on the grounds that there has been no significant abatement of the adverse air emissions. The Council supports general community concerns. Refusal of the licence is sought.

The facility operator contends that significant management improvements have been made to substantially reduce adverse air emissions and further significant modifications are in hand that will further alleviate concerns. Whilst broad details were provided on these further proposed modifications at the conference, advice was given by the proponent that specific detailed supporting technical documentation relating to these proposed modifications would be produced at the VCAT hearing that is scheduled for 7th of April 2008. This information was not provided to the EPA to supplement the documentation that had been lodged to support the licence application.

The Chair's summary, commentary and associated recommendation arising from the conference indicates that the Licence documentation should now progress to its final detailed analysis by the EPA, subject to consideration being given to the following:-

- Within a significant section of the local community, and also some more distant residents, there is a continuing concern that adverse air emissions continue to be discharged from the composting facility despite previous PAN's requiring a broad range of actions to overcome management issues. Such continuance is considered to be entirely inappropriate by residents and they continue to stress that it impacts adversely upon their living environment. As a result these residents seek refusal of the licence.

- The community doubts that further proposed modifications to management procedures will resolve the problem and opposition exists to any period of continuance within which any experimentation occurs in an endeavour to resolve the air impacts issue;
- The Council is supportive of community concerns and opposes the issuing of licence and will be seeking at VCAT support for cancellation of the planning permit for the facility, allied with the implementation of an enforcement order.
- The proponent has initiated proposed management upgrades of its operations in conjunction with its consultants and it currently holds details of such analysis for presentation at a scheduled VCAT hearing. The proponent contends that very significant benefits are to be gained from the proposed upgrading and that there should be a reduction in the potential for odour emissions. This information was not provided to the EPA to supplement the documentation that had been lodged to support the licence application.
- The EPA should have access to auditing and monitoring information on programs that have been undertaken by the proponent in response to the PANs.
- A small number of the submissions supported the continuation of the composting facility.

2. BACKGROUND DETAILS THAT HAVE LED TO THE LICENCE APPLICATION

2.1 BACKGROUND SUMMARY EXTRACTED FROM EPA WEB SITE

2.1.1 INVESTIGATION OF BACKGROUND ODOURS FROM COMPOSITING FACILITY AT COLDSTREAM

Offensive odours emanating from the composting facility in Coldstream have had a significant impact on the amenity of the local community. In response, EPA placed legal requirements on the plant operator, ANL, to address the problem. EPA also worked closely with the Shire of Yarra Ranges and local communities affected by the smell.

2.1.2 HISTORY

In November 2004, EPA granted Least waste, the Eastern Regional Waste Management Group, a works approval to set up a composting facility at Coldstream. In August 2005 Least waste contracted ANL to operate the Coldstream composting facility. The works approval was transferred to ANL in September 2005 and in April 2006 the works were completed.

EPA received a large number of reports of odour from the local community following the opening of the plant in June 2006. In June 2007 there were 77 reports from the public and in July 2007, 38 reports were received. Anyone who made an odour report to EPA regarding this site had an identification number assigned to their report to allow transparent monitoring of the number of reports made.

EPA issued a PAN to ANL in October 2006 that placed obligations and requirements on the company to address the odour issue from the site, including:

- no offensive odours beyond the boundary of the premises;
- large reduction in the quantity of green waste that can be accepted at the site; and
- the production of an odour assessment report by a qualified consultant.

In February 2007, EPA fined ANL more than \$5,000 under a Pollution Infringement Notice (PIN) for failing to comply with a requirement of this PAN. EPA also issued a Notice of Contravention, which meant the company may be liable to significant daily financial penalties if EPA undertook further enforcement action.

A further PAN was issued on 2 July 2007.

EPA's investigations indicated the primary source of odour was a pile of unmanaged green waste left there prior to commencement of operations. Other sources of odour were also identified including:-

- the leachate dam;
- windrow management; and
- incoming material.

A Stakeholder Reference Group (SRG) was formed to ensure all interests were represented and any concerns were addressed. EPA continues to carry out regular odour monitoring in the Coldstream and Lilydale areas.

2.1.3 DETAILS ON AUDIT UNDERTAKEN ON 1 OCTOBER 2007

EPA conducted an audit of ANL on 1 October 2007 to determine compliance with conditions in the PAN (2 July 2007) as referred to above. Two further audits were subsequently carried out. As a result of the 1 October audit, EPA issued a PIN for a failure to keep electronic monitoring records.

The 1 October audit also revealed both areas of compliance and non-compliance with the conditions laid out in the PAN (2 July 2007). It was noted that removal of approximately 28,000 m³ of odorous material from the ANL facility was completed at the end of September 2007.

Some of the noted main non-compliances involved:

- odour detected beyond the boundary;
- construction and covering of aerated windrows;
- lack of strict compliance with the SIA (consultant) report instructions;
- exceedance of green waste receivals limit;
- exceedances of temperature and oxygen levels in static piles;
- some omissions in standard operating procedures and monitoring regime for composting process.

Areas of compliance were found to include:

- risk contingency plan and procedures;
- no anaerobic conditions present in composting process;
- improvements in water recovery dam;
- installation of weather monitoring station;
- monitoring of compost process.

2.1.4 EPA UPDATE PROVIDED ON 14 DECEMBER 2007

Since the removal of approximately 28,000m³ of odorous material from the ANL facility being completed at the end of September 2007, EPA sought to respond to community concerns about issues relating to the site, including ongoing odour.

A community meeting was held at Coldstream on October 15, 2007, and EPA attended this meeting. Following the meeting, EPA began a program of daily presence in the area to enable a quick reponse to reports of odour. EPA officers were based at the Shire of Yarra Ranges offices in Lilydale and were undertaking regular monitoring of the area and responding to community reports.

At a community meeting on 19 November 2007, EPA reported that odour was confirmed on a two occasions, investigations into these incidents were under way, and EPA was considering enforcement action. Further incidents have occurred since that time. At the end of 2007 EPA was currently investigating and considering enforcement action into eight separate incidents of odour from ANL.

EPA expressed thanks to those in the community who have reported odour, and also those who had offered to come forward and make sworn statements. Without these statements EPA would not be able to progress enforcement action. EPA recognised that some people do

not wish to make sworn statements but it still encouraged community members to report odour to EPA's Pollution Watch Line and to keep records of any odour experienced.

At the community meeting, ANL called for a resumption of the Stakeholder Reference Group (SRG), with a meeting planned for Monday 17 December. EPA believed that it was important that ANL engage with all stakeholders on a range of matters in order to progress the situation for local residents. EPA attended the SRG meetings. It was striving to set in place satisfactory arrangements that could be made for the Christmas period and beyond.

2.1.5 2 JANUARY 2008 – RECEIPT OF LICENCE APPLICATION

On the above date EPA received a licence application from ANL in regard to its composting facility.

This application was generated as a result of new regulations which required all existing composting facilities with the capacity to process more than 100 tonnes of waste per month to apply for an EPA licence by 31 December 2007.

EPA placed it in the public domain to seek comments from the community prior to making a decision about this licence application. The licence application was available via the EPA website.

Interested persons were requested to comment in writing on the application and all comments were required to be received by the EPA on 6 February 2008.

Subsequent to the above matters the EPA decided to hold a Section 20B conference on 18 February 2008.

3. RECEIVED SUBMISSIONS

The EPA received 224 submissions in response to notice advising of the receipt of the Licence application. These submissions related to a wide range of concerns in regard to the impacts of the community from air emissions associated with the composting facility. A more detailed appraisal of the matters raised in the submissions is to be found in Section 6 of this report.

This included a submission by the Shire of Yarra Ranges who opposed the issuing of a licence. Refer to Section 5 for details.

The proponent was provided with details of the matters that were raised in the submissions.

4. REVIEW OF COMPOSTING OPERATIONS, MODIFICATIONS TO DATE & PROPOSED UPGRADING AS PRESENTED BY THE PROPONENT

4.1 SITE HISTORY

The following matters were reviewed:

- The initial applicant, Least waste, obtaining Planning Permit and Works Approval.
- Least waste calling for tenders.
- ANL tendered on the basis of using windrow technology. The proposed technology was in keeping with that used throughout other ANL sites – of which there were eight.
- ANL won the tender and it commenced works in August 2005.
- February 2006 saw the reception of green waste on to the site.
- In April 2006 processing commenced with the shredding of green waste.
- Construction was completed in August 2006.
- This included completing the hard stand windrow area and the finished product area, installation of trommel-screen and also the installation of power screen for finished products.

4.2 SUBSEQUENT MATTERS FOLLOWING COMMUNITY EXPRESSIONS OF CONCERNS OF AIR EMISSIONS FROM THE SITE.

The proponent gave a brief summary review and covered some of the matters that have been referred to in EPA documentation that has been set out in Section 2 above. The main aspects discussed by the proponent were:-

- Initial dialogue with the Shire of Yarra Ranges.
- Appointment of outside experts to form an expert Panel comprised of representatives from EPA, Shire of Yarra Ranges and ANL.
- The establishment of a Stakeholders Reference Group.
- The EPA initiating action that resulted in the PAN process with proponent striving to achieve compliance with the requirements emerging from that process.

4.3 SITE ENHANCEMENTS THAT WERE IMPLEMENTED IN 2007

The following enhancements were put in effect for the Trommel:

- Installation of a water spray to in-feed the incline conveyor.
- Enclosure (three sides) of an oversize bin area.
- Installation of a roof.
- Relocation of the plastic extractor.
- Installation of walls on the north, south (inclusive of rubber matting) and west ends.

- Installation of a sprinkler system to finished product bays.

For the Active Phase the following matters were initiated:

- Installation of electric cables.
- Installation of PLC control systems – temperature controls.
- 14 AERO-SORB® windrows.
- 12 aeration fans – pipe work for 14 windrows.

Other general matters undertaken in 2007 were as follows:

- Installation of composted windbreaks reception area.
- Modification to aeration system to dam.
- Enclosure of outlet conveyor – install chute to shredder.
- Enclosure of outlet chute for power screen stacker conveyor.
- Employment of a Technical Officer to administer requirements of the EPA PAN documentation.
- Installation of weather station.
- Aeration system for windbreaks.
- Removal of old process composted stock.
- Reconfiguration of maturation windrows into east-west direction.
- Obtain Australian Standards accreditation.
- Installation of water sprays to outlet conveyor shredder.
- Set up laboratory for Technical Officer.

Supporting photographic documentation was provided to display the current operations layout that had emerged from the implementation of the above matters.

It was contended that through the implementation of the above matters, including the implementation of the upgraded active phase AERO-SORB® covered windrows technology, there has been significant reductions in odour emissions, measured within the existing 4 week AERO-SORB® windrows plus the added advantage of compost stability and quality.

Such improvements to the reduction of odour emissions had been measured by the proponent's consultants, ETC and GHD, and the appraisal was claimed to reveal a 4-fold reduction in process emissions when compared with results from the previously employed technology at Coldstream.

4.4 ON-GOING MATTERS THAT ARE UNDER CONSIDERATION IN THE ANL CONTINUOUS IMPROVEMENT PLAN

The proponent had under consideration a proposal to achieve additional odour reduction and to improve the performance of ANL's composting process. It was proposed to extend the AERO-SORB® aerated covered windrow system to the maturation windrow process. Such action would involve the construction of 9x50x4.5x9 covered windrows in the active phase (first 4 weeks) and 10x50x4.5x9 covered windrows in the maturation stage (6 weeks).

In summary, the proponent contended that there would be significant benefits in the extension of the AERO-SORB® system to the maturation windrows, reducing the potential for odour emissions due to the need for windrow turning, a reduction from 9-12 turns to 3-4 turns for the composting cycle.

Such an approach would provide a fully AERO-SORB® covered, temperature, oxygen and moisture controlled composting process for the entire life cycle of the compost. It was claimed that the engineered AERO-SORB® system would provide a stable environment capable of controlling the emissions from the windrows over a 10 week composting period, delivering sustainable outcomes in compost performance and end product.

It was further indicated that full details of these proposals would be placed before the VCAT hearing which has been set to deliberate on matters relating to the composting operations and would be subject to full review at such hearing.

4.5 CHAIR COMMENTARY

In the course of the proponent's presentation it was stressed that the initial management elements of the composting facility generally reflected those which ANL observed in other similar style facilities that they successfully operated.

Subsequent management improvements at Coldstream were introduced as the company had endeavoured to meet the requirements of PANs that had been issued by the EPA.

In its licence application the proponent had lodged supporting information titled *Evaluation of Membrane-covered Aerated Windrows (GHD document –August 2007)*. This document drew on a number of conclusions that highlighted benefits that would appear to have been gained through the introduction of membrane covers into the management process.

It was evident from the summary information outlined at the conference that the proponent had undertaken, in conjunction with its consultants, an appraisal of a range of other management matters that were directed towards the improvement of the composting operations and reducing odour emissions. Further aerated covering is proposed of the maturation windrow process and a resultant reduction in the turn over process would result.

The recent technical information has not been supplied to support the licence application.

Overall, the modifications introduced up to the present time and those proposed to be brought to the attention of VCAT will represent a significant capital outlay and a substantive upgrading of the facility management, but detailed independent review is not available to make an informed judgement of the effectiveness of such management modifications.

The EPA should have access to auditing and monitoring information on programs that have been undertaken by the proponent in response to the PANs..

As a result it is likely that the first rigorous review of all the associated technical documentation, projected performance characteristics and the impact of the proponent's responses to the 2 PANs will occur at VCAT as it deliberates upon the range of matters before it in regard to the composting facility. The complexity of such process is reflected in the 12 days set aside by VCAT for hearing matters raised by the Shire of Yarra Ranges. In respect of the VCAT review of the failure of the EPA to grant a licence that has been sought by the proponent, this matter is due for a Directions Hearing on 27 February 2008 and the time frame for such hearing has yet to be determined.

Chair's summary response

The proponent considers that the broad range of works and other management matters undertaken since the issue of the EPA PANs has resulted in an upgrade of management procedures that are directed towards removing offsite air emission impacts.

The EPA should have available auditing information as the proponent has striven to address matters that have generated the PAN notices.

For the purposes of this Section 20B report it can only be noted that the proponent has undertaken, in conjunction with its consultants, additional examination of possible improvement management programs which are projected to reduce air emission impacts and also aid in the more efficient and effective operation of the facility.

Detail appraisal of this latest technical information will occur at VCAT hearings which deal with matters before it in regard to the composting facility operations.

5. SHIRE OF YARRA RANGES COMMENTARY

5.1 COUNCIL SUBMISSION

Full details of the Shire's presentation are set out in Appendix C of the report so that the matters raised can be fully appreciated.

The Council presentation was supported by statements from the Mayor, Cr. Tim Heenan, and Cr. Jeanette McRae who strongly opposed the issuing of a licence. They considered that adverse social impacts had occurred and should not be allowed to continue. The Council had initially anticipated that solutions would be found but now held the opinion that the licence application should be rejected.

5.2 CHAIR COMMENTARY

It is evident that the general stance of the Council was one that opposed the issuing of a licence. The Council provided a detailed chronology of events that were associated with facility and this chronology clearly illustrates how the matter has found its way to VCAT.

It also highlights the extensive period over which residents have experienced discomfort from the composting operation. In addition it illustrates the long time frame associated with endeavours to obtain a rectification of operations, a time frame that the local community finds onerous and frustrating.

In the initial formulation of the facility proposal and its establishment the Council was supportive. This support extended to a situation where the Council utilised it as a point for disposal of green waste that was accumulated by the Council. However, as indicated at the conference in the Council presentation, such practice had been discontinued as the Council did not now in principle support the existence of the facility in its present position.

The Council's chronological review provides a succinct summary of events from June 2004 through to the present time and also referred to some future matters relating to matters that were due to be considered by VCAT. A critical date is the 7th April, 2008, where VCAT has set aside 12 days for a hearing in regard to the Shire's two applications relating to an enforcement order and also a request to cancel planning permit.

It is noted that on the 2nd of November a Directions hearing was held by VCAT and an application for joinder by a group of residents was brought forward. Advice to the Chair is that this process enables a community member to participate in the later VCAT hearing with the purpose of serving as a community representative.

It should also be noted that a further matter before VCAT in regard to the licence application is an application by the proponent under Section 33A(1)(b) of the *Environment Protection Act 1970* for a review of the failure of the EPA to grant a licence.

Chair's summary response:-

The Council opposition to the issuing of the licence should be noted by the EPA.

6. ISSUES RAISED BY SUBMITTERS

6.1 SUBMITTERS' CONCERNS

As stated earlier in Section 3, the EPA received 224 submissions in response to notice of the licence application. In most instances submitters had undertaken a relatively detailed review of their concerns.

A summary by the Chair of the issues raised in the submissions is set out below. In this summary three major areas are highlighted where a significantly high number of specific references have been made:

- Odour, even from persons distant from operations;
- **General concern with odour impacts, power of odour, nauseating – in excess of 90% of the submissions opposed the presence of the composting facility and the issuing of a licence;**
- Odour impacts exist even after ANL rectification;
- Offensive odour occurring approximately 2 days in every fortnight
- Odour worse on hot days;
- Odour present under still cold conditions;
- Odour worse after/with rain;
- Odour worse in mornings;
- Odour worse at night;
- Cannot use air conditioner;
- Irritated eyes/ throats/headaches
- Asthma problems;
- **Cannot undertake outside activities – between 25% to 50% of submissions;**
- **Odour enters house and cannot open windows – between 25% to 50% of submissions;**
- Yarra Valley amenity ruined;
- Contaminates washing;
- Worse on still days;
- Concern with long term health impacts;
- Devaluation of property prices;
- Embarrassment when guests attend;
- Not enough consultation;
- Odour worse with westerly wind;
- Odour worse with northerly wind;
- Odour worse south or south west wind;
- Flies have increased;
- Offensive odour twice a week;

- Dust on cars;
- Increased amounts of colds;
- Opposed to the licence;
- Local business affected;
- Odour reduced in recent months yet still present;
- Impacts from trucks;
- Occasionally bad odour.

The following submissions were lodged that did not oppose the composting facility as it was presently operating:-

- No objection on aesthetics;
- Has improved in recent months;
- No odour in last 6 months;
- Smell no worse than rotting gum leaves;
- Specific submissions of support given to ANL operations;
- Rarely smell odour;
- Odour not so bad in recent times;
- Never experienced odour;
- Smell absent in recent months.

A number of the submitters took up the opportunity to present at the Section 20B conference – refer to scheduling in Appendix A of this report. Commentary on these presentations is made in the following section.

6.2 PANEL COMMENTARY UPON SUBMISSIONS AND ADDITIONAL REMARKS PROVIDED AT THE CONFERENCE.

Generally the comments were directed towards issues that were included in the listing and drew attention to the stress that residents found themselves under as a result of such impacts.

Great frustration existed with the length of time over which adverse impacts had existed and an apparent inability of formal processes to provide either a suitable means of resolving the management of the composting facility to overcome the odour impacts or alternatively initiate action that would result in closure of the facility.

The residents were aware that the proponent had been required to undertake remedial actions but contended that little reduction of the odour impact had occurred. In listening to the proponent's presentation, a number of the submitters were concerned that the proponent was continually varying the management of the facility and it appeared to be an evolving management by trial and error. Concern was expressed that the initial permit approval had been based upon information that lacked significant substantive technical credibility. Great emphasis was placed upon the lack of certainty that residents felt in regard to being able to enjoy outdoor living within their own property boundaries and difficulties encountered when undertaking social events such as entertaining and the odour impact became noticeable on their property.

It was considered that inadequate attention had been paid to the manner in which winds moved and changed direction in the valley within which Coldstream community and the facility were located.

Generally the community appreciated that the concept of composting had significant environmental benefits but it was contended that the Coldstream location was totally inappropriate and the site should be repositioned to an alternate location where it could be assured that no local residents would be adversely impacted. The issuing of the licence was opposed.

There was concern that it appeared that the matter would be decided by VCAT and that the proponent proposed to bring forward to VCAT further modifications upon which the community may not have the opportunity to comment.

As noted above, the community has initiated action to ensure that it is represented at the scheduled VCAT hearing.

One submitter who supported the facility held the view that the impacts claimed were not as dramatic as expressed in the submissions. The facility was viewed as offering significant environmental benefits through its treatment of green waste into compost that could be used for a wide range of beneficial uses. The submitter considered that the proponent was striving to ensure that resident concerns were being met through both recent and proposed management variations.

In summary, it is evident that residents have been subject to strong odour impacts and a wide range of associated community concerns have arisen – particularly in the early stages of the composting facility and in the period where the EPA issued PANs and the Council initiated action against the proponent.

The Chair is not in a position to make any informed judgement on the current operation standards of the facility following the works and management variations as required under the PANs. Such a task confronts the EPA.

However the conference has served to highlight that there is still a high level of community concern in regard to the continuing existing operation of the composting facility despite the formal attempts to achieve abatement. The EPA is well aware of these concerns and the Section 20B conference has served as valuable medium to gain further insight into the extent of the community concerns.

It has also revealed that the proponent does have a range of significant upgrades proposed for the management of the operation with the objective of further reducing odour emissions, although at this stage any formal evaluation of these proposed upgrades must await VCAT hearings.

Chair's summary response

Ongoing concerns exist arising from claimed continuing impacts from the composting facility despite the undertaking of upgrade management procedures.

The submitters do not have confidence in the proponent achieving a management program that will eliminate any impacts from air emissions.

Limited support for the composting facility was found in a relatively small number of the submissions.

7. SUMMARY COMMENTS

7.1 OVERVIEW

It is not the function of the Chair of the conference to make any final recommendations in regard to the approval or refusal of the Licence that is under discussion at the conference.

The Chair is required to report on the conference and bring forward recommendations on any specific aspects that may merit scrutiny/consideration by the EPA as it undertakes its assessment process of the Licence.

It is important to appreciate that this report is a generalised summary of the matters that emerged in both the lodged submissions and the complementary input by submitters who presented at the conference.

In addition to the Chair's report, the EPA officers at the conference had the opportunity of observing the conference business and will have made their own observations on the substance of the submitters' concerns. They will undoubtedly utilise this information when reviewing performance elements of the proposal and associated interrelated aspects with EPA State environmental protection policies and other relevant documentation.

A broad overview of commentary by the Conference Chair in preceding sections of this report reveals :

- An extremely strong level of concern lies within the community in the vicinity of the compost facility, and even at some more distant locations, at the continuing adverse air emission impacts from such facility. A detailed summary listing of the impacts is to be found in Section 6 of this report. The community seeks refusal of the licence and it is actively supported by the Shire of Yarra Ranges which has a request before VCAT seeking cancellation of the planning permit for the existing operation.
- Some limited support exists for the current facility. The principle of operating a composting facility has general community support but such support is given on the basis that it is relocated to an alternative site where no adverse community impacts will result.
- There appears to be little abatement of community concern to the air emissions impacts despite the claimed implementation by the proponent of a broad range of management programs that have been undertaken following the service of EPA enforcement notices and a pending request by the Council to VCAT for an enforcement order. No independent qualitative judgement can be made on the extent of the claimed improvements as no detailed technical reports have been presented in the public domain in any substantive form on such programs. The EPA should have access to auditing information on current upgraded management programs through appraising the proponent's response to the PANs.
- The proponent has under consideration a range of further improvements to management of the composting facility that have yet to undergo any form of public scrutiny or detailed independent technical evaluation. It would appear that no such

evaluation will exist until the VCAT hearing commencing on 7 April 2008 and such documentation is not available for the EPA in its current evaluation of the licence application. The community has set in place procedures to ensure that it has direct representation at the VCAT hearing in addition to that of the Shire of Yarra Ranges.

On the basis of the above remarks the Chair considers that the EPA, when deliberating upon the licence, should give recognition to the following matters that have emerged as a result of the conference:-

- Within a significant section of the local community, and also some more distant residents, there is a continuing concern that adverse air emissions continue to be discharged from the composting facility despite previous PAN's requiring a broad range of actions to overcome management issues. Such continuance is considered to be entirely inappropriate by residents and they continue to stress that it impacts adversely upon the living environment of such residents. As a result these residents seek refusal of the licence.
- The community doubts that further proposed modifications to management procedures will resolve the problem and opposition exists to any period of continuance within which any experimentation occurs in an endeavour to resolve the air impacts issue.
- The Council is supportive of community concerns and opposes the issuing of licence and will be seeking at VCAT support for cancellation of a planning permit for the facility allied with the implementation of an enforcement order.
- The proponent has initiated ongoing management upgrade proposals of its operations in conjunction with its consultants and it currently holds details of such analysis for presentation at the VCAT hearing in April. The proponent contends that very significant benefits are to be gained from the proposed upgrading and there should be a reduction in the potential for odour emissions. This information was not provided to the EPA to supplement the documentation that had been lodged to support the licence application.
- A small number of the submissions supported the continuation of the composting facility.

Undoubtedly EPA through its past PANs and other sources will have available to it a range of technical information to aid it in any technical analysis that may relate to the licence application.

8. RECOMMENDATION

8.1 RECOMMENDATION

Licence documentation should now progress to the final detailed analysis subject to consideration being given to the following:

- Within a significant section of the local community, and also some more distant residents, there is a continuing concern that adverse air emissions continue to be discharged from the composting facility despite previous PAN's requiring a broad range of actions to overcome management issues. Such continuance is considered to be entirely inappropriate by residents and they continue to stress that it impacts adversely upon the living environment of such residents. As a result these residents seek refusal of the licence.
- The community doubts that further proposed modifications to management procedures will resolve the problem and opposition exists to any period of continuance within which any experimentation occurs in an endeavour to resolve the air impacts issue.
- The Council is supportive of community concerns and opposes the issuing of licence and will be seeking at VCAT support for cancellation of a planning permit for the facility allied with the implementation of an enforcement order.
- The proponent has initiated proposed management upgrades of its operations in conjunction with its consultants and it currently holds details of such analysis for presentation at the VCAT hearing in April. The proponent contends that very significant benefits are to be gained from the proposed upgrading and there should be a reduction in the potential for odour emissions. This information was not provided to the EPA to supplement the documentation that had been lodged to support the licence application.
- The EPA should have access to auditing and monitoring information on programs that have been undertaken by the proponent in response to the PANs.
- A small number of the submissions supported the continuation of the composting facility.

A. PERSONS APPEARING AT THE SECTION 20B CONFERENCE

Presenter	Represented By
EPA (Background detail on WAA process & objective of conference)	Mr. Peter Tange, Manager, Yarra Region
ANL representative	Mr. T.Farriciello
Shire of Yarra Ranges	Mr. James Lamour-Reid, Director - Planning, Building and Health Cr. Tim Heenan, Mayor. Cr. Jeanette McRae
Mr. Tony King	Self
Ms. Catherine Butler	Self
Mr. Michael Rogers	Self
Mr. Bruce and Mrs. Maria Rowland	Self
Marie Brown	Self
Mrs. Judith and Mr. Bruce Hearn	Self

B. CONFERENCE PROGRAM AS SCHEDULED

EPA Victoria conference in accordance with Section 20B of the *Environment Protection Act 1970* to discuss Licence lodged by Australian Native Landscapes Ltd for Composting Facility.

Held at Coldstream Community Hall, , Coldstream.

On 18th February 2008

- 6:00pm Welcome and Introduction by Chair - Mr Peter Davies Chair - Housekeeping matters, rules of meeting conduct, the agenda.
- 6:05pm EPA.
- 6:15pm Statement by ANL per Mr. Tony Farricello
- 6.45pm Statement by Shire of Yarra Ranges – Mr. James Larmour-Reid, Cr. Tim Heeman, Mayor and Cr. Janette McRae
- 7.15pm Tea/coffee Break

Presentations by submitters

- 7.30pm Tony King
- 7.40pm Catherine Butler
- 7.45pm Michael Rogers
- 7.50pm Bruce and Maria Rowland
- 7.55pm Marie Brown
- 8.00pm Judith and Bruce Hearn

Closing remarks

- 8.05pm ANL summary response
- 8.10pm EPA Victoria
- 8.20pm Conference close by Chair.

C. DETAILS OF SUBMISSION MADE BY SHIRE OF YARRA RANGES

Introduction

1. Mr Chairman, my name is James Larmour-Reid. I hold the position of Director - Planning, Building and Health at the Shire of Yarra Ranges.
2. Accompanying me are the mayor of the Shire of Yarra Ranges, Cr Tim Heenan, and Cr Jeanette McRae, who represents Ryrie Ward within which the premises is situated.
3. Thank you for the opportunity to make this submission to you today. In addition to my submission the two Councillors have also requested to make verbal submissions.
4. As you are aware, the Shire of Yarra Ranges has made a written submission to the Environment Protection Authority ('EPA') objecting to the issue of a licence to operate a composting facility at the premises.
5. The Shire of Yarra Ranges is, under the *Planning and Environment Act 1987*, the responsible authority for the purposes of the administration and enforcement of the *Yarra Ranges Planning Scheme*.
6. In its role as responsible authority the Shire issued a planning permit for the composting facility in 2004.
7. In 2006 the Shire applied to the Victorian Civil and Administrative Tribunal ('VCAT') to enforce conditions of the permit.
8. In 2007 the Shire applied to VCAT cancel the permit. A hearing to deal with the two VCAT matters has been set to commence on 7 April 2008, for twelve days.
9. The purpose of this verbal submission is to summarise the substance of the Shire's written submission.
10. In order to provide additional context it is also proposed to provide you with a chronological background to the establishment of the Composting Facility; and outline actions taken by the Shire in response to concerns raised by the local community about odours emanating from the facility.

Chronology

11. **9 July 2004** - The Shire issued planning permit YR-2004/164 for a Green Waste Transfer Station (Composting Facility) at 527-529 Maroondah Highway, Lilydale, subject to 41 conditions, including:

'14. No odour from the premises shall cause a nuisance to the adjoining or nearby properties to the satisfaction of the Responsible Authority.'

12. **24 November 2004** - Environment Protection Authority (EPA) Works Approval issued to Eastern Regional Waste Management Group ('Least Waste').
13. **2 August 2005** - Contract between Least Waste and Australian Native Landscapes Pty Ltd ('ANL') executed.
14. **31 August 2005** - EPA transfers works approval to ANL.
15. **February 2006** - ANL receives first green organics at Coldstream site.
16. **May 2006** - Shire receives first community complaint about odour.
17. **29 August 2006** - EPA issues media release indicating it is working with Least Waste to address odours coming from the Coldstream composting facility.
18. **26 September 2006** - At its meeting the Yarra Ranges Shire Council received a petition requesting the relocation of the composting facility. The following resolution was passed:

That the petition be received and that Council:
 - *Undertake an audit to determine compliance with the conditions of planning permit YR-2004/164, which allows the use and development of a green waste transfer station (composting facility) at 527-529 Maroondah Highway, Lilydale.*
 - *Apply to the Victorian Civil and Administrative Tribunal (VCAT) for an enforcement order requiring the operators of the facility to bring the use into compliance with Condition 14 of planning permit YR-2004/164, which relates to odours, and address any other breaches identified by the audit, by 30 November 2006.*
 - *If compliance with the conditions of planning permit YR-2004/164 is not achieved to the satisfaction of the responsible authority by 30 November 2006, request a further VCAT hearing to consider an additional enforcement order, which may include the option of cancelling the permit.'*
19. **8 October 2006** - ANL officially opens facility.
20. **11 October 2006** - EPA issues first Pollution Abatement Notice ('PAN 1').
21. **8 November 2006** - Shire files application for enforcement order at VCAT.
22. **9 November 2006** - Community meeting at Coldstream Community Centre attended by approximately 300 residents.
23. **12 January 2007** - VCAT Directions Hearing refers Shire enforcement order application to mediation.
24. **27 March 2007** - VCAT Mediation No. 1 (Shire & ANL).
25. **2 April 2007** - EPA issues second Pollution Abatement Notice ('PAN2').

26. **19 April 2007** - Shire files request to cancel permit at VCAT.
27. **20 April 2007** - VCAT Mediation No. 2 (Shire, ANL & 2 residents).
28. **13-14 June 2007** - VCAT Mediation Hearing No. 3 (Shire + EPA): Agreement reached on EPA PAN2, Shire matters adjourned until October.
29. **27 July 2007** - EPA approves program to remove odorous material from site (part of PAN2).
30. **13 August 2007** - 5 week period for removal of odorous material commences.
31. **30 September 2007** - Deadline by which all odorous material must be removed. A total of 28,000m³ of material was removed.
32. **3 October 2007** - EPA fined ANL \$5,506 for breaching a requirement of PAN2 (EPA Media Release).
33. **8 October 2007** - VCAT Mention for Shire applications.
34. **15 October 2007** - Second community meeting held at Coldstream Community Centre.
35. **2 November 2007** - VCAT Directions Hearing in relation to the Shire's two applications; and an application for joinder by a group of residents.
36. **19 November 2007** - Third community meeting held at Coldstream Community Centre.
37. **2 January 2008** - EPA receives ANL application for s 20(7) licence to operate a composting facility.
38. **30 January 2008** - Shire makes written submission objecting to ANL application for EPA licence to operate a composting facility.
39. **7 February 2008** - Directions Hearing re. Shire enforcement and cancellation applications.
40. **27 February 2008** - Further Directions Hearing scheduled in relation to the Shire's two applications and an application under s 33A(1)(b) of the *Environment Protection Act 1970* for a review of the failure of the EPA to grant a licence.
41. **7 April 2008** - VCAT hearing scheduled in relation to the Shire's two applications (12 days set aside).

The Shire's objection to the EPA licence application

42. As outlined in the chronology above, the Shire has received complaints from the community about the facility since mid 2006, shortly after the facility commenced operation.
43. The majority of complaints have been received from properties within a two kilometre radius of the site, although complaints have been received from properties over four kilometres away.
44. A range of concerns has been raised, but the predominant and overriding issue has been in relation to odour emanating from the premises.
45. The volume of complaints fluctuates according to the seasons. This fluctuation may be attributable both to weather conditions, particularly the temperature inversions and unique wind patterns of the locality; and also to the nature of material being received at the premises. The applicant has previously noted that the moisture content and composition of green waste varies on a seasonal basis.
46. From the outset the Shire sought to work with the applicant in an effort to address odour and other issues associated with the facility. Among other things, the Shire contributed expert advice to assist the EPA in the preparation of its second Pollution Abatement Notices ('PAN2').
47. The second PAN required the removal from the site of 29,000m³ of potentially odourous compost material that was stored in windrows and windbreaks on the site. This requirement was made at the insistence of the Shire and was completed prior to 30 September 2007.
48. The Shire has continued to receive and validate odour reports since the removal of old compost stock in September 2007.
49. Despite substantial additional investment, process improvements, and the removal of odourous stockpiles of compost, the Shire continues to receive complaints about odour from members of the community.
50. The applicants have had nearly two years to resolve odour issues at the facility and are still undertaking last minute trials leading into the VCAT hearing scheduled for April.
51. The applicant's failure to undertake successful remedial works to prevent any offsite odour has forced the Shire into a position where it now seeks the closure of the facility.
52. That the Shire has been forced into this position is highly regrettable, particularly as it strongly supports the recycling of green waste. Furthermore, the Shire will incur additional costs diverting its kerbside collection material to an alternative recycling facility.

53. The Shire wishes to reiterate the following key points from its written submission to EPA:
- 53.1. The application does not disclose how it applies best available technology to manage the discharge of odour emissions.
 - 53.2. The technology applied at the facility is low grade and low cost, based on the range of available technologies set out in EPA's guideline for composting facilities.
 - 53.3. Applying the EPA's guideline this facility should have as a minimum buffer distance to the nearest residential area of 1.5 kilometres.
 - 53.4. The Shire has received reports from residents living within 400 metres of the facility.
 - 53.5. The residential areas of:
 - Coldstream are within 500 metres; and
 - Lilydale are within 800 metres of the facility.
 - 53.6. A reduction in the buffer distance may be accepted where favourable circumstances exist. The Shire is of the view that all relevant circumstances do not support a reduction in the allowable buffer distance.
 - 53.7. The applicant not demonstrated that it can operate the facility without causing a substantial impact on the local community

Conclusion

- 54. The continued operation of this type of facility, according to the management practices and procedures implemented by the applicant, and in this location, is unfeasible.
- 55. The technological and process improvements implemented at the site in response to EPA and Shire actions have failed to resolve the odour issue.
- 56. It is respectfully submitted that the applicant should not be issued a licence.

James Larmour-Reid
Director - Planning, Building & Health
18 February 2008