

**GREATER DANDENONG
PLANNING SCHEME
AMENDMENT C125
PERMIT APPLICATION 2010/013898**

PANEL REPORT

1 AUGUST 2011

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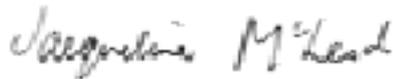
.....
Mark Marsden, Chair



.....
Jack Chiodo, Member



.....
Ian Harris, Member



.....
Jacqui McLeod, Member

1 AUGUST 2011

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1. Summary

Combined Amendment C125 to the Greater Dandenong Planning Scheme and Planning Permit Application 2010/013898 proposes the:

- Rezoning of land occupied by the Taylors Road Landfill from Farming Zone (FZ) to the Industrial 1 Zone (IN1Z); and
- Use and development of the site for a Soil Processing Facility (SPF).

A works approval is also required from the Environment Protection Authority (EPA).

The Proponent for the Amendment is SITA (Australia) Pty Ltd.

The combined Amendment and Planning Permit were advertised jointly with the works approval application. In response a total of 332 submissions were received, including four of one type of pro-forma and 257 of a different pro-forma. In broad terms, the main grounds of concerns raised by submitters were:

- Inappropriateness of establishing a new SPF facility on site given the limited life of the landfill;
- Significant adverse environmental, amenity and health impacts;
- Inadequate buffer between the proposed facility and existing dwellings;
- Inconsistency with State and local planning policy; and
- Inconsistency with existing planning permits and agreements on site.

The Panel comprised Mark Marsden (Chair), Jack Chiodo, Ian Harris and Jacqui McLeod.

The Panel Hearing was held over a two week period between 6 and 17 June 2011 at the Planning Panels Victoria hearing rooms.

The Panel is satisfied that the proposal to rezone the land to Industrial 1 and to construct and operate the SPF meets State and local planning policy objectives and strategies and will result in a net community benefit.

The Panel recommends that the Minister for Planning approve the rezoning of the subject land to the Industrial 1 Zone and that a planning permit be issued for the SPF, subject to conditions.

In making a recommendation to approve the SPF, the Panel has included a condition that limits the life of the SPF to the life of the landfill. This decision is largely in support of the community expectations for the future use of the site for public open space, once the landfill has ceased operation. The Panel does not support the issue of a planning permit if this condition is not included.

While the Panel recommends the rezoning and the granting of a permit, it is concerned with some procedural issues, including:

- The joint advertising of the Amendment and permit with the works approval, which denied an opportunity for parties to address their concerns on the works approval issues as part of the planning process; and
- The significant delay of the EPA in responding to the referral notice (the EPA's response was not received until mid way through the Panel hearing, some seven months after it received notice from the Department of Planning and Community Development (DPCD)).

It is important to note that the Panel's scope of consideration is confined to planning issues and that it does not have scope to consider the detailed environmental issues. In other words, the Panel's consideration of the matters is confined to the land use issues and the capacity of the Proponent to comply with relevant State Environment Protection Policies (SEPPs). The Panel considers that the more detailed technical requirements as to environmental design, performance and impacts are more appropriately considered by the EPA as part of the works approval assessment. Notwithstanding, the Panel found there was not an absolute clear line between land use planning issues and works approval issues. This together with the breadth of issues raised by submitters and the breadth of evidence made it difficult for the Panel to fully address those issues raised.

2. Introduction

2.1 Introduction

Combined Amendment C125 to the Greater Dandenong Planning Scheme and Planning Permit Application 2010/013898 were prepared by the Minister for Planning as Planning Authority. As exhibited, the combined Amendment and Planning Permit proposes the:

- Rezoning of land occupied by the Taylors Road Landfill from Farming Zone (FZ) to Industrial 1 Zone (IN1Z); and
- Use and development of the site for a soil processing facility (SPF).

The combined Amendment and Planning Permit apply to land known as the Taylor's Road Landfill at 890 Taylors Road, Dandenong South.

The Amendment was prepared at the request of SITA Environmental Solutions (the Proponent) and was placed on public exhibition between 11 November 2010 and 20 January 2011. A total of 332 submissions were received, including four of one type of pro-forma and 257 of a different pro-forma. A list of submitters is provided in **Appendix 1**.

On 25 March 2011, the Department of Planning and Community Development (DPCD), under delegation from the Minister for Planning, requested an independent panel to consider submissions.

A Panel was appointed under delegation on the 6 April 2011 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* and comprised Mark Marsden (Chair), Jack Chiodo, Ian Harris and Jacqui McLeod.

A Directions Hearing was held on 4 May 2011 at Planning Panels Victoria. An Accompanied Site Inspection was held on Thursday 26 May 2011 at 2.00pm.

The Panel was conducted in the offices of Planning Panels Victoria between 6-8 and 15-17 June 2011 to hear submissions in respect of combined Amendment and Planning Permit.

A list of those in attendance at the Panel hearing is provided in **Table 1**.

Table 1 – Parties that appeared at the Panel hearing

Submitter	Represented by
SITA Australia Pty Ltd	Ms Michelle Quigley SC and Mr David Deller of counsel instructed by Norton Rose, who called the following witnesses: <ul style="list-style-type: none"> • Mr Michael Gerner, town planner, of Golder Associates; • Mr Bruce Dawson, engineer, of Golder Associates; • Mr Frank Fler, engineer, of Golder Associates; • Mr Roger Parker, engineer, of Golder Associates; and • Mr Stephen Hunt, traffic engineer, of Cardno, Grogan Richards
Greater Dandenong City Council	Ms Maria Marshall, solicitor, with Mr Barnaby McIlrath, solicitor, of Maddocks Lawyers, who called the following witness: <ul style="list-style-type: none"> • Dr Peter Nadebaum, engineer, of GHD
Department of Planning and Community Development	Mr David Bergin, Planning Manager South Sector, State Planning Services
Environment Protection Authority	Mr Tony Robinson, Manager Statutory Facilitation with Mr Shabaz Aftab and Ms Dung Nguyen
City of Casey	Mr Paul Laughton, Senior Strategic Planner
Mr Garry Page	
Ms Thelma Wakelam (Withdrew from making submission)	
Ms Jani Breider (Withdrew from making submission)	
Hampton Park Progress Association	Mr Anthony O'Hara
Ms Lotte Dawes	
Mr Stuart Marriner	Ms Wakelam
Ms Abebe Shiferaw (Did not appear)	
Ms Geraldine Gonsalvez	
Renex Group Pty Ltd	Mr Matthew Townsend of counsel instructed by Clayton Utz
Residents Against Toxic Waste in the South East (RATWISE)	Ms Nicola Collingwood of counsel with Mr Nick Croggon of the Environment Defenders Office

2.2 Preliminary Matters

A number of preliminary issues were raised at the Directions Hearing by Mr Montebello, acting for the City of Greater Dandenong.

The matters raised included:

- Inadequate notice of application;
- Request for further information; and
- Request for adjournment.

In response to each matter, the Panel concluded that:

- Notice of the application was adequate;
- The further information requested was not relevant to the Panel's consideration; and
- The matter should not be adjourned (other than for one week to ensure RATWISE's advocate was available to appear at the Hearing).

The Panel's response to each of these matters was included in the Panel's directions of 9 May 2011 (see **Appendix 2**).

At the commencement of the Hearing, Ms Quigley objected to the lodging of an expert witness statement prepared by Mr Peter Mirkov on behalf of the Renex Group Pty Ltd (Renex). Ms Quigley submitted that there had been no indication by Renex that an expert was being called; that the witness statement was not lodged in accordance with the Panel's directions and in accordance with Planning Panels Victoria Guideline No 1; that Mr Mirkov was not an independent witness because he was employed by Renex; and that Mr Mirkov's statement was largely irrelevant to the Panel's task.

Mr Townsend, acting for Renex, submitted that the effect of either disallowing Mr Mirkov from giving evidence or treating his evidence as submissions only would reduce the potential contribution Mr Mirkov may make to the Panel's deliberations; Mr Townsend further submitted that the hearing was of significant public importance and for which the Proponent's evidence capable of being tested was in short supply; and the Panel should not deal itself out of some, or all, of the benefit of his evidence when there was no ostensible benefit in doing so. Rather, it should take Mr Mirkov's relationship with Renex into account when determining the weight to be given to his evidence.

Ms Collingwood, acting for Residents Against Toxic Waste In the South East (RATWISE), supported Renex's submissions.

After a short adjournment, the Panel advised parties that it did not consider Mr Mirkov to be an independent witness and noted that an option did exist for Renex to call an independent expert witness. The Panel further advised that it had doubts about the relevance of the information because it was essentially comparing one soil processing facility with another, while the Panel was only able to consider the proposal before it.

However, on the basis that there was not an absolute clear line between planning issues and works approval issues, the Panel was prepared to consider Mr Mirkov's statement as part of Renex's submission. Accordingly, the Panel did not support Mr Mirkov being called as an expert witness but was prepared to consider his submission.

3. Background

3.1 The subject site and surrounds

The subject site is located at 890 Taylors Road, Dandenong South, approximately 30 kilometres south-east of the Melbourne CBD. The site is located on the east side of Taylors Road with Bayliss Road forming the southern boundary. Vehicle access to the site is via Taylors Road.

The Town Planning Report prepared by Golder Associates, August 2010, describes the sites operations as follows:

The Taylors Road Landfill operates a commercial gas extraction system at the site whereby landfill gas is extracted from the site and pumped to a 4 Megawatt power generator plant at Berwick (former Narre Warren Landfill).

At present, there are twenty four landfill cells (including closed cells) accepting an average of approximately 163,000 tonnes of waste per year (2008). Three cells (Nos. 12A, 12B and 12C) receive 100% prescribed industrial waste. Prior to 2005, the remaining cells received a combination of general waste and prescribed industrial waste in varying quantities. After 2005 the remaining cells received 100% general waste.

Total prescribed industrial waste received in 2008 was approximately 97,000 tonnes. SITA currently accepts approximately 17,000 to 18,000 tonnes Category B and 980 to 3,900 tonnes Category C soils per annum (based on 2007/2008 data) under EPA Waste Licence ES 511.

The site is within close proximity to Western Port Highway and South Gippsland Highway. The Cranbourne Railway Line is located to the east of the site with a “goods only” station near Bayliss Road.

Immediately to the north of the site is the Pelicano Group M2 Industrial Park with expansion proposed to the M2 Industrial Park to the east of the site. The M1 Industrial Park is located further to the east, to the east of the railway line.

Abutting the site to the north-east is a conservation reserve.

Land to the south is currently vacant and included as part of the wider Lyndhurst industrial precinct in the Greater Dandenong Planning Scheme

(GDPS). It is understood the land to the immediate south is being considered for a future inland port.

On the opposite side of Taylors Road facing Colemans Road are a number of detached residential dwellings.

Two clean fill sites are located within close proximity to the site.

The land is currently in the Farming Zone (FZ) and Urban Floodway Zone (UFZ). Schedule 3 to the Development Plan Overlay (DPO3) applies to the whole site, and a Land Subject to Inundation Overlay (LSIO) applies to land zoned UFZ.

3.2 Previous planning and environment approvals

The site was previously occupied by a sand quarry and landfill operations began on the site in 1990. The landfill is operated by SITA Australia Pty Ltd (SITA). The EPA issued a Waste Discharge Licence ES 511 on 17 October 1990 and this was amended on 21 July 2009 to permit "*municipal and prescribed industrial waste and solid inert wastes to be deposited*" on the site.

Two planning permits apply to the land. These are:

- Planning Permit No 890471 (issued by Shire of Cranbourne on 24 January 1990 and amended by Minister for Planning on 5 April 2007), which allows the western part of the site to be used for "*Establishment of a private rubbish tip*".
- Planning Permit No 920213 (issued by Shire of Cranbourne on 22 July 1992 and amended by the Minister for Planning on 5 April 2007), which allows the eastern part of the site to be used for "*Use and development of the land for the purpose of a private rubbish tip.*"

Both permits include a condition for a Section 173 Agreement requiring:

- The transfer of land to the Shire of Cranbourne free of charge upon completion of the tipping of the land.
- The reclamation of their land in accordance with the concept plan approved under this permit.
- An arrangement for the municipal tipping to the satisfaction of the responsible authority.

However, a Section 173 Agreement has only been prepared under Permit No 890471 (i.e. for the western part of the site and not for that portion of the site proposed to be occupied by the SPF).

Under the EPA licence, the waste is limited to the following types:

- Solid inert and putrescible waste;
- Asbestos waste and other ceramic-based fibres with physico-chemical properties similar to those of asbestos;
- Potential acid sulphate soils;
- A range of prescribed industrial wastes including Category B and Category C contaminated soils;
- Pneumatic automotive tyres shredded into pieces less than 250 mm in all dimensions; and
- Other wastes subject to the written approval of the EPA.

3.3 Amendment C125

Planning Scheme Amendment C125 to the Greater Dandenong Planning Scheme proposes to rezone the whole of the land from Farming Zone (FZ) to Industrial 1 Zone (IN1Z).

The purposes of the IN1Z are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

3.4 Planning Permit Application 2010/013898

It is proposed to install and operate a SPF on land in the north eastern corner of the subject site. Total area of the land to be subject to the proposal is approximately 3 hectares.

The proposed buildings and works, as initially proposed, include:

Stage 1

- A hard stand area of approximately 165m x 110m, equipped with bund walls sized in accordance with EPA Victoria Publication 347 *Bunding Guidelines*;
- A pre-processing area enclosed within a shed. This area will be used for minimal processing. The shed will be constructed on a concrete pad approximately 35m x 25m;
- A processing building that encloses the feed hoppers for the Direct Fired Thermal Desorption (DFTD) and soil stabilisation equipment. The processing building will also be sufficiently sized to enable

storage of all category A and odorous soils prior to processing. The processing building will be equipped with a ventilation system that will create a negative pressure within the building to reduce fugitive emissions. The ventilation air exhausts will be fitted with dust filters and activated carbon beds;

- DFTD equipment will be positioned such that the soil feeder and conveyor belt for contaminated soil is located within the processing building and the remainder is located outside the building via an opening. The equipment has a stack approximately 15 m tall;
- Soil stabilisation equipment will be positioned such that the feeder and processing portion of the equipment is within the processing building and the soil discharge conveyor belt is located outside the building;
- Storage shed (Nissen Hut) for Category B and C soils;
- Thermal desorption and stabilisation processed soil storage pads;
- Stormwater management infrastructure;
- Dangerous goods area for storage of bulk chemicals. This area will be bunded in accordance with EPA Victoria Publication 347 – Bunding Guidelines; and
- In order to facilitate construction of the soil processing facility platform, a minimum of 1.0m compacted engineered ‘fill material’ will be placed over the underlying landfill cap.

Stage 2

- Extension of category A and odorous soils storage building;
- Additional thermal desorption processed soil storage pad; and
- Potential area for processing of soils using bioremediation. Bioremediation involves a process whereby naturally occurring micro organisms are encouraged or nurtured to breakdown and degrade organic contaminants into non-toxic compounds. A separate works approval application will be prepared and submitted for this process and does not form part of the current application.

SITA advised that the EPA will require modification of the initial proposal including the enclosure of all buildings associated with the storage of contaminated soil.

SITA estimates that the throughput of Categories A, B and C soils is 60,000 tonnes/year. SITA wishes to provide facilities capable of processing an estimated 20,000 tonnes/year of Category A soils. The maximum amount of

soil that will be stored at any time is approximately 10,000 tonnes for a maximum period of six months.

In broad terms, the following processes would apply to the operation:

- Receipt and storage of soils in an enclosed building or covered shed;
- Segregating contaminated soil loads according to treatment process (either DFTD or soil stabilisation);
- Storing treated soils according to the resulting category. The resulting category from each process will depend on the input material characteristics (ie contaminant levels) and treatment process and effectiveness. Overall, the processed soil would fall into one of three categories: Category B or C, or as clean fill material.

SITA proposes to deposit Category B and C wastes from the soil processing facility directly into the existing prescribed waste Cell 12C at the Taylors Road landfill. Clean fill that is generated will be used on site as daily cover for the landfill or used off site at rehabilitation projects conducted by SITA. SITA advised that the option of selling the treated soil for other beneficial uses would be kept open.

3.5 Works Approval Application

The *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007* establish the types of activities that require a Works Approval or Licence to be obtained from EPA. A Works Approval has to be obtained prior to the construction of a scheduled premises, while a licence is required for its operation.

These regulations state that “*Storage, treatment, reprocessing, containment or disposal facilities handling any prescribed industrial waste not generated at the premises*” are scheduled premises and require a works approval and licence. As the proposed SPF will be storing and treating contaminated soils that are Prescribed Industrial Wastes it requires a Works Approval prior to construction commencing.

SITA lodged an application for works approval with the EPA in August 2010.

A section 20B conference on the works approval was held on 21 February 2011 and was attended by approximately 75 people. The EPA’s report on the section 20B conference was published in April 2011 and SITA’s formal response was made available on 31 May 2011.

4. Legislation, policy and guidelines

This section of the Report identifies the legislation, policies and guidelines relevant to the Amendment.

4.1 Legislation

4.1.1 Planning and Environment Act 1987

Relevant sections include:

4. Objectives

(1) The objectives of planning in Victoria are -

(a) to provide for the fair, orderly, economic and sustainable use, and development of land

(b) ...

(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;

(d)

(e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;

(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);

(g) to balance the present and future interests of all Victorians.

60 What matters must a responsible authority consider?

(1) Before deciding on an application, the responsible authority must consider -

(a) the relevant planning scheme; and

(b) the objectives of planning in Victoria; and

(c) all objections and other submissions which it has received and which have not been withdrawn; and

(d) any decision and comments of a referral authority which it has received; and

(e) any significant effects which the responsible authority considers the use or development may have on the environment

or which the responsible authority considers the environment may have on the use or development.

4.2 Policy framework

4.2.1 State Planning Policy Framework

Clause 10.04 (Integrated decision making) states:

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Clause 11.03-1 (Open space planning) states:

Objective

To assist creation of a diverse and integrated network of public open space commensurate with the needs of the community.

Strategies

Plan for regional and local open space networks for both recreation and conservation of natural and cultural environments.

Ensure land identified as critical to the completion of open space is transferred for open space purposes.

Clause 13.04 (Noise and air) states:

13.04-1 Noise abatement

Objective

To assist the control of noise effects on sensitive land uses.

Strategy

Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Policy guidelines

Planning must consider as relevant:

- *State Environment Protection Policy (Control of Music Noise from Public Premises) No N-2.*

- *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1 (in metropolitan Melbourne).*
- *Interim Guidelines for Control of Noise from Industry in Country Victoria (Environment Protection Authority, 1989).*
- *A Guide to the Reduction of Traffic Noise (VicRoads 2003).*

Clause 13.04-2 Air quality

Objective

To assist the protection and improvement of air quality.

Strategies

Ensure that land-use planning and transport infrastructure provision contribute to improved air quality by:

- *Integrating transport and land-use planning to improve transport accessibility and connections.*
- *Locating key developments that generate high volumes of trips in the Central Activity District, Principal and Major Activity Centres.*
- *Providing infrastructure for public transport, walking and cycling.*

Ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses.

Policy guidelines

Planning must consider as relevant:

- *State Environment Protection Policy (Air Quality Management).*
- *Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection Authority, 1990) in assessing the separation between land uses that reduce amenity and sensitive land uses.*

Clause 17.02-1 (Industrial land development) states:

Objective

To ensure the availability of land for industry

Strategies

Identify land for industrial development in growth areas where:

- *Good access for employees, freight and road transport is available.*
- *Appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses.*

Clause 17.02-2 (Design of industrial development) states:

Strategies

Ensure that industrial activities requiring substantial threshold requirements are located in the core of industrial areas.

Encourage activities with minimal threshold requirements to locate towards the perimeter of the industrial area.

Provide adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards.

Clause 19.03-5 (Waste and resource recovery) states:

Objective

To avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices.

Strategies

- *Establish new sites and facilities to safely and sustainably manage all waste and maximise opportunities for resource.*
- *Encourage facilities for resource recovery to maximise the amount of resources recovered.*
- *Provide sufficient waste management and resource recovery facilities to promote re-use, recycling, reprocessing and resource recovery and enable technologies that increase recovery and treatment of resources to produce energy and marketable end products.*
- *Encourage waste generators and resource generators and resource recovery businesses to locate in close proximity to enhance sustainability and economies of scale.*
- *Ensure buffers for waste and resource recovery facilities are defined, protected and maintained.*
- *Site and manage waste disposal and resource recovery facilities in accordance with the Waste Management Policy (Siting, Design and Management of Landfills) (EPA, 2004).*

Policy guidelines

Planning must consider as relevant:

- *Victoria's Towards Zero Waste Strategy (Department of Sustainability and Environment, 2005).*
- *Waste Management Policy (Siting, Design and Management of Landfills) (Environmental Protection Authority, 2004).*
- *Environment Protection (Industrial Waste Resource) Regulations 2009.*
- *Best Practice Environmental Management Guideline (Siting, Design Operation and Rehabilitation of Landfills) (Environmental Protection Authority, 2001).*
- *Any relevant regional waste management plans.*
- *Metropolitan Waste and Resource Strategic Plan (Sustainability Victoria, 2009).*
- *Creating Cleaner, Safer Places: Working together to remove litter from Victoria's environment (Sustainability Victoria, 2009).*
- *Environmental Guidelines for Composting and other Organic Recycling Facilities (Environmental Protection Authority, 1996).*

4.2.2 Local Planning Policy Framework

Municipal Strategic Statement

Clause 21.03-3 – Strategic Framework Plan provides Council's strategic directions for land use planning in the municipality. The Lyndhurst Landfill is identified on this map.

Clause 21.04-3 includes the following strategies:

Encourage the location of industries that require more extensive buffer distances (requiring 1,000-5,000 buffer distances under Clause 52.10 of the Planning Scheme) within the Industrial 2 Zone.

Strongly discourage industrial land uses that do not require significant buffer distances from sensitive land uses from locating in the Industrial 2 Zone.

Other strategies include:

Encouraging existing industries to improve their sites and operating conditions to contribute positively to the image and amenity of the municipality.

Ensuring that there is a well designed transition between industrial development and streetscapes and/or public reserves with high quality and intense landscaping, incorporating canopy trees within development sites.

4.3 Planning scheme provisions

4.3.1 Zones

Industrial 1 Zone

For land in the IN1Z the following requirements apply:

A permit is not required for use provided it meets the following conditions:

Must not be a purpose shown with a Note 1 or Note 2 in the table to Clause 52.10.

The land must be at least the following distances from land (not a road) which is in a residential zone, Business 5 Zone, Capital City Zone or Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre:

- The threshold distance, for a purpose listed in the table to Clause 52.10.*
- 30 metres, for a purpose not listed in the table to Clause 52.10.*

Must not adversely affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.*
- Appearance of any stored goods or materials.*
- Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.*

The DPCD advised the Applicant that the proposed SPF should be considered as a section 2 (permit required) use, to allow the potential impacts to be assessed through a public notification process.

Decision guidelines include:

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Any natural or cultural values on or near the land.*
- *Streetscape character.*
- *Landscape treatment.*
- *Interface with non-industrial areas.*

4.3.2 Overlays

Development Plan Overlay – Schedule 3.

Pursuant to Clause 43.04-1, a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority. A permit granted must:

- Be generally in accordance with the development plan.
- Include any conditions or requirements specified in a schedule to this overlay.

An approved Development Plan exists for the site. The Development Plan states the following with regard to the subject site:

Existing Landfill Site

Limited Development Potential and no roads to be created.

4.4 Specific provisions

Clause 52.10 Uses with Adverse Amenity Potential.

The purpose of this clause is:

To define those types of industries and warehouses which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood.

This clause nominates buffer distances from industrial uses in a residential zone, Business 5 Zone, Capital City Zone or Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

There is no specific requirement in this Clause for a buffer for a SPF.

4.4.1 General provisions

Clause 61.01 identifies the Minister for Planning as the responsible authority for the administration of the Greater Dandenong Planning Scheme (GDPS) for the land known as the Lyndhurst Landfill, Lyndhurst. The provision was introduced into the GDPS by Amendment C88. The Explanatory Report for Amendment C88 identifies the site as having State significance as follows:

The amendment implements the objectives of planning in Victoria by enabling the state, through the Minister for Planning, to have a greater role in relation to the use and development of a piece of infrastructure of state importance.

It also states:

The ability of Lyndhurst to continue to accept prescribed industrial waste is a major issue of State policy as it is one of only two facilities which is licensed to accept a broad range of waste (the other being Tullamarine Landfill which has limited capacity). The amendment supports and implements the State Planning Policy Framework by enabling the state through the Minister for Planning, to have a greater role in relation to the use and development of a piece of infrastructure of state importance.

Since gazettal of Amendment C88 the Tullamarine Landfill has been closed and the Taylors Road Landfill is the only site licensed to take a wide range of prescribed industrial wastes. In particular, the Taylors Road Landfill is the only landfill in Victoria that is licenced to accept Category B waste.

4.5 Other planning strategies

Melbourne 2030 – Planning for Sustainable Growth (Melbourne 2030)

Policy 7.2 to reduce the amount of waste generated and encourage increased reuse and recycling of waste materials states:

Planning arrangements must acknowledge the continuing need to safely manage Victoria's solid hazardous waste. Existing landfills for disposal of this waste are rapidly reaching capacity.

Initiative 7.2 states:

Use State and local planning frameworks to support regional waste management plans and ensure that:

- *Suitable buffers for waste management facilities are protected and maintained.*

- *Treatment to reduce the waste hazard or nuisance should be applied wherever feasible and must be undertaken where necessary to ensure that waste can be safely managed.*

4.6 Strategic Assessment Guidelines

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Guidelines require us to consider:

- Why is an amendment required?
- Does the Amendment implement the objectives of planning and consider any environmental, social and economic effects?
- Does the Amendment comply with all the relevant Minister's Directions?
- Does the Amendment support or implement the SPPF?
- Does the Amendment support or implement the LPPF?
- Does the Amendment make proper use of the VPP?
- How does the Amendment address the views of any relevant agency?
- Is the Amendment likely to have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*?
- Are there any applicable statements of policy principles prepared under section 22 of the *Transport Integration Act 2010*?
- What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the Amendment and considers that there are no issues that are raised by an assessment against the Guidelines.

5. Procedural matters

5.1 Introduction

Prior to considering the merits of the proposal for the SPF and the suitability of the IN1Z for the subject land, the Panel considers it appropriate to make comments on:

- The impact of the joint advertising of the planning scheme amendment and works approval application;
- The role of the EPA in this matter under the *Planning and Environment Act 1987* (P&E Act); and
- The Panel's scope of consideration in this matter.

5.2 Impact of joint advertising

The planning scheme amendment and application for planning permit and the application for works approval were advertised jointly under section 20AA of the *Environment Protection Act 1970* (EP Act).

This led to a number of submitters, including the City of Greater Dandenong, preparing and lodging submissions that addressed both planning and works approval issues.

The significance of the joint advertising process is that under section 33B(1A) of the EP Act, third parties are denied the right of review at the Victorian Civil and Administrative Tribunal (VCAT) against a decision by the EPA to grant a works approval.

This is an unfortunate outcome because, aside from the conference held under the EP Act, third parties were not provided with an opportunity to have their concerns addressed on the more detailed environmental impacts that a works approval application would normally address. Furthermore, there were community expectations of having the issues dealt with concurrently through the joint advertising process.

It also made it difficult for the Panel hearing because it was not clear which matters were relevant to land use planning and which matters were relevant to the works approval. This issue is addressed in more detail below.

In the Panel's view, the establishment of an Advisory Committee with terms of reference that required consideration of both land use planning and works

approval issues would have provided for a more understandable, consultative and transparent process.

Further, it appears to the Panel that the nature of the submissions that addressed both planning and works approval issues reflected community expectations there would be an opportunity for both approvals to be assessed concurrently.

5.3 The role of the EPA under the Planning and Environment Act

The EPA is the decision-maker for the works approval application. However, the EPA has a role to play under the P&E Act.

Section 96(C) of the *Planning and Environment Act 1987* states:

A planning authority must give notice of its preparation of an amendment to a planning scheme and notice of an application being considered concurrently with the amendment under this Division –

- (a) to every Minister, public authority and municipal council that it believes may be materially affected by the amendment;*

The EPA is a relevant public authority to receive notice of the Amendment because pursuant to Clause 66.02 of the GDPS, a use or development requiring a works approval in accordance with section 19A of the *Environment Protection Act 1970* must be referred to the EPA.

VCAT has previously commented on the role of the EPA under the planning framework. In *SITA Australia Pty Ltd and PWM (Lyndhurst) Pty Ltd v Greater Dandenong CC* [2007] VCAT 156, it said:

In our view, the EPA cannot afford to hold itself aloof from the planning process. Whilst the environmental and planning regimes are intended to be interlocking systems, they are also independent systems. The EPA is an important referral authority in planning schemes for many types of uses and developments.

In relation to Amendment C125, the EPA did not formally respond to the amendment/planning permit application until mid way through the Panel hearing. This was some seven months after it received notice of the Amendment.

In the Panel's view, a more timely response from the EPA would have provided both the Proponent and submitters more clarity as to the nature of the issues the EPA considered relevant to the planning permit and an indication as to whether or not the EPA objected to the application.

Furthermore, it would have been helpful had the EPA indicated it was proposing to lodge a response to the Amendment because until such time as the response was received, it appeared that the EPA was proposing to confine its assessment to the works approval application.

The Panel acknowledges that Mr Robinson, on behalf of the EPA, considered the EPA's response should have been made earlier.

5.4 The Panel's scope of consideration

As stated above, the Panel was appointed to consider the planning scheme amendment and permit, not the works approval. However, a challenge for parties and the Panel has been to determine the matters relevant to the planning consideration and the matters relevant to the works approval.

The Tribunal has also recently considered this issue. In *All Vet Waste Pty Ltd v Golden Plains SC* [2011] VCAT 758, the Tribunal stated at paragraphs 70 and 71:

However, there are specified roles for local council, as planning or responsible authority (acting as a protection agency) to play in the implementation of the AQM SEPP. These are set out under Local Air Quality Management and require:

- The council to have regard to any protocols for environmental management established in accord with the SEPP, including those for best practice environmental management, separation distances, the use of design criteria and dispersion modelling to assess emissions.*
- As a planning authority, the Council is required to consider separation distances in assessing 'the suitability of proposed development locations and the potential impacts of development on local amenity'.*
- Develop neighbourhood environment improvement plans either voluntarily or where directed by the EPA.*

These roles and the directions of the SEPP AQM further reinforce the view expressed in the reasons of the Lyndhurst decision that I have set out earlier. The EPA is to take the lead role in the assessment of whether a development is compliant with the AQM SEPP and the setting of standards which the development must meet (in the planning phase and in operation) to demonstrate such compliance. (Panel emphasis)

The Tribunal concluded as follows at paragraphs 73 and 74:

It follows from the above that the Responsible Authority and now the Tribunal should assume that the assessment of the facility's ability to comply with the technical requirements of the SEPP AQM lies with the EPA. It is sufficient within the land use planning regulatory process to assess and be satisfied that the applicant is aware of the need for compliance and be able to demonstrate a capacity to comply.

A responsible authority's role is to consider land use issues and the capacity of the Proponent to comply with SEPP AQM requires (including best practice management) within the land use and planning system context. Where the land uses can accommodate these requirements without land use conflict then, from a planning perspective, the use should not be said to be unacceptable for these reasons.

In the Panel's view, it is appropriate that it adopt a similar approach in this matter: that is, it confine its consideration to the planning issues and the capacity of the Proponent to comply with relevant State Environment Protection Policies (SEPPs) and that the more detailed technical requirements as to environmental design, performance and impacts be considered by the EPA as part of the works approval assessment.

6. Identification of issues

6.1 Issues dealt with in this Report

The Panel has considered all written submissions, as well as submissions presented during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided as well as its own observations from inspections of the subject site and surrounds.

This Report deals with the issues under the following headings:

- Should a planning permit be approved for the SPF?
- Should the Amendment to rezone the land to Industrial 1 Zone be approved?
- Other issues.

In the Panel's view, it should first consider the merits of the proposed SPF before considering the merits of the rezoning as the major justification for the rezoning is to allow the consideration of the issue of a permit for the SPF.

In responding to the submissions, the Panel has largely referred to the issues raised in Council's submission as it covered many of the issues raised by other submitters. Indeed two submitters withdrew from presenting to the Panel on the basis of Council's comprehensive submission as well as the submission by RATWISE.

7. Should a planning permit be approved for the Soil Processing Facility?

7.1 Introduction

In considering whether a planning permit should be approved for the proposed SPF, the Panel considers the following matters need to be addressed:

- Is there a need for the SPF?
- Is the proposal supported by State and local policy?
- Will there be any significant adverse amenity and environmental impacts?
- Is the buffer distance from the nearest sensitive use adequate?
- In weighing up the competing relevant State and local policies, is there a net community benefit?
- If the application is approved, what conditions of permit are appropriate?

7.1.1 Is there a need for the SPF?

What is the issue?

Some submissions were received that questioned whether the need for the proposed SPF had been established.

Evidence and submissions

Ms Collingwood, representing RATWISE, submitted that a proper assessment of the proposal required the Panel to consider whether the Proponent had demonstrated a need for the facility. Ms Collingwood stated that Mr Gerner's planning evidence did not address the issue of need and Mr Parker's evidence was broad-brush.

On the basis that the co-location of the proposed SPF with the landfill has doubtful benefits and that the proposal is likely to result in an increase of disposal of contaminated soil, not a decrease, Ms Collingwood said:

The Association contends that the Applicant has failed to demonstrate with any reasonable level of certainty a need for the proposed treatment facility.

Discussion

The concept of need in relation to proposed uses and developments has been addressed by the Victorian Civil and Administrative Tribunal (VCAT) on a number of occasions. For example, in *Tulcany Pty Ltd v Knox CC* [2003] VCAT 1627, the Tribunal stated at paragraph 11:

Need is a fundamental concept in town planning, because town planning is essentially concerned with shaping our physical environment to meet the social economic and environmental needs of the community. However in individual development applications the role of need is complex. At one end of the scale, there are ubiquitous land uses in relation to which the Tribunal has said that need is not a matter for the planning system, rather it is a matter for the competitive market place. On the other hand there are important community based uses where the Tribunal has found that the need for the use can outweigh other important, and ordinarily decisive, planning considerations. An often quoted example of this latter case is the helipad at the Alfred Hospital."

In the *Alfred Hospital* case (*Alfred Hospital v City of Melbourne* (1986) 4 PABR 334), the former Planning Appeals Board granted a permit for a helipad on the basis of the need to provide emergency care to trauma victims despite adverse noise impacts to nearby residents caused by helicopters using the facility.

In relation to the proposed SPF, it is not considered that the proposal is a community based use because the facility is to be operated in the private market and because there are approvals for alternative facilities. Accordingly, the need for the proposal is a matter for the competitive market place.

However, this is not to say the proposal is not needed. The proposed facility would provide another option in the market place for the treatment of contaminated soils, thus contributing to the clean up of contaminated sites that facilitate urban infill development. It will also, as shall be explained below, reduce the amount of hazardous waste going to landfill.

Notwithstanding the Panel's finding on need, the Panel does not consider that the lack of need is a strong ground for refusal, particularly as it considers that other policy objectives are able to be met.

Conclusions

The Panel concludes that:

- It is not for the Panel to consider whether there is a need for the proposed SPF; rather, the demand for the proposed SPF is a matter for the competitive market place.

7.1.2 Is the proposal supported by State and local policy?

What is the issue?

Comprehensive submissions were received by a number of submitters that the proposed SPF was either supported or not supported by State and local policy. The Panel agrees that it is appropriate to discuss whether, in its view, the proposal meets relevant State and local policy.

Policy context of the issue

- Clause 11.04-5 of the State Planning Policy Framework
- Clause 19.03-5 of the State Planning Policy Framework
- Policy 7.2 of Melbourne 2030
- Clause 21.03-3 – Greater Dandenong Planning Scheme
- Clause 21.03-4 – Greater Dandenong Planning Scheme

Evidence and submissions

Ms Quigley, representing SITA, submitted that the SPF is supported by Clause 19.03-5 of the SPPF because the facility would safely and sustainably manage contaminated soils by:

- Reducing the contaminant loads of soils disposed of to the Taylors Road landfill; and
- Re-using the treated soils as daily cover to reduce the amount of clean fill that otherwise will be imported to landfill.

Further, Ms Quigley submitted the proposal has strong strategic justification because the remediation of sites with contaminated soils will:

- Assist with the cleaning up of those sites;
- Allow the redevelopment of those sites for future beneficial uses (including residential and industrial uses supported by Melbourne 2030); and
- Reduce the cost of redevelopment of those sites.

SITA engaged Michael Gerner of Golder Associates to provide planning evidence to the Panel. Mr Gerner concluded that:

- The proposal is consistent with Policy 7.2 of Melbourne 2030 in that suitable buffers for waste management facilities are protected and maintained;
- The proposal would meet the policy intent of Clause 19.03-5 as it would contribute to an overall reduction in loads of contaminated soils disposed of to landfill and reduce the amount of clean fill that is brought in from offsite, to be used as cover material in the landfill;
- The proposed SPF would not change the main role of the Taylors Road landfill, which is identified in the Strategic Framework Map in Clause 21.03-3 of Council's Municipal Strategic Statement, but rather would enhance it as a facility that would service the region in the future.

SITA also engaged Bruce Dawson to provide evidence to the Panel in relation to the statutory framework for Prescribed Industrial Wastes (PIW). While this framework is largely made pursuant to the EP Act and is relevant to the works approval application, a number of the policies of this framework are included in Clause 19.03-5 of the SPPF.

Mr Dawson acknowledged that the most preferred waste management option according to the waste hierarchy is to find ways of avoiding the generation of waste in the first place. However, he also said:

In the case of contaminated soils this is not often practicable as the waste is being generated as a result of historical activities. The need to remove contaminated soils to enable alternative more sensitive land uses or to protect the environment means that a waste stream is generated requiring management.

As avoidance is often not practicable the available management options become reuse or disposal (either with or without prior treatment). Treatment to remove, destroy or immobilise contaminants is often required to enable suitable reuse and recycling or to reduce the hazard of a contaminated soil waste prior to disposal in a landfill.

Mr Dawson's overall finding was that:

I believe the establishment of a soil processing facility as proposed by SITA would be consistent with the objectives of the Environment Protection Act 1970 and the Environment Protection (Industrial Waste Resource) Regulations 2009 as it would enable higher order waste

management options as described in the Waste Hierarchy to be available and reduce the hazard of PIW prior to disposal to landfill.

Mr Bergin, representing DPCD, submitted that the SPF implements Government policy for waste and resource recovery to avoid, minimise and generate less waste in metropolitan Melbourne and that it will facilitate re-development within Victoria in line with State policy to encourage urban renewal of established urban areas because of its role to provide facilities to treat contaminated soil extracted from existing development sites.

Ms Marshall, representing GDCC, submitted the proposed SPF did not advance State and local planning policy.

Ms Marshall submitted that the proposal is fundamentally at odds with Clause 19.03-5 of the SPPF because there is no explanation as to how the contaminated soil is to be re-used and that there are no processes to ensure that surplus soils will be re-directed for beneficial re-use. Ms Marshall stated:

This lack of clarity means that the Panel should be concerned that soils will end up being disposed of at the landfill (in excess of any daily cover requirements) which ought otherwise be directed to secondary beneficial re-use.

Further, Ms Marshall referred to the draft Environment Protection (Industrial Waste Resource) Regulations 2009 which seek to prevent contaminated soil being disposed of to landfill and the EPA Contaminated Soils – Organic Compounds policy which states that the EPA will amend landfill licences to prohibit the acceptance of contaminated soils. Ms Marshall stated:

If a category C landfill will be prevented from depositing Category C soils it follows that this facility should also not be approved to ensure that they are in fact diverted to a secondary beneficial re-use, to the extent possible.

Ms Marshall also submitted that the ability of SITA to use the treated soils as daily cover is not a persuasive basis to approve the facility. She stated that if the soils were treated at a site which was not co-located at a landfill, the site could provide clean fill to many other landfills and may be located to do so.

As well as the SPPF policies, Ms Marshall also questioned whether the proposed SPF was in accordance with Government policy which provides a clear direction to avoid disposing hazardous waste in landfills.

Ms Marshall stated that:

The proper approach, when one has proper regard to clause 19.03-5 (and the relevant waste management policies) is to look upon the landfill as the last port of call. Its airspace is scarce and should be used sparingly.

and further:

The question for the Panel is whether the soils should be sent to a recycling destination (with a convenient point of sale and distribution) in the first instance (eg a materials recycling hub), with only residual waste (including stabilised metal contaminated soil) sent to landfill, or whether the soils should go to a landfill in the first instance, with SITA determining whether to send treated soils to market, or to the landfill.

If the Panel took the view that because of the difficulties associated with metal contaminants, such soils should go to Lyndhurst in the first instance, the tail will be wagging the dog so to speak. That will result in more waste being diverted to landfill than ought occur, and is directly inconsistent with waste management policy.

Ms Collingwood, representing RATWISE, agreed with Council's submission that questioned whether the proposed SPF will further the policy aim of treating soil for re-use or sale, particularly given the majority of soil treated at the facility will be via the soil stabilisation process, of which 100% will be disposed of at landfill.

Mr Townsend, representing Renex, submitted that the proposed SPF lacked strategic justification, was inconsistent with the waste hierarchy and failed to meet best practice technology.

Mr Townsend stated that the co-location of the SPF with the Taylors Road landfill was not supported by *Melbourne 2030* and the waste hierarchy because the proximity and ease of disposal to landfill will mean there is no incentive for SITA to explore off-site options for the soil and that transporting treated soils for re-use off site would incur additional costs to SITA, with off-site re-use being effectively discouraged.

In terms of best practice technology, Mr Townsend compared the proposed SPF to be operated by SITA with the approved Soil Processing Facility to be operated by Renex, which will use Pyrolysis technology.¹ Mr Townsend referred the Panel to Clause 13 of the SPPF which states:

¹ Mr Townsend described Pyrolysis technology at paragraph 71 of his submission as "chemical decomposition process in the absence of oxygen".

Planning should adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards.

Mr Robinson, representing the EPA, submitted that additional controls in relation to the storage of soil are required in order for the proposal to be considered best practice.

Discussion

From the above submissions, the Panel considers the main issues requiring discussion include whether the proposal for the SPF:

- Meets the policy objectives of Clause 19.03-5 of the SPPF;
- Assists in the achievement of State urban consolidation objectives; and
- Complies with best practice.

Does the proposal meet the policy objectives of Clause 19.03-5 of the SPPF?

The Panel supports SITA's submissions that the decision regarding whether the SPF meets the relevant elements of the waste hierarchy of re-use, treatment or disposal is made at an earlier stage of the process (that is, when a decision is made in relation to the clean-up of soil at an existing contaminated site).

From the Panel's understanding of the process, once a decision is made to remove contaminated soil from a development site the options to re-use, treat or dispose the contaminated soil are then considered.

Accordingly, it is at this starting point that the application of the waste hierarchy needs to be considered.

With respect to the stabilisation process (the soil that contains the metals that are not able to be treated using the DFTD process), the proposed procedure will include the mixing of contaminated soil with appropriate liquid or solid additives to reduce their hazard at least to a Category B level prior to its disposal. Thus, the soil is subject to a form of treatment before disposal and, from this perspective, complies with the waste hierarchy.

With respect to the soil subject to the DFTD process (the soil that contains hydrocarbons), the proposed procedure is to extract the hazardous components from the soil by vaporising and incinerating the off-gases, which would enable the soil to be re-used either as daily cover at the landfill or for other beneficial re-use. Thus, the soil is subject to a form of treatment before

potential re-use and, from this perspective, complies with the waste hierarchy.

While it is understood that a majority of the forecast 60,000 tonnes per year of soil to be treated on site will be stabilised soil and therefore will be disposed of at the landfill, this will not occur without the treatment process being applied to reduce the hazard to at least a Category C level.

In response to the submissions that the contaminated soil will not be treated to the highest standard, the Panel notes that while there may be no current specific requirements, there is at least a financial incentive to reduce the contaminant load because a lower level of hazard will reduce the landfill levy that must be paid. This was confirmed by the EPA during the Panel hearing.

However, the Panel considers it would be appropriate for the EPA to investigate this matter further as part of the works approvals assessment and determine whether other incentives or mechanisms may be required to ensure contaminated soil is treated to the highest standard.

Similarly, the Panel considers it would be appropriate for the EPA to also investigate whether it should impose any requirements as a condition of licence on the operator to ensure treated soil is put to beneficial re-use.

In making this suggestion, the Panel is mindful of Renex's submission that casts doubt on whether the soil subject to the DFTD process will be able to be re-used because all nutrients are extracted during treatment at high temperature. This should also be investigated by the EPA.

In response to the submissions that the co-location of the proposed SPF with the existing landfill could result in higher rates of disposal than should otherwise occur because of convenience and cost, the Panel is not convinced this is a significant issue because stabilised soils will need to be disposed of regardless of location and because of the prospect of using the DFTD treated soil as daily cover.

In terms of the EPA's Contaminated Soils – Organic Compounds policy which states that the EPA will amend landfill licences to prohibit the acceptance of contaminated soils, the Panel notes that this appears to be a policy intention that EPA will seek to achieve in the future. However, it would be appropriate for the EPA to provide some explanation as to the implementation of this policy intention.

Having regard to the above discussion, the Panel is satisfied the proposed SPF meets the policy objectives of Clause 19.03-5 of the SPPF to avoid, minimise and generate less waste.

Will the proposed SPF assist in the achievement of State urban consolidation objectives?

Both the Proponent and DPCD contend that the proposal for the SPF assists in the achievement of State urban consolidation planning objectives because it will provide a facility for the treatment, re-use or disposal of contaminated soil. Unless contaminated soil is able to be treated on site and with only one landfill facility in Victoria that is able to accept Category B PIW, there is concern that contaminated sites may not realise their development potential.

In the Panel's view, the proposed SPF does assist in the achievement of urban consolidation objectives because it provides another opportunity for the clean up of contaminated land. However, with a number of soil processing facilities now emerging in Melbourne, including the Renex proposal in Dandenong South and the Innova proposal in Altona, it is not considered this is a significant factor in support of this particular SPF.

Is the proposed SPF best practice?

In response to the submissions that questioned whether the DFTD process is best practice and therefore contrary to Clause 13 of the SPPF, the Panel notes that the concept of best practice is not exclusive to the one technology or process. The Panel also notes that the EPA is satisfied that, subject to some changes to the proposal it has discussed with SITA, the proposed SPF will be able to meet best practice for a facility of this type.

Conclusions and recommendations

The Panel concludes that the proposed SPF:

- Meets the policy objectives of Clause 19.03-5 of the SPPF to avoid, minimise and generate less waste;
- Assists in the achievement of urban consolidation objectives; and
- Is able to satisfy the EPA's requirements to achieve best practice for a facility of this type.

The Panel recommends:

- The EPA investigate whether additional requirements should be imposed on SITA to ensure that contaminated soil is treated to the highest standard and that treated soil is put to beneficial re-use, as part of the works approval and licensing assessment.

7.1.3 Will there be any significant adverse amenity and environmental impacts?

A number of submissions argued that the proposal would have adverse effects on the health and local amenity of nearby residents. This issue is intertwined with the adequacy of the buffer distance to sensitive receptors but will be discussed separately.

Policy context of the issue

- Section 60 P&E Act 1987
- Clause 13.04-1 of the SPPF relating to Noise
- Clause 13.04-1 of the SPPF relating to Air
- State Environment Protection Policy (SEPP) (Air Quality Management), including:
 - *Clause 16 Risk Assessment;*
 - *Schedule A Class 1, 2, 3 and unclassified indicators and design criteria; and*
 - *Schedule C Modelling emissions to air*
- Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection Authority, 1990) in assessing the separation between land uses that reduce amenity and sensitive land uses.

Evidence and submissions

Ms Quigley, representing SITA, led expert evidence by Mr Fler and submitted that Mr Fler's evidence had demonstrated compliance with the SEPP Air Quality Management, and hence with the beneficial uses protected by the SEPP, including life health and well-being of humans.

Ms Quigley also led expert evidence on traffic impacts by Mr Hunt who concluded that:

"...Increases in traffic movements will however be very low in relative and absolute terms and will not have any discernable impact on existing operation and safety of the surrounding network."

Ms Marshall, representing GDCC, led expert evidence by Dr Peter Nadebaum and submitted, inter alia that:

- The impact of cumulative emissions had not been assessed;
- A health risk assessment was required;
- Measured emission data on particulate matter had not been included; and
- Noise emissions at sensitive receptors would be audible.

Ms Collingwood, representing RATWISE, submitted that based on the expert report of Dr Nadebaum and the submission of Mr Mirkov that the proposed facility would not meet applicable SEPP standards in relation to best practice requirements, maximum extent reduction for Class 3 contaminants and unnecessarily high greenhouse gas emissions.

Mr Townsend, representing Renex, also submitted that the proposed facility is an inferior technology to that of the approved Renex facility and would generate more dioxins, emit more mercury and use more energy.

Mr Garry Page, an individual submitter, questioned the assessment based on modelling input discrepancies and hence potential uncertainties with other aspects of the project documentation. Mr Page also questioned the traffic assessment based on differences between planned plant throughput and equipment capability.

A number of submitters stated that the application should not be determined until the Dandenong South Industrial 2 Zone and Lyndhurst Landfill Health Assessment is published, with Ms Marshall articulating that “...*there is no comparative assessment of cumulative emissions....*”.

Discussion

There are two separate processes for cleaning soils in the proposed facility:

- A DFTD followed by gas cleaning process with a stated capacity of 2.5 - 3 tonnes per hour; and
- A soil stabilisation process with a capacity of 20 – 170 m³ per hour

The main potential health and amenity impacts identified are:

- Particulate matter and odour from soil handling and storage (both processes); and
- Hazardous air emissions (principally from the DFTD process).

Although concerns regarding noise impacts were raised by some submitters, no evidence was presented on the issue. The Panel accepts that compliance with the SEPP N1 criteria is the measure of annoyance and not whether the noise is audible or otherwise. SITA has submitted, and EPA has accepted, that subject to verification in proof of performance, results will be well in compliance.

In relation to the Department of Health Study, the Panel is of the view the results would not be of assistance to its consideration largely because it is a comparative retrospective study and particularly because of the view expressed in the December 10 2010 update by the Department of Health that

"...This type of Study will not show whether a symptom or illness is caused by a particular emission...."

The panel also noted that the EPA commented that it would not be needing to consider the outcomes of the Department of Health Study, in order to assess the potential health impacts as part of the works approval assessment.

In relation to issues of comparative performance with the approved Renex facility, the Panel considers that matters regarding the adequacy of emissions modelling data inputs and compliance with policy are relevant for determination by the EPA in the works approval process. The Panel needs only to be convinced that the Proponent is aware of and can demonstrably comply with SEPP requirements.

In this respect, the Panel notes that the EPA has undertaken a preliminary assessment and identified a number of areas that need to be addressed to make the facilities fully compliant with best practice and maximum extent achievable reduction. Further, the Proponent has advised that it has responded to all of the EPA's recommendations and will be able to comply with all of the EPA's requirements. In particular, the enclosure of all untreated soil addresses the potential problems with odour and particulate matter emissions and other potentially hazardous fugitive emissions. It also notes the EPA requirement for a proof of performance. Although strictly speaking outside the scope of its considerations, the Panel also notes the following matters that may address particular concerns of residents:

- Mr Townsend has compared mercury emissions from the SITA DFTD process before the emission control equipment with those from the Renex proposal after the control equipment. The post control equipment emissions from SITA are in fact lower, as would be expected from a lower throughput and similar control equipment;
- The roof vent emissions are passed through particle control and carbon absorption equipment to deal with fugitive emissions;
- Mr Fleer's evidence, in response to a question by Mr Page, that dust deposition gauge measurements around the plant are different to the PM₁₀ modelled and cannot therefore be used in dispersion modelling;
- That the option for undertaking a health risk assessment as recommended by Dr Nadebaum is available to a Proponent under Clause 16 (3) of the SEPP which states that: *"A generator of emissions may undertake a risk assessment to gain a better understanding of the impact of emissions from its activity on the beneficial uses of the environment."* However, it is noted that this is not a mandatory SEPP requirement. The specific application is covered by Schedule C part C 2 (d) which states that *"In cases where the*

design criteria are not met, the proponent may carry out a health risk assessment to demonstrate that there will be no adverse impact from the proposal."

The Panel agrees that the capacity of the DFTD and stabilisation plants far exceed the stated throughput. However, based on the evidence of the historical quantities of prescribed industrial waste received at the site the Panel accepts that market processes not plant capacity will determine the actual throughput. Further, given the "...very low..." increase in predicted traffic, the actual throughput is unlikely to deviate sufficiently from the 60,000 tonnes per annum estimate to create significant traffic impacts.

Conclusions

The Panel concludes that:

- The proposed facility is unlikely to have unacceptable impacts on the amenity of nearby residents.

7.1.4 Is the buffer distance from the nearest sensitive use adequate?

What is the issue?

In the absence of a specified buffer in Clause 52.10 of the Greater Dandenong Planning Scheme for a SPF, a number of submitters consider that the distance of the proposed facility from sensitive uses would be inadequate.

Policy context of the issue

- Clause 13.04-1 of the SPPF relating to Air;
- Clause 52.10 of the SPPF relating to buffer distances;
- Clause 62.02-8 of the SPPF making the EPA a Referral Authority in relation to absence of, or non compliance with, Clause 52.10 requirements;
- State Environment Protection Policy (Air Quality Management); and
- EPA publication No: AQ 2/86: *Recommended Buffer Distances for Industrial Residual Air Emissions*, Environmental Protection Authority, 1990).

Evidence and submissions

A number of submitters including Ms Collingwood for RATWISE, Ms Marshall for GDCC and Ms Lotte Dawes, expressed the view that the criteria adopted by the Hazardous Waste Siting Advisory Committee (HWSAC) in relation to buffer distances between soil treatment facilities and sensitive receptors should be applied. The HWSAC criteria are for a 200 metre primary exclusion zone and a 2000 metre secondary exclusion zone.

Ms Marshall submitted that the proposed facility does not meet the HWSAC primary exclusion zone of 200 metres since the Proponent does not own all the land in this zone, and that there are sensitive uses within the 2000 metre secondary exclusion zone and that this should exclude the proposed site.

Ms Marshall further argued that in the absence of an established buffer and because neither the Government nor the EPA has rejected the HWSAC criteria, that there is established support for a default buffer of 2000 metres and certainly not less than 1000 metres for the facility.

Ms Collingwood further submitted that the proposed facility does not apply best practice in the management of its emissions, and that the buffer distances are therefore inadequate.

Ms Quigley for SITA submitted that Mr Dawson's expert report points out that the HWCC and HWSAC recommendations do not form part of the statutory framework and are around 10 years old. Ms Quigley further submitted that the technology used for soil treatment has developed over this period, and that:

...the HWCC final report specifically recognizes that variations from "default buffers" will be appropriate depending on the technology employed and the types of contaminants in the soil....

Ms Quigley cited the VCAT decision of *SITA Australia Pty Ltd and PWM (Lyndhurst) Pty Ltd v Greater Dandenong CC* in support of Mr Dawson's viewpoint, where the Tribunal stated that:

We do not consider that [HWCC Final Report] and response represent Government Policy...We find that weight given to the report must be significantly less than that given to waste management policies and state environment protection policies which we must take account of and give effect to

Ms Quigley pointed to Mr Flear's expert evidence and opinion that a separation distance of 790 metres is appropriate to ameliorate potential human health and amenity impacts. Furthermore, Ms Quigley stated that:

...Given the distance to any sensitive receptors and the design of the proposal the likelihood of adverse amenity impacts on sensitive receptors is negligible....

and concluded that:

The buffer should be assessed on a case by case basis as to what is appropriate

Assistance from the EPA as to the adequacy of the buffer to protect human health (beneficial use under the SEPPs) as a Referral Authority

EPA's assessment is that the separation distance is adequate at 790 metres.

EPA's submission to the Panel included its preliminary assessment for the works approval. In relation to buffer distance, the EPA stated:

EPA has approved two similar soil treatment projects Renex, Dandenong South and Innova, Altona. The Renex proposal had a buffer of 1.5 km from residential zone but with 800 m to the nearest sensitive uses. The Innova proposal had a buffer of 950m to residential zone. Sita proposed buffer to sensitive land uses is 790m, with about 1 km buffer to the residential zone.

and concluded that the features proposed by SITA:

"... with additional controls required by EPA (see conclusion), 790m buffer is an adequate buffer...."

Discussion

In considering the evidence presented to it at the Hearing and in written submissions, the Panel notes the following:

- The EPA's status as a Referral Authority in relation to its role where no default buffer exists or where default buffers in Clause 66.02-8 cannot be met;
- That under EPA recommended buffer distance guidelines (EPA publication No: AQ 2/86) -
 - Default buffer distances are intended to cater for non-routine emissions after the application of good pollution control technology and practice; and
 - Buffer distances can be varied on a site specific basis if "...a standard of emission control technology better than the good level of control assumed..." is applied.
- Mr Fleer's expert evidence that under normal operating conditions the maximum predicted concentrations from the proposal are a small fraction of the design criteria; and
- Dr Nadebaum's comment relating to control of non-routine emissions in his expert witness statement that "...in my opinion the measures taken appear to be appropriate and are unlikely to give rise to emissions that would pose a serious health risk to the public outside the facility..."

The Panel agrees with the EPA's conclusion that the proposed buffer distance of 790 metres to the nearest residence is adequate. This view is reinforced by:

- The fact that the nearest residential zone is more 1000 metres; and
- The HWSAC's view that based on risk calculations alone, buffer distances would be of the order of a few hundred metres or less (page 19 HWSAC Final Report, May 2002).

Conclusions

The Panel concludes that:

- Having regard to the EPA's assessment, it is satisfied that the proposed facility has an adequate buffer distance to the nearest sensitive use (790 metres) and to the nearest residential zone (1,100 metres).

7.1.5 Should the SPF only be permitted in the Industrial 2 Zone?

What is the issue?

Council and some other submitters considered the proposal for the SPF should be refused because it is a use that is more suitable for the Industrial 2 Zone (IN2Z).

Policy context of the issue

The purposes of the IN2Z are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for manufacturing industry, the storage and distribution of goods and associated facilities in a manner which does not affect the safety and amenity of local communities.

To promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone.

To keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises.

Evidence and submissions

Ms Marshall stated:

Here the Panel should ask whether this is the sort of use which is well suited to the IN2Z. If it takes the view that it is, then it should encourage the use to locate in an IN2Z because the Scheme seeks to preserve that zone for these types of uses.

Further, Ms Marshall submitted that it was within the Panel's scope of consideration to make a finding as to whether the use should be located in the IN2Z on the basis that under s.168 of the P&E Act, a Panel may take into account any matter it thinks fit in making its report and recommendations.

Discussion

While the purposes of the IN2Z clearly state that it is to accommodate industrial uses that may have greater safety and amenity impacts, the Panel notes that Materials Recycling is a section 2 use in the IN1Z.

Further, the Panel is satisfied that the proposed SPF will not result in unacceptable amenity impacts, particularly having regard to the nearest sensitive use and residential zone.

Given the provisions in the IN1Z and the Panel's findings on the amenity impacts of the proposal, it is not necessary to consider whether the proposal is better suited to the IN2Z.

Conclusion

The Panel concludes that:

- It is not necessary for the proposed SPF to be located in the IN2Z.

7.1.6 Is there a net community benefit?

What is the issue?

Comprehensive submissions were received by a number of submitters that the proposed SPF either resulted or did not result in a net community benefit. The Panel considers it is appropriate to discuss whether, in its view, the proposal will result in a net community benefit.

Policy context of the issue

- Clause 10 of the State Planning Policy Framework

Evidence and submissions

In her closing submission, Ms Quigley summarised the benefits of the proposal as follows:

- Consistency with policy to reduce damage to the environment caused by waste undergoing treatment, reduces the hazard level of contaminated soil, reduces requirements to import clean fill and provides a use for remediated soil;
- Economically and logically synergistic by co-location with the landfill;
- Provides a facility to remediate soils and thus emancipates 'brown field' sites consistent with State policy and the wider objective of urban redevelopment;
- Provides another option in the market;
- Does not prevent the long-term use of the land for passive open space;
- PIW soils must be able to be disposed of safely and this soil remediation project does not compromise that community need nor this significant State asset;
- It is a good fit with adjacent uses;
- It has good transport access;
- It will be appropriately managed by an experienced operator;
- Air, dust and noise emissions are within accepted standards and meet 'best practice'; and
- There is an appropriate buffer.

The one disbenefit identified by Ms Quigley was:

- Opposition to the landfill being in existence at all or continuing, notwithstanding its State significance, there being no other Category B landfill available and no other option on the horizon, i.e. social impact based on assertions of 'community expectations' and fears rather than substance.

In assessing net community benefit, Ms Marshall submitted that a decision maker need not assess the proposal against the alternative, but it should assess the proposal against the 'no proposal' option. She said:

If the benefits would accrue from some other technology provider in any event, then the total net benefits will be lower than if they can only be provided by the Proponent.

Here, there are several other companies which can deal with the organic contaminated soils (i.e. the majority of contaminated soils).

The benefits of the proposal identified by Ms Marshall included:

- Reduction in hazard classification of soils; and
- A one stop shop option to dispose of contaminated soils to facilitate development of urban infill sites.

However, she considered these benefits were not particularly significant and that the community disbenefits of the proposal were significant.

To reduce duplication, it is proposed to outline Ms Marshall's submissions regarding net community benefit and provide a Panel response to each of the points raised below.

On the basis of the community disbenefits of the proposal, Ms Marshall contended the proposal was contrary to section 4 of the P&E Act to:

- Provide for fair planning outcomes;
- Secure a pleasant, efficient and safe living and recreation environment; and
- To balance the present and future interests of Victorians.

Ms Collingwood, representing RATWISE, did not consider that Mr Gerner had adequately assessed net community benefit in his planning evidence and stated that:

Mr Gerner does not undertake the kind of balancing exercise typically associated with weighing up competing tensions in determining whether the proposal will produce a net community benefit and instead superficially assesses the proposal from a particular point of view. For example, Mr Gerner's evidence:

- *Does not provide an assessment of whether the community benefit will outweigh the cost of the new control;*
- *Does not address social and economic effects;*
-

Discussion

It is proposed to respond to each of Ms Marshall's comments in relation to the identified benefits of the proposed SPF, which she contended were not significant, as well as to the identified community disbenefits.

This approach also addresses the net community benefits and disbenefits identified by Ms Quigley.

Table 2 provides the Panel's responses to the identified potential benefits that were not considered significant by Council.

Table 2 Benefits identified by Council considered not significant and Panel responses

Council submission	Panel response
Disposal of organic contaminated soils to landfill is inconsistent with EPA's waste management policy.	As stated in the preceding section, the Panel is satisfied the proposal is in accordance with State policy to reduce, treat and dispose of contaminated soil.
<p>There is no evidence before the Panel to suggest that:</p> <ul style="list-style-type: none"> • existing management of soils is significantly hindering the orderly development of urban areas; • there is any policy which supports the treatment of contaminated soils at a landfill to provide a 'one stop shop'; • there is any policy in support of the need to expedite site remediation at the expense of the policy objective to divert prescribed waste from landfill; • the disposal of metal contaminated soils to landfill is currently giving rise to any significant adverse environmental effects, which warrants: <ul style="list-style-type: none"> – hazard reduction at any cost; – disposal in a landfill in preference to in-situ remediation. 	<p>In response to each concern, the Panel considers that:</p> <ul style="list-style-type: none"> • As stated in the preceding section, the Panel considers the proposal assists in achieving urban consolidation objectives by providing a facility for the treatment, re-use and disposal of contaminated soil. However, the Panel does not consider this to be a significant factor in support of the proposal given other proposed soil processing facilities in metropolitan Melbourne. • While there may not be any policy that supports the treatment of contaminated soils at an existing landfill, equally there are no policies that discourage the co-location of an SPF with an existing landfill. There are also benefits of co-location, particularly in relation to the use of treated soil for daily cover. • The Panel does not consider the proposal is seeking to expedite site remediation by providing an inappropriate opportunity to dispose of contaminated soil. <p>As stated in sections 7.1.1 and 7.1.2, the Panel does not consider the disposal of contaminated soils will result in significant adverse environmental impacts.</p>
<p>Metal contaminated soils:</p> <ul style="list-style-type: none"> • are a relatively small proportion of the volume of contaminated soils, according to Mr Parker; • can and will continue to be stabilised by existing technology which allows in-situ treatment which does not require landfill disposal, where this is more cost effective for waste generators. 	<ul style="list-style-type: none"> • The facility has been designed to cater for the different types of contaminated soil. Issues about the proportion of the different type of contaminated soils is not relevant to the Panel's consideration • Whether metal contaminated soils should be stabilised in situ or whether it should be removed is a matter for the EPA under the relevant environmental

Council submission	Panel response
The application material suggest that much of the waste will not be treated to clean fill standards, so as to allow secondary beneficial re-use	regulatory framework. The Panel notes that the waste will be treated to reduce the hazard before disposal and, as stated in the preceding section, the Panel considers there is a financial incentive to treat contaminated soil to the highest standard. However, the EPA should investigate this matter further in the works approval assessment.
The landfill will close to PIW in approximately 6 years based on historic tipping rates, or even sooner if the proposal generates receipt of more PIW. To the extent that Mr Parker suggested it would offer a one stop shop, it will not do so for long enough to support longer term urban renewal projects which are being planned beyond 2017.	The Panel notes that there is some degree of uncertainty as to when the landfill will close. SITA advised that the amount of PIW being delivered is occurring at lower rates because of the significant increase of the landfill levy. The establishment of other soil processing facilities may also reduce the amount of PIW being accepted at the Taylors Road site. To the extent that the proposed SPF is in operation and has some market share, it will support urban renewal projects.
There are other organisations who can give effect to the policy objectives without sending the organic contaminated soils to landfill - it is not the case that treatment will not occur if this proposal is not approved.	In the Panel's view, the proposed SPF at Taylors Road provides another market option for the acceptance of contaminated soil and, as stated previously, there is a financial incentive for organic contaminated soil to be treated for re-use including for daily cover. Whether there are other firms who can better meet EPA's policy objectives in this regard is a matter for the EPA.

Table 3 provides the Panel’s responses to the community disbenefits identified by Council.

Table 3 Identified community disbenefits and Panel responses

Council submission	Panel response
The community at large clearly does not want a prescribed waste management facility to continue in operation after the landfill closes to tipping.	The Panel considers that the proposed SFP should not continue after the landfill closes. This issue is addressed in the following section on conditions of planning permit.
There is no policy which guides the siting or approval of prescribed waste management facilities - consequently there can be no policy support for siting the facility in this location.	The Panel agrees that there is a policy vacuum regarding the siting and approval of prescribed waste management facilities. However, this has not precluded an assessment by the Panel of the appropriateness of the proposed facility nor will it preclude a more detailed assessment by the EPA in the works approval assessment.
The proposal will result in more waste going to landfill, not less, contrary to the intention of waste management policy.	The Panel has addressed this matter previously.
The proposal threatens to upturn the existing planning arrangements for the land.	The Panel considers the proposed SFP is an appropriate complementary use of the landfill and that provided it ceases operation by the time the landfill closes does not compromise the long-term future use of the land as public open space (see section 8.1.1 of this Report).
The proposal will undermine the value of adjoining reserves and offset sites.	As stated in section 7.1, there is no evidence that the proposed SPF will have an adverse impact on the adjoining conservation reserve.
The proposal is a bad fit with the surrounding industrial uses.	No evidence was provided to the Panel that demonstrated that the proposed SPF would have an adverse impact on surrounding industrial uses. The Panel notes that the EPA and WorkSafe have not raised any concerns with the proposal on surrounding land uses.
The proposal will be prominent in the landscape and has the potential to detract from the visual appearance of the locality, contrary to local planning policy.	The Panel is satisfied that given the relative isolation of the site from residential areas and the existing and proposed levelling and landscaping of the site, the proposal will not detract from the visual appearance of the locality. No detailed submissions or

Council submission	Panel response
	evidence was provided to the Panel that raised concern with this issue.
If approved, the proposal is likely to hinder the development of technologies by others who propose to treat soils in a manner which avoids the treated soils being deposited in a landfill.	This is a market consideration and is more appropriate to be addressed by the EPA.
The proposal is not to be sited together with other materials recycling facilities and therefore will not result in any economy of scale in the recovery of resources and associated transport of recycled waste.	This is an issue more concerned with financial viability and is more appropriate to be addressed by the EPA.

Having regard to the Panel's responses on each of the issues raised by Council, the Panel is satisfied that the proposal will result in a net community benefit. In summary, the Panel considers a net community benefit will result because:

- The proposal meets State policy to reduce, treat and dispose of contaminated soil;
- The proposal provides another option in the market place for the removal of contaminated soil from future development sites;
- The facility will allow the treatment of contaminated soil off-site at a licensed facility operated by a company with a good track record in waste management;
- Soil will be treated to a higher standard prior to disposal or allow the potential for beneficial re-use;
- Co-location of the SPF with the existing landfill will promote efficiency in terms of having the one location for treatment, potential re-use and disposal of treated soil; and
- There is no evidence that there will be unacceptable amenity impacts on surrounding land uses.

Further, the Panel does not consider the proposal will prejudice the future planning of the area for public open space, provided the permit for the SPF includes a condition that limits the life of the facility to the life of the landfill (see section 7.1.7). In the Panel's view, this is a very important factor in considering net community benefit because of legitimate community expectations that the landfill will close in the future. It would therefore be inappropriate to allow a permanent use that could potentially jeopardise the future use and development of the land as public open space. Indeed, the Panel considers that the proposal should not proceed unless a condition limiting the life of the SPF to the life of the landfill is included on the permit.

The Panel acknowledges that Council's concerns as to whether the waste will be treated to the highest possible standard is an important issue. However, as stated previously, the Panel considers that this matter would be more appropriately considered by the EPA in the work approval and licensing assessments.

In response to the other issues raised by Ms Marshall in the net community analysis, the Panel does not consider the proposal should be refused because of local community opposition to the proposal. It is the role of the Panel to consider specific grounds of concerns raised by local submitters and to be satisfied the proposal is able to address these concerns in accordance with relevant policies, controls and guidelines.

The Panel also considers the proposal will not breach section 4 of the P& E Act, such that planning is to provide for the fair, orderly, economic and sustainable use and development of land.

In response to Ms Marshall's submission that the proposal has a lower net community benefit because there are alternative technologies for the treatment of contaminated soils, it is not the role of this Panel to compare one form of technology with another. The principal role of the Panel is to consider the merits of the proposed SITA facility, not to form a view as to whether one soil processing facility is more appropriate than another. However, this is not to say that the EPA should not address this issue as a matter of policy under the environmental regulatory framework.

Conclusions

The Panel concludes that:

- The benefits of the proposed SPF outweigh the disbenefits and will result in a net community benefit.

7.1.7 What conditions of permit are appropriate?

What is the issue?

In accordance with normal practice, a without prejudice discussion was held between parties on draft conditions of permit during the Panel hearing.

A draft planning permit was exhibited with the Amendment. Council tabled a revised draft permit in its folder of documents attached with its submission and SITA tabled an amended version of Council's draft permit for discussion at the hearing.

The Panel has used Council's draft of the permit as the working draft.

The Appendices contain the exhibited draft permit, Council's marked-up changes to the draft permit and the Panel's recommended version.

Discussion

It is proposed to focus on the conditions of permit where there was a disagreement between the parties, principally SITA and Council.

While the Minister for Planning is the responsible authority for the site, it is important to bear in mind that the City of Greater Dandenong is responsible for the enforcement of the permits that apply to the subject land.

The Panel does not support including additional conditions that limit the amount of annual throughput of the facility, that impose requirements on the treatment of contaminated soil to the highest possible standard or restricting the use of treated soil as daily cover.

As noted by Ms Quigley, imposing annual limitations may not be practicable as at any time there could be a major site requiring removal and treatment of contaminated soil which may exceed any annual limitation. The Panel also considers the size of the facilities and equipment also restricts the amount of throughput. Notwithstanding, the Panel is satisfied that changes in throughput will not have significant adverse environmental and amenity impacts, including traffic.

The Panel does not support imposing additional requirements that contaminated soil is treated to the highest standard for reasons as stated in section 7.1.2. However, the Panel is of the view that this matter should be investigated by the EPA in the works approval and licensing assessments.

The Panel also considers that restricting the use of treated soil as daily cover to be unnecessary and inappropriate because there may be other options for beneficial re-use. Further, the Panel considers that the use of treated soil as daily cover for the landfill is a legitimate beneficial re-use.

The Panel notes there was general consensus that the proposed facility should be described as Materials Recycling (Soil Treatment Facility). However, the Panel notes the proposal has been described by SITA and by the EPA works approval as a Soil *Processing* Facility. Accordingly, it is proposed to substitute "treatment" with "processing" in what the permit allows.

The Panel makes the following comments on specific conditions as follows:

Condition 1 a) (ii) – the Panel agrees with SITA that the amended plans need only show the location of the pedestrian link to be created between the

adjoining public open space areas rather than a detailed layout of the relationship between the pedestrian link and the proposed facility. It is unclear as to what utility is to be achieved by showing the “detailed relationship between the pedestrian link and the proposed facility”.

Condition 1 d) – the Panel considers that a rehabilitation plan is more appropriate as a condition of the EPA works approval and/or licence and notes the existing EPA licence applying to the land includes a number of conditions under *Progressive Premises Rehabilitation Plan*.

Conditions 4 and 5 – requirements for an amended air quality assessment and noise impact assessment are more appropriate as a condition of the EPA works approval and/or licence.

Condition 25 – SITA did not object to the inclusion of this condition. However, the Panel considers it is adequately covered in Condition 23 (Condition 19 in the Panel’s recommended version).

Condition 32 – given operating hours of the existing landfill it is not unreasonable for the SPF to operate between 9am and 4pm Sundays.

Conditions 36 (a) and (b) – time for commencement and completion of development as proposed in the exhibited draft permit at two and four years respectively is reasonable for a development of this type.

Condition 36 (d) that the permit expire if the use is discontinued for two years is unnecessary given the existing provision in section 68(2)(b) of the P&E Act.

Conditions 36 (e) and (f) inserted by Council state that the permit will expire if the landfill ceases to receive prescribed industrial waste or soils or the last remaining prescribed waste cell of the landfill is capped.

SITA opposed conditions limiting the life of the SPF to the life of the landfill and submitted that there are difficulties in ascertaining when the life of the landfill ceases. Does it occur when:

- Land filling activities cease;
- The last cell at the landfill is capped;
- ES511 (the existing EPA licence) is terminated;
- All obligations under a post-closure Pollution Abatement Notice (which the EPA regularly uses to regulate landfills after closure) are complied with;
- Maintenance and monitoring activities associated with the landfill cease.

Renex submitted that if the Panel supports the grant of a permit, a sunset clause should be inserted limiting the life of the permit to five years.

The Panel agrees that determining when the landfill is closed in a statutory sense is not an easy matter to resolve. However, the Panel considers that it would be highly inappropriate to extend the life of the proposed SPF beyond the life of the landfill, given:

- That the life of the landfill itself is limited;
- The existing policy framework;
- Community expectations that the landfill site will one day be used and developed for public open space; and
- One of the purported objectives of the facility to use treated soil as daily cover for the landfill.

Given the uncertainty as to precisely when the landfill is likely to close, the Panel does not support the Renex proposal to limit the life of the proposed SPF to five years.

Despite the difficulties, the Panel considers that the time **after** the landfill ceases to accept waste and the last cell at the landfill is capped is an appropriate time for the SPF operations to cease. Accordingly, the Panel recommends condition 30 (c) on the Panel's version of the permit should state:

The landfill has ceased to accept waste and the last cell of the landfill has been capped in accordance with EPA requirements.

Should there be any dispute between the parties as to the interpretation of this condition, the Panel notes that the matter could be resolved by VCAT pursuant to section 149 of the P&E Act.

Condition 37 – the Panel considers the aspects of the condition requiring the removal of all buildings (which includes the concrete pad) and the planting of grass in accordance with the rehabilitation plan to be appropriate. As mentioned above, requirements relating to the provision and implementation of the rehabilitation plan are more appropriately covered in the works approval/licence. Condition 27 (d) ensuring that the objectives of any agreement or any permit condition requiring an agreement is not required on the basis that the provisions of any section 173 Agreement (which applies to the western part of the site) must be complied with.

7.2 Recommendation

Having considered this issue the Panel recommends:

A planning permit be granted for Material Recycling (Soil Processing Facility) subject to the conditions set out in the Panel's recommended permit (dated 20 July 2011) in Appendix 5.

8. Should the Amendment to rezone the land to Industrial 1 Zone be approved?

8.1 Introduction

The Amendment to rezone the land to Industrial 1 is required because the proposal for a SPF is a prohibited use in the current Farming Zone.

However, the SPF is proposed to be constructed and to operate on a relatively small part of the land at the north-eastern corner. This part of the land has potential for direct access to the site from National Drive.

Further, there appears to be a community expectation that the Taylors Road Landfill will be closed sometime in the future and the land developed for future public open space.

Against this background, Council submitted that the proposal to rezone the land to IN1Z lacks strategic justification.

The Panel considers the following issues need to be addressed as to whether it is appropriate:

- To rezone the land to IN1Z; and
- The rezoning of the land should be confined to the north east corner where the SPF is to be located.

8.2 Should the land be rezoned to INZ?

What are the issues?

A number of submitters questioned whether there was sufficient strategic justification for the rezoning of the land to IN1Z and whether the rezoning would prejudice the future use and development of the land for public open space.

Policy context of the issue

- Clause 11.03-1 of the SPPF - Open space planning
- Clause 17.02-1 of the SPPF - Industrial land development
- Clause 21..04-3 of the LPPF - Strategic Framework Plan
- Clause 33.01 – Industrial 1 Zone purposes
- Clause 43.04-1 Development Plan Overlay – Schedule 3

Evidence and submissions

The majority of submissions and presentations at the Hearing were opposed to the proposal for the rezoning in any form. A large number of submissions were pro forma objections that did not relate specifically to the proposed Amendment C125.

The Greater Dandenong City Council (GDCC), the City of Casey and many other submitters considered that any decision to adopt Amendment C125 (and grant a permit for the SPF) should be deferred until after the State Government had responded to the outcomes of the Department of Health's (DoH) investigation into the health effects of emissions from the Lyndhurst landfill and at the Dandenong South Industrial 2 Zone.

GDCC also submitted that the proposal to rezone the land to IN1Z lacked strategic justification and that by allowing uses such as SPFs in IN1Z, the policy basis for directing such uses to IN2Z in the GDPS, which allows industries with greater environmental and amenity impacts, would be undermined. It did not support the proposed rezoning to IN1Z and considered that the long-term zoning of the land should be PPRZ.

GDCC is also concerned that IN1Z would allow for the redevelopment of the site for uses that may be considered 'as of right' and therefore increase the likelihood of development of further industrial uses on the site.

Many submitters including the GDCC, RATWISE, the Hampton Park Progress Association (HPPA) and many of the pro forma submissions raised the concern that the rezoning (and the issue of a planning permit for the SPF) would extend the life of the site as a repository for industrial waste contrary to the planning objectives that apply to the area and against community expectations.

Many submissions supported (and none opposed) the land becoming public open space after closure and rehabilitation of the landfill.

A number of submitters noted that SITA had opposed rezoning the subject land to IN1Z in the past. In Amendment C11, which proposed the rezoning of 125 hectares of land from Rural to IN1Z to facilitate the development of the industrial precinct, SITA submitted that it saw no benefit from rezoning the site to IN1Z because its planning permits and EPA licence were in place and because the controls applying to landfills were effectively the same in the Rural and IN1Z.

In Amendment C87, which proposed the incorporation of a structure plan over the area, SITA questioned the inclusion of its site in the structure plan

given the role of the plan was to essentially set out the future development of the area.

DPCD submitted that the Amendment responded to the objectives of the State and local planning policy frameworks of the GDPS because it would:

- Reflect the State significance of the current operation, as this landfill is the only facility in Victoria that can accept Category B waste;
- Facilitate redevelopment of sites with contaminated soil around Melbourne and elsewhere in Victoria in line with State policy;
- Ensure that proposals for development in the vicinity acknowledge the existing function of the site, thus protect the landfill site from encroachment of sensitive land uses;
- Implement the objectives of planning in Victoria by protecting an important land use;
- Allow for the development of the proposed SPF at minimum risk to the community; and
- Implement policy on waste and resource recovery.

Further, the DPCD submitted that as the site is surrounded by land zoned IN1Z, this zone is considered an appropriate outcome for the land and that the current FZ is not an appropriate zone for this site or in fact for use anywhere within the urban growth area. The DPCD also indicated that the Amendment did not propose to alter the Development Plan (DPO3).

Mr Gerner, the planning consultant called by SITA, submitted that in his opinion the proposal was consistent with the strategic direction for the site and that the proposed use is an industrial one that is provided for in IN1Z.

Ms Quigley stated that the Amendment would not result in a breach of clause 2.1 (b) of the Section 173 Agreement because the obligation applies on capping the landfill which has not yet occurred and the proposed planning permit would not apply to the area subject to the section 173 Agreement.

Discussion

Policy framework

After carefully considering all the submissions and evidence, the Panel does not agree with GDCC's submission that the proposal to rezone the land to IN1Z lacks strategic justification. The Panel considers that there is a sound policy framework to support the rezoning of the site to IN1Z which will allow for the development of the SPF.

The MSS clearly states that the Lyndhurst area is an important and accessible industrial area which has been progressively expanded by planning amendments including Amendments C11 in 2002 and C87 in 2008. Almost all the private land west of the Cranbourne railway line is now zoned for industrial use (with the exception of some isolated pockets of land still zoned Farming and land for public purposes).

The Panel considers that rezoning the site to IN1Z is a logical planning outcome given that the subject land is currently used for industrial purposes and that almost all the surrounding land is IN1Z. The subject site is not, and is highly unlikely ever to be, used for agricultural purposes.

The Panel accepts the DPCD's submission that the rezoning would be in line with State policy objectives including that it would allow for resource recovery activities on the site, facilitate the continued operation of the facility as the only landfill site that can accept Category B waste, ensure the facility's role in contributing to the efficient redevelopment of urban infill sites in Victoria and ensure that any proposals for development in the vicinity acknowledged the existing function of the site and thus protect the site from the encroachment of sensitive land uses.

The Panel also accepts the DPCD's submission that IN1Z would better reflect the current use of the land and that the FZ is not an appropriate zone to apply within the urban growth area.

In relation to SITA's submissions to previous Amendments that opposed the rezoning of the subject land to IN1Z and the inclusion of the land in a structure plan, the Panel accepts SITA's submission to this Panel that the rezoning of the land from the former Rural Zone was not required because its operations were a permitted use in that zone and that its inclusion in the structure plan was not seen as appropriate, given that Amendment did not propose to include it in the structure plan or in any of the proposed overlays.

The Panel does not consider the proposed IN1Z will conflict with the future planning of the area provided in Development Plan Overlay Schedule 3 (DPO3). While the endorsed Development Plan identifies the land for "future passive recreation", it is self-evident that this will not occur until the landfill closes. As was stated at the Hearing, there will always be some point that the capacity of a landfill will be reached.

At the time the landfill closes and arrangements are put in place for the post-closure management of the site, a further rezoning is able to be considered. Even if a rezoning is not considered, the Panel notes that "Informal outdoor recreation" is a Section 1 use in the IN1Z whereby the use would not require a planning permit.

In response to the concerns that the IN1Z would permit a range of 'as of right' uses, the Panel considers that this concern will be largely mitigated by the physical constraints of the land as a result of the filling of the land with waste.

The Panel also notes that the section 173 Agreement for the larger, western part of the site, which is to remain no matter what zone applies to the land, states that the land will be used for recreational purposes and will not at any time in the future be developed as either an industrial or residential site.

The future use of the site as public open space

There was common ground amongst parties to the proceeding that some time after the landfill is closed, rehabilitated and landscaped, the site would be made available as public open space. As noted above, this is reflected in the approved Development Plan and the Section 173 Agreement that identifies that the western part of the subject land will be made available for future public open space.

The Panel accepts that there is a community expectation as indicated by the GDCC, Hampton Park Association and in other submissions (including many pro forma submissions) that the landfill would not be further developed but cease operation in the foreseeable future and that the site would be rehabilitated for passive recreation.

It would appear that the operations of the landfill will be occurring for a longer time period than which the local community expects or prefers and this will affect the timing as to when the land can be developed for public open space. However, the Panel was not presented with any compelling evidence of community demand for use of the site for open space purposes in the short or medium term.

In the Panel's view, the proposal for the rezoning of the land to IN1Z will not have an impact on when the land is developed for public open space. The landfill has existing use rights which are unaffected by the zoning of the land and, as stated in the section of the Report on the permit application for the SPF, the Panel considers the SPF should not operate beyond the life of the landfill.

As became clear during the Hearing, there are a number of significant matters to be resolved as to the future ownership and management of the subject land as public open space. It appears that GDCC is not keen to have responsibility for the management of the land, which is understandable given potential cost implications.

It is worth noting that the EPA stated that regardless of future site management responsibilities, it would be the land-owner's responsibility for the ongoing management of any environmental impacts (such as methane generation) arising from the use of the site as a landfill and this could extend for up to 30 years.

Some submitters, including Mr Page, questioned whether there could be adverse impacts on human health if the site is used for passive recreation. The Panel considers this to be a more detailed environmental issue that would need to be addressed at an appropriate time in the future.

Conclusions

The Panel concludes that:

- There is sufficient strategic justification to rezone the land to IN1Z; and
- The proposal to rezone the land to IN1Z will not prejudice the future development of the land for public open space.

8.3 Should the rezoning be confined to the north east part of the subject land?

What is the issue?

It is proposed to locate the SPF on the north east corner of the site. This part of the site has direct abuttal to National Drive. One option may be to confine the rezoning to the north east corner and to require access to the SPF to be from National Drive.

Evidence and submissions

Ms Quigley, representing SITA, submitted that because access to the SPF is required through the existing landfill site it would be inappropriate to confine the IN1Z to the north east corner. Regardless, SITA's position is that the IN1Z should apply to the whole of the existing landfill site.

Council's position and the position of most other submitters was essentially that there should be no rezoning on any part of the site.

Some suggestions were made that the proposed SPF should be located away from the north east corner further away from the sensitive conservation and residential areas. These suggestions would counter against confining the rezoning to the north east corner.

Discussion

On the basis that the Panel has concluded that the IN1Z should apply to the whole of the land given the existing and continued operation of the landfill, it considers that any proposal to confine the IN1Z to the north east corner of the site to be a moot point.

Had the Panel reached a different conclusion on the rezoning of the whole of the land, it agrees with SITA that access to the SPF through the existing landfill site would also require a rezoning.

It is noted that in *Marble Swirl Holdings Pty Ltd v Kingston CC* (Red Dot) [2008] VCAT 973, where access to a proposed retail development was to be through Residential 1 zoned land where such development was prohibited, the Tribunal held that access was part and parcel of the development and had to also meet the zone requirements. The Tribunal said at paragraphs 15-16:

The purpose of the access-way is an integral part of the dominant use or uses to which the subject land is put, because it is the dominant use or uses which need that access-way to satisfy their parking requirement under the scheme. The access-way does not have a separate character or purpose. It has a subservient purpose.

To the degree that the access-way serves the supermarket, that is its essential character. To the degree that the access-way serves the apartments, that is its character. It takes its character or colour from its masters, from the real and substantial purpose to which the land is put.

...this access-way cannot be characterised as an innominate use if its master cannot be characterised as an innominate use...

Notwithstanding the above, the Panel notes that if alternative access from National Drive is a potential option it would not be necessary to consider the rezoning issue for the balance of the existing landfill land to resolve the access issue.

Conclusion

The Panel concludes that:

- Confining the rezoning to the north east corner of the site is not appropriate.

8.4 Recommendation

Having considered this issue the Panel recommends:

That Amendment C125 to rezone the Taylors Road landfill to the Industrial 1 Zone be approved.

9. Other issues

9.1 Public notice of the application

Casey City Council remained concerned about the notification of the Amendment despite the Panel's earlier direction that additional notification of the Amendment was not required.

The Panel acknowledges DPCD did not undertake notification in a manner that Council would have normally adopted. However, the Panel considers the notification was adequate and notes it generated a total of 332 submissions, including four of one type of pro-forma and 257 of a different pro-forma.

9.2 Impacts on flora and fauna

The site has little vegetation other than grasses and some trees occurring around the boundaries. No issues in relation to flora or fauna on the site were presented to the Panel.

GDCC manages two environmentally significant areas adjacent to the site, including:

- The triangular conservation area to the north west of the site (Conservation area), which adjoins the Cranbourne rail line and is zoned as Farming Zone. This area is also included in an Environmental Significance Overlay in the planning scheme; and
- The square area north of the site (Natural area), which fronts onto National Drive which is zoned IN1Z.

The Conservation area comprises a significant area of remnant Red Gum Woodland, while the Natural area contains areas of, inter alia, Plains Grassy Woodland of high regional significance and significant trees².

No evidence was presented to the Panel that either area contained any fauna species of regional or state conservation significance, nor that either area was important for migratory bird species.

² ABZECO, 10 Year Offset Management Plan for Council Reserve, M2 Estate, National Drive, Dandenong South, 28 November 2008

GDCC submitted that the Conservation area was a sensitive use, but no evidence was presented of any potential impacts on this area from the proposal. In response to questioning from the Panel the only impact on the area that the Council could identify that might result from the proposed SPF related to noise, and this was not quantified.

It should also be noted that although the proposal was referred to DSE as a referral agency, no response was received. The Panel therefore assumes that DSE did not consider the proposal would have an impact on flora and fauna to such an extent that DSE considered warranted its involvement.

The Panel concluded that while the two areas may have significant conservation significance, there is no evidence that the proposal will have an adverse impact on the flora of either area, nor on any fauna of regional or state conservation significance, nor significant impact on any migratory bird species.

9.3 Section 173 Agreements

GDCC submitted that if the Panel considered the Amendment was inconsistent with any permit conditions, including agreements about the future development of the land for public open space, it should conclude that the proposal will result in disorderly planning.

Ms Marshall, representing Council, was of the view that Mr Gerner's expert witness statement failed to acknowledge that the Section 173 Agreement required under the 1992 planning permit applying to eastern portion of the land, had not been executed.

In response to these concerns, Ms Quigley for SITA provided a comprehensive background as to the difficulties that had been encountered in resolving this matter. As a result of this submission, the Panel does not consider the failure to execute the Agreement lay exclusively with the permit holder.

Mr Bergin, for DPCD, acknowledged that this is a matter that requires resolution and would be seeking to do so in his role as the Department's regional manager.

While it is evident that a Section 173 Agreement has only be executed under the 1990 permit applying to the western portion of the land, the Panel does not consider the Amendment will prejudice the objectives of this Agreement to develop the land for recreational purposes.

10. Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Amendment C125 to the Greater Dandenong Planning Scheme should be adopted as exhibited; and**
- 2. Planning Permit Application 2010/013898 should be approved subject to conditions as set out in Appendix 5.**

Appendix 1 List of submitters

No.	Name	Organisation
1	Gianpetro Chiaravalle	Arco Café - Bar - Restaurant
2	Paul Koedijk	
3	Stuart Marriner	
4	Jani Breider	
5	Terry Eccles	Pryda Australia
6	Nicholas Croggon	Environment Defenders Office
7	City of Greater Dandenong	c/- Maddocks Lawyers
8	Mark Dreyfus MP	Federal Member for Isaacs
9	Marinos Angelodemou	Renex
10	Geraldine Gonsalvez	
11	Anthony O'Hara	Hampton Park Progress Association
12	Shui Ying Chen Family	
13	Lucas Hartland & Wen Hui Tseng	
14	Lotte Dawes	
15	E Rabel	
16	Gary Page	
17	Bernadette Barker	
17A	Anthony Barker & others	
18	Rita Hartney	
19	D J Humphreys	
20	Marjorie Gipp	
21	Robert Gipp	
22	Mark & Qzgur Goodman	
23	Brooke Heaell	
24	Lachlan Howell	
25	Craig Howell	
26	Chris Howell	
27	Theo Patring	
28	S Bozicko	
29	Charles Alfred	
29A	Charles Alfred & family	
30	Jodie Sankey	
31	C L Haack	
32	Rebecca Lanagan	
33	Dianne Hunt	
34	Rochana Nilaweera	
35	William Morgan	
36	Shaun Pudney	

No.	Name	Organisation
37	Jessica Pudney	
38	Saskia & Adam Haxhi	
39	Denise Micallef	
39A	Denise Micallef	
40	Noel Micallef	
41	Amit Sood	
42	Achini Perera	
43	Dayampathy Perera	
44	Thearanga Pathirana	
45	Aseel Rofu	
46	Mars Salazan	
47	Neda Skolyak	
47A	Neda & Igor Sablyak	
48	Donald Gates	
49	Chris Morgan	
50	Maria & Travis Leah	
51	Trevor & Nessie Smart	
52	Lisa Dawes	
53	Maysoon Shengola	
54	Slivia Sabi	
55	Julie Stevens	
56	Vanda Shaaya	
57	Van Shaaya	
58	Aliya Boya	
59	Noor Rofu	
60	Sylva Hughes	
60A	Sylva Hughes	
61	John Humphries	
62	Noelene Nolan	
63	N & L Mace	
64	Daniel & Kate Martin	
65	Nadia Athanasioii	
66	Doris Jackson	
67	M Wink	
68	Nick Woodward	
69	Vicky Milanovic	
70	Deborah Barnett	
71	Adnan Rofu	
71A	Adnan Rofu & others	

No.	Name	Organisation
72	Helen Blackley	
73	Sylvia Appleton	
74	Cecil D'Rozario	
75	Jithendra Gamage	
76	Herantha Galappaththi	
77	Robert Berenyi	
78	Sajini Imesha Yapa	
79	Damitha Yapa	
80	Leonie & Michael Macartney	
81	Glenn Robins	
82	Marlene Bird	
83	Dinesh Lokuge	
84	Mel Wilson	
85	Kerry Olds	
85A	Brett & Kerry Olds	
86	Brett Olds	
87	Jan Gilewski	
88	Navdeep Singh Daler	
89	R & D Russell	
90	Ema Bartoszek	
91	Paul Gipp	
92	Heather Clayton	
93	N Fofelzan	
94	Li Chun Hua	
95	Max Meunier	
96	K B Stevens	
97	George Wolten	
98	Marta Salazar	
99	Chacko Aricial Devassy	
100	Edmund & Shirley Dessa	
101	Ian Robottom	
102	O Ewinger	
103	Harbir Yadav	
104	Pamela Kucewicz	
105	Joan R Rose	
106	Li Li & Bin Will	
107	Mario Shaaya	
107A	Yalda Farouk & others	
108	Etelka Furo	

No.	Name	Organisation
109	Esther Chong	
110	Kai Ming Lee	
111	M Iris Peregine	
112	Mary Ayad	
113	Agnes Westfall	
114	Lee O'Keefe	
115	Michael Odgers	
116	T W & S A Garley	
117	K & P Sehgal	
118	Raymond Wood & Gwenda Clough	
119	John Oswald	
120	Rebecca Soysa	
121	Fazouk Yalda	
122	Karen Wilshier	
123	Tania & Wali	
124	David Weekes	
125	Anthony Estrada	
126	Sam Johnson	
127	Olive Francis	
128	Irene Desiator	
129	Ernehta Inglis	
130	Terry Bywater	
131	Toni Windle	
132	Mark Lanagan	
133	Graham & Catherine Watts	
134	Lucila Williams	
135	Joanna Cousseris	
136	Thelma Grant	
137	Emelia Roberts	
138	Miguel Alapont	
139	Flora Kilickaya	
140	Ben Wells	Applied Australia Pty Ltd
141	Sooraj Page	
142	Mr/Ms Alagic	
143	Debbie & Joseph	
144	Emele Waganisau	
145	Alisou & Brian Dishington	
146	Harmanpreet Singh	
147	Kumudu Lokupathirage	

No.	Name	Organisation
148	Amy Stacey	
149	Mr/Ms Lewis	
150	Ray & Vivienne Tormey	
151	Lucy Hissaia	
152	Fatima & Amir Omerovic	
153	Jesse Mitchell	
154	Karen Karghoo	
155	Clifford Karghoo	
156	Jennifer Williams	
157	Jamy Seal	
158	John Lee	
158A	Jonathan Lee & Others	
159	S Song	
160	Sonaki de Aleis	
161	Alice Savory	
162	Rebecca Gill	
163	Renuka Dharnarratue	
164	Jason McGrath	
165	Scott & Vanessa Watson	
166	J Chu	
167	Alex Chusbnikowski	
168	Rosa Orfano	
169	Ian W Misson	
170	P Archer	
171	W Archer	
172	Christine Gucho	
173	Carmelo Scacco	
174	Ileen Montenot	
175	L Gulino	
176	Kate Auhign	
177	Glenys & Alan Brett-Brazill	
178	Rohitha Hiriptiyage	
179	Robyn Iacone	
180	Sanjay Fernandes	
181	Pradeep Costa	
182	Sarah Koetsveld	
183	Richard Butkeraitis	
184	Mr & Mrs Castrogiovani	
185	Maryse Bhujoharry	

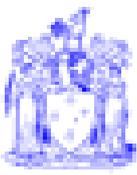
No.	Name	Organisation
186	John & Edna Joseph	
187	Carole Bunch	
188	Andy Chia	
189	Joan, Trudy & Andrew Quieros	
190	K Nell Ulric	
191	Colleen Youn	
192	Joe & Angela Gigliotti	
193	Keilt Peveiva	
194	Louise Blackley	
195	Carol Yourey	
196	Anthony Francis	
197	Augustine De Alwis	
198	Maida Law	
199	Stefan P Cerni	
200	Natalie Koshar	
201	Dwain Husing	
202	Adelita Pinto	
203	J & J Klar	
204	Norman Reiners	
205	Elizabeth Zabkowski	
206	Bess Joseph	
207	Geoffrey Phillips	
208	Gerard Joseph	
209	Kristin McAuckin	
210	Sean Gillam	
211	Thuy Do	
212	Garry Osborne	
213	Rex Claremont	
214	Naron Sudheesh	
215	Wayne Spence	
216	George Garrett	
217	Lakshmana Naida	
218	Connie Gulino	
219	Jason Wood	Lynbrook Residents Assoc.
220	A Dreache	
221	Adrian Simeone	
222	R E Franklin	
223	Natalie Fisher	
224	Sylvester Kurukulaadithya	

No.	Name	Organisation
225	Nisar Parker	
226	R & J Cotton	
227	Mark Layug	
228	Julie Price	
229	Fernando & Carmen Ocampo	
230	Vanessa & Russell Willmott	
231	Peter Cicchini	
232	Brittany Gartlan	
233	Helan Gartlan	
234	Marie Gartlan	
235	Geoff Gartlan	
236	Milan Malla	
237	Rita Estrada	
238	Mrs G Grehlsen	
239	Marilyn Ayres	
240	Ray Dalli	
241	Leaine Collins	
242	Kelvin Huynh	
243	Ricarde & Pron Rammonk	
244	Laura Cole	
245	Dilbar Singh	
246	Kylie Witte	
247	Michael Witte	
248	Lynda Paterson	
249	C Jayasens	
250	Richie Eustaquio	
251	Thelma Wakelam	
252	Mr & Mrs Holland	
253	Tanya Tibballs	
254	A Van Der Straaten	
255	Jodie Finnegan	
256	Peter Hynes	
257	Joanne Bourke	
258	Brian & Yvonne Englund	
259	P Shaan	
260	Jacqueline Morel	
261	Demelsa Pantano	
262	Pramila Ramautar	
263	Darshna Nand	

No.	Name	Organisation
264	Mukul Nand	
265	Devashna Nand	
266	Sahil Nand	
267	Mansi Nand	
268	John Clee	
269	Marcus McNeill	
270	Jennifer Clee	
271	Ron Brunda	
272	Vannarith Kann	
273	Sabrina D'souza	
274	Virat Virat	
275	Paul Laughton	City of Casey
276	Deborah Riley	Melbourne Water
277	Jenny Lay	
278	Robyn & Ken Galley	
279	Elizabeth Gallagher	
280	Johanna Kerner	
281	Elaine Leo	
282	P S Saini	
283	Nilmini Ilangaratne	
284	Hatsady & Patricia Sathongnot	
285	Liz Wagstaff	
286	Beverley Fulton	
287	Dishan Lewis	
288	Pamela Gonhan	
289	Anthony Edwards	
290	Dusko Brkic	
291	Nikolina Brkic	
292	Premila Balaslibramaniam	
293	Gayle Errington	
294	Mr B Olive	
295	Shiferaw & Fikerte	
296	Luck Edward	
297	David & Angela Brewster	
298	Hector Jovelan	
299	Christine Thompson	
300	Kellie McGrath	
301	Nadia Abdullah	
302	Miles Weidemann	

No.	Name	Organisation
303	Irene Teran	
304	P & K Goodwin	
305	Andrew Stafford	
306	Ashok & Neera Khatiwada	
307	Leanne Sloan & Joanne Robinson	
307A	Leanne Sloan & others	
308	David Kilderry	
309	Marcelino Salazer	
310	Colin & Jane Trainor	
311	Mr & Mrs De Soysa	
312	Priscilla Sejas	
313	Mr & Mrs M Howell	
314	Alvin Tanjutco	
315	Donna Hogan	
316	Linda & Ian Robottom	
317	Karen & Andrew Robinson	
318	Tony Capuano	Lite Industries Pty Ltd
319	Marcela & Marcelo	
320	John & Melissa Mair	
321	Etelka Furo	
322	Nelson Hughes	

Appendix 2 Panel Directions (9 May 2011)



9 May 2011

8 Nicholson Street
East Melbourne
Victoria 3002 Australia
PO Box 500
East Melbourne
Victoria 3002 Australia
Telephone (03) 9637 9690
Facsimile (03) 9637 9700

As addressed

**GREATER DANDENONG PLANNING SCHEME: AMENDMENT C125 AND
PLANNING PERMIT APPLICATION 2010/013898
TAYLOR'S ROAD LANDFILL, 890 TAYLORS RD, DANDENONG SOUTH**

As you are aware, a Panel has been established to consider submissions to the above Amendment and Planning Permit Application. The Panel has been appointed under the provisions of sections 153 and 155 of the *Planning and Environment Act 1987*, and consists of Mark Marsden (Chair), Jack Chiodo, Ian Harris and Jacqui McLeod.

As an outcome of the Directions Hearing held on 4 May 2011 at Planning Panels Victoria, the Panel makes the following Directions:

Hearing Arrangements

1. The Hearing will commence:
10.00am, Monday 6 June 2011
Hearing Room 1, Planning Panels Victoria,
Level 1, 8 Nicholson Street, East Melbourne.

A copy of the timetable for the Public Hearing is enclosed for your information.

2. A right of reply will be given to the Proponent.

Would you please make a note of when you are scheduled to be heard. You are requested to arrive at least 15 minutes before your scheduled time of commencement. If for any reason you are unable to be present at the appropriate time, it would be appreciated if you would contact Jessica Cutting, Senior Project Manager on 9637 8643 or Jessica.cutting@dpdc.vic.gov.au as soon as possible.

Written Submissions at the Hearing

3. At least twelve (12) copies of written submissions to the Panel and any accompanying documents should be provided.
4. Submissions and material presented at the Hearing including power point presentations are public documents and will be made available to other parties.
5. It assists the Panel if written material presented at the Hearing is two-hole punched and stapled (not bound). If possible, lengthy submissions should be provided on disc, preferably in Word format.

Exchange of Expert Witness Reports

6. If you intend to call any expert witnesses you must comply with the attached *Planning Panels Victoria Guideline No 1–Expert Evidence*.
7. Witness reports must be circulated as follows:
 - Reports for SITA by close of business on Wednesday 25 May 2011.
 - Reports for the City of Greater Dandenong by close of business Monday 30 May 2011.
8. Expert Witness Reports must be sent to the Council, the Panel and other parties listed in the attached circulation list.
9. Copies of expert reports must be available for perusal at Council and will be made available at Planning Panels Victoria.

Accompanied Site Inspection

10. The Panel will be undertaking an Accompanied Site Inspection Thursday 26 May 2011 at 2.00pm.
11. Those parties wishing to attend the inspection must advise so in writing by Friday 20 May 2011 via email to Jessica Cutting Jessica.cutting@dpcd.vic.gov.au.

Information to be supplied

12. The Environment Protection Authority (EPA) must provide details of the Works Approval Application, the EPA's assessment, section 20B conference report and other relevant information to the Panel and other parties to the Hearing by Friday 13 May 2011.

Conflict of Interest

13. The Panel declares that it has no conflict of interest in this matter.
14. Ms. McLeod notes for the record that Aurecon Group was engaged by the City of Greater Dandenong for civil design services for the upgrade of Taylors Road. Ms McLeod is employed by Aurecon.

Notice of application

15. Terry Montebello, solicitor for Maddocks, representing the City of Greater Dandenong, requested that the Minister for Planning and EPA be directed to ensure that direct notice of the combined amendment and works approval application is provided to owners and occupiers of land within 2 kilometres of the facility.
16. At the Directions Hearing, Mr Montebello suggested that Mr Laughton of the City of Casey should address the Panel on this matter. Mr Laughton advised that nearby residents in Lynbrook and Hampton Park were not provided with direct notification of the proposal despite living within 2 kilometres.
17. Mr Bergin of the Department of Planning and Community Development (DPCD) explained that notification of both the Amendment and Works Approval was provided to all submitters of a previous proposal involving the landfill and that advertisements were published in newspapers circulating in the area. He further advised that combined notification was done to simplify the process for the community.

18. While noting the intention to simplify the process by combining the advertising of the Amendment and Works Approval, the Panel considers that as there are separate approval processes for the Amendment and Works Approval, and that the combined advertising has led to some confusion, particularly as a number of submissions addressed both the Amendment and Works Approval. However, the Panel is satisfied that people who are concerned about the proposal have been made aware of the proposal. The Panel notes the 3,000 letter box drop by the Hampton Park Progress Association that assisted in making sure nearby residents were made aware of the proposal. The Panel does not consider any additional notification of the proposal is required.

Request for further information

19. Terry Montebello requested the following information:
- filling records and forecasts for the past ten years and extending until the predicted closure of the land fill which provides analysis of the life of the historic and forecast airspace consumption rates for both approved PIW cells and general waste cells based on current licence and permit conditions. Where there is a discrepancy analysis of actual filling rates should also be provided for comparative purposes;
 - a report which assesses estimated settlement rates for each cell of the landfill over a 25 year period from the date of capping; and
 - Ausplume data files used for air dispersion modelling (emissions, meteorology and terrain in electronic format.
20. Ms Michelle Quigley QC, representing SITA Australia Pty Ltd, opposed the request for the above information, largely on the basis it was more relevant to the Works Approval application.
21. At the Directions Hearing, the Panel denied the request because it was not convinced that the information sought was relevant to the specific proposal of the soil processing facility. In response, Mr Montebello submitted that the settlement rates of each cell was required because the application for the permit also involved buildings and works to construct the facility. In the Panel's view, such engineering details may need to be required as a condition of permit or dealt with at the building approval stage. Mr Montebello can make further submissions on this matter at the Hearing.
22. With respect to the Ausplume information, the Panel agrees with Mr Montebello's comment that it would be prudent for all parties to be considering the same Ausplume data but considers that this information may be more relevant to the Works Approval application than the Amendment/permit. Accordingly, the Panel does not support Council's request for this information.

Request for adjournment

23. Mr Montebello requested that the hearing be adjourned to a further directions hearing to be fixed on a date not before 15 August 2011 so as to allow:
- the completion and public release of the health study being finalised by the Department of Health; and
 - receipt of further submissions from persons living within 2 kilometres of the proposal who did not receive notice of the proposal.

24. In addition, Mr Montebello advised that both he and two key Council officers were not available to appear on the dates proposed in the Panel's letter of 11 April 2011.
25. Other than SITA Australia, no other party present at the Directions Hearing opposed the request for the adjournment. Ms Quigley for SITA Australia opposed the request and stated that the request for the Amendment had been made 15 months ago, that the proposed dates for the Hearing provided parties with a reasonable opportunity to prepare their submissions and that the lack of availability of Mr Montebello and Council staff was not a sufficient ground to adjourn the matter particularly as there would be other resources available at both Maddocks and Council. Ms Quigley also stated that this was the first she had heard of the request for the adjournment and that Council was effectively ambushing the proponent.
26. Further, Ms Quigley submitted that there was nothing in the proposal for the soil processing facility that justified the need for a health study and that the Department of Health had not objected to the application. She also stated that there was an expectation that the study was to have been completed in early 2011.
27. The Panel does not support the application for the adjournment as requested by Mr Montebello. It considers the availability of Mr Montebello and two Council officers is not a sufficient ground for an adjournment given the availability of other resources at Maddocks and Council. Further, the Panel notes that the Department of Health study covers a very wide area and is not confined to the subject land, that the EPA had not considered a health study was required for a similar proposal for a recently approved soil processing facility in Dandenong South and that there had been no direction from the Government that proposals such as the proposed soil processing facility should be put on hold pending the outcomes of the study.
28. The Environment Defenders Office (EDO), representing the Residents Against Toxic Waste in the South East inc. (RATWISE) advised that legal counsel were being engaged on a pro bono basis and that the representative was not available on 30 May – 7 June and 14 June. The Panel considers that given this arrangement it would defer the Hearing for a week and rather than commence in the week commencing 30 May 2011 it would commence the Hearing on 6 June 2011.

If you have any inquiries about any matter connected with the Hearing, please contact Jessica Cutting, Senior Project Manager on 9637 8643 or Jessica.cutting@dpcd.vic.gov.au.

Yours sincerely



Mark Marsden

Panel Chair

**CIRCULATION LIST FOR EXPERT EVIDENCE
 GREATER DANDENONG PLANNING SCHEME: AMENDMENT C125 AND
 PLANNING PERMIT APPLICATION 2010/013898**

(for privacy reasons the contact details for these parties have been removed from this version of the circulation list)

NO OF COPIES	PARTY
5 Hard copies 1 Electronic copy	Planning Panels Victoria Attn: The Panel Coordinator
2 Hard copies 1 Electronic copy	City of Greater Dandenong C/- Maddocks Lawyers Attn: Barnaby McIlrath
1 Hard copies 1 Electronic copy	SITA (Australia) Pty Ltd C/- Norton Rose Australia Attn: Elisa De Wit
1 Hard copy 1 Electronic copy	Department of Planning and Community Development Attn: David Bergin
1 Hard copy 1 Electronic copy	Environment Protection Authority Attn: Shahbaz Aftab
1 Hard copy 1 Electronic copy	Garry Page
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1 Hard copy 1 Electronic copy	Renex Group c/- Clayton Utz
1 Hard copy 1 Electronic copy	RATWISE c/- Environment Defenders Office
1 Hard copy 1 Electronic copy	Abebe Shiferaw

**GREATER DANDENONG PLANNING SCHEME AMENDMENT C125 AND
PLANNING PERMIT APPLICATION GREATER 2010/013898
TIMETABLE FOR PUBLIC HEARING**

Version 1

Panel: Mark Marsden (Chair)
Jack Chiodo (Member)
Ian Harris (Member)
Jacqui McLeod (Member)

and.

MELBOURNE	
Planning Panels Victoria Hearing Room 1 Level 1, 8 Nicholson Street (cnr Victoria Parade), East Melbourne 3002	Getting to Melbourne Planning Panels is within 2 minutes walk of Parliament Train Station, and is on the 86 and 96 tram lines. All day parking is available for \$15 in the Museum Car Park – a 10 minute walk from Planning Panels Victoria.

Please note that this timetable may be amended without notice.

Day		Date	Commence	Venue
1	MON	6 June 2011	10.00am	MELBOURNE
2	TUES	7 June 2011	10.00am	MELBOURNE
3	WED	8 June 2011	10.00am	MELBOURNE
4	WED	15 June 2011	10.00am	MELBOURNE
5	THUR	16 June 2011	10.00am	MELBOURNE
6	FRI	17 June 2011	10.00am	MELBOURNE

Any queries regarding this timetable should be made to Jessica Cutting 9637 8643.

DAY: 1
DATE: Monday 6 June 2011
VENUE: Melbourne

Time	Name (Submission No.)	Time Allocated
10:00 am	Start	
10:00 am	Panel opening and preliminary matters	
10.30 am	SITA Australia Pty Ltd represented by Michelle Quigley SC. Calling evidence from Michael Gerner (Planning), Bruce Dawson (Waste Policy), Roger Parker (PIW Management), Frank Fler (Air Quality) and Stephen Hunt (Cardno Grogan Richards)	3 Days
1:00 pm	Lunch	
2.00 pm	SITA Australia Pty Ltd continued.	
4:30 pm	Finish	

DAY: 2
DATE: Tuesday 7 June 2011
VENUE: Melbourne

Time	Name (Submission No.)	Time Allocated
10:00 am	Start	
10:00 am	SITA Australia Pty Ltd continued.	
1:00 pm	Lunch	
2.00 pm	SITA Australia Pty Ltd continued.	
4:30 pm	Finish	

DAY: 3
DATE: Wednesday 8 June 2011
VENUE: Melbourne

Time	Name (Submission No.)	Time Allocated
10:00 am	Start	
10:00 am	SITA Australia Pty Ltd continued.	
1:00 pm	Lunch	
2:00 pm	SITA Australia Pty Ltd continued.	
4:30 pm	Finish	

DAY: 4
DATE: Wednesday 15 June 2011
VENUE: Melbourne

Time	Name (Submission No.)	Time Allocated
10:00 am	Start	
10:00 am	City of Greater Dandenong represented by Maddocks. Calling evidence from Air Quality and Environmental experts to be advised.	1 day
1:00 pm	Lunch	
2:00 pm	City of Greater Dandenong continued.	
4:30 pm	Finish	

DAY: 5
DATE: Thursday 16 June 2011
VENUE: Melbourne

Time	Name (Submission No.)	Time Allocated
10:00 am	Start	
10:00 am	Department of Planning and Community Development (DPCD) represented by David Bergin.	1 hour
11:00 am	Environment Protections Agency (EPA) represented by Quentin Cooke and Dung Nguyen.	3 hours
1:00 pm	Lunch	
2.00 pm	EPA Continued	
3.00 pm	City of Casey represented by Paul Laughton	15 mins
3.15 pm	Garry Page	15 mins
3.30 pm	Thelma Wakelam	15 mins
3.45 pm	Jani Breider	15 mins
4.00 pm	Anthony O'Hara (Hampton Park Progress Association)	20 mins
4.20 pm	Lotte Dawes	10 min
4.30 pm	Stuart Marriner	15 mins
4.45pm	Abebe Shiferaw	15 mins
5.00 pm	Finish	

DAY: 6
DATE: Friday 17 June 2011
VENUE: Melbourne

Time	Name (Submission No.)	Time Allocated
10:00 am	Start	
10:00 am	Renex Group Pty Ltd represented by Matthew Townsend of counsel.	2 hours
12:00 noon	Residents Against Toxic Waste in the South East (RATWISE) represented by counsel.	3 hours
1:00 pm	Lunch	
2.00 pm	RATWISE continued.	
3.00 pm	Right of reply (SITA Australia Pty Ltd)	30 mins
3.30 pm	Finish	

Appendix 3 Draft planning permit (as exhibited)

PLANNING PERMIT

Permit No.: 2010/013898

Planning Scheme: Greater Dandenong

Responsible Authority: Minister for Planning

ADDRESS OF THE LAND:

890 Taylors Road, Dandenong South

THE PERMIT ALLOWS:

To develop and use land known as 890 Taylors Road, Dandenong South, for the purpose of a soil treatment facility in accordance with endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

1. Before the development and use starts, three (3) copies of an amended plan/ plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the plans submitted with the application, but modified to include:

- a) An amended landscape plan showing the height at the time of planting and approximate height at maturity of all proposed trees, shrubs and plants;
 - b) detailed design of the internal vehicular access road, including details of bunds and draining to the trade waste collection and treatment system;
 - c) detailed design of any proposed car parking areas associated with the soil processing facility including layout and number of car parking spaces.
2. The use and development as shown on the endorsed plans must not be altered without the further written consent of the Responsible Authority.
 3. Prior to the endorsement of plans under Condition 1, the owner must submit a Construction Management Plan to the Responsible Authority for approval. When approved, the Plan will be endorsed and then form part of the Permit.

The Construction Management Plan must include details on how the construction will be undertaken so it has minimal impact on the environment and surrounding area. Details to be provided in the Plan must include, but are not limited to:

- a) Full work schedule/construction management plan to ascertain impacts on surrounding properties, including consideration of construction hours;
- b) Measures to minimise and control noise, vibrations and dust from construction works;
- c) Measures to minimise the impact of construction vehicles arriving at and departing from the land; and
- d) Measures to minimise the creation of conditions likely to be a nuisance;

all to the satisfaction of the Responsible Authority.

The operator under this Permit must comply with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

4. Prior to the commencement of the use, three (3) copies of a Traffic Management Plan (TMP) shall be submitted to the Responsible Authority for approval. Once approved the TMP will be endorsed and form part of the permit. The TMP shall address the following matters to the satisfaction of the Responsible Authority:
 - a) loading and unloading of vehicles and the flow of vehicles throughout the site;
 - b) wheel washing requirements of vehicles using the site;
 - c) expected traffic movements generated to and from the site.
5. Prior to the commencement of the use, three (3) copies of a Vermin Prevention Plan (VPP) must be submitted to the Responsible Authority for Approval. Once approved the VPP will be endorsed to form part of the permit. Once approved, the use must be conducted at all times in accordance with the VPP to the satisfaction of the Responsible Authority.
6. Prior to the commencement of the use, three (3) copies of a Fire Prevention and Management Plan (FPMP) must be submitted to the Responsible Authority for approval. Once approved the FPMP will form part of the permit. Once approved, the use must be conducted at all times in accordance with the FPMP to the satisfaction of the Responsible Authority.
7. Prior to the commencement of the use, three (3) copies of a Stormwater Management Plan (SWMP) must be submitted to the Responsible Authority for approval. Once approved the SWMP will form part of the permit. The SWMP shall include measures which ensure that:
 - a) drainage flows are connected to a lawful point of discharge as approved by the Responsible Authority;
 - b) contaminated waste and contaminated effluent is not discharged into the stormwater system; and
 - c) the wheel wash is maintained in good order and all liquid and solid waste or like material collected therein must be retained on the site for disposal to an appropriate facility;

The use and development must at all times be conducted and maintained in accordance with the SWMP all to the satisfaction of the Responsible Authority.
8. All trade waste discharged to sewer must be discharged in accordance with a trade waste agreement entered into with the relevant water authority.
9. Once the development has started, it must be continued and completed in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.
10. Provision must be made for the drainage of the site including landscaped and pavement areas, to the satisfaction of the Responsible Authority.

11. Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge, to the satisfaction of the Responsible Authority.
12. Before the use of the land starts, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) Constructed in accordance with the endorsed plan/s;
 - b) properly formed to such levels that they can be used in accordance with the plans;
 - c) surfaced with an all-weather sealcoat.;
 - d) drained to the legal point of discharge;
 - e) line-marked to indicate each car space and all access lanes;to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times. The lighting of the signs must be so positioned that no direct light or glare shall be visible from any roadway or from adjoining property.

13. The use and development must be conducted at all times in accordance with the requirements of any relevant works approval or licence or other approval in force from time to time under the *Environment Protection Authority Act 1970* to the satisfaction of the EPA.
14. The buildings and works, including finishes, must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
15. The loading and unloading of contaminated soils and other prescribed industrial wastes from or to vehicles must only be carried out undercover within the building and within the respective loading docks/ bays as shown on the endorsed plans unless with the written consent of the Responsible Authority.
16. The site shall be kept in a neat and tidy condition at all times, all to the satisfaction of the Responsible Authority.
17. The landscaping for the site as shown on the endorsed plans must be completed within three (3) months of the completion of the development, to the satisfaction of the Responsible Authority.
18. The operator shall provide the responsible authority with a copy of any amended waste discharge licence issued by the EPA within seven (7) days of its issue.
19. Without prior written consent from the responsible authority the hours the soils processing facility will accept delivery of soils shall be:

Monday to Friday: 6.00am to 6.00pm

Saturday: 6.00am to 3.00pm

Sunday: 9.00am to 4.00pm
20. All external lighting of the site, including car parking areas and buildings, must be located, directed and baffled to the satisfaction of the Responsible Authority.
21. This permit will expire if:
 - a) The development does not start within two (2) years of the date of this permit, or
 - b) The development is not completed within four (4) years of the date of this permit; or

c) The use does not start within (1) year of the completion of the development

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Noise from mechanical plant and equipment must comply with State Environment Protection Policy (Control of Noise from Industrial, Commercial and Trade Premises) No. N-1 (SEPP N-1).

Date Issued:

Signature for the Responsible Authority:

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED

The Responsible Authority has issued a permit. (Note: This is not a permit granted under Division 5 or 6 of Part 4 of the *Planning and Environment Act 1987*.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- * from the date specified in the permit; or
- * if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
 - (ii) the date on which it was issued, in any other case.

Sch. 1 *Planning and Environment Regulations 2005, S.R. No. 33/2005, 35*

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and a plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - * the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if -
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years of the issue of the permit; or
 - * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years after the completion of the development; or
 - * the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision-
 - * the use or development of any stage is to be taken to have started when the plan is certified; and
 - * the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

- * The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- * An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- * An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- * An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- * An application for review must state the grounds upon which it is based.
- * An application for review must also be served on the Responsible Authority.
- * Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Appendix 4 Draft planning permit (as revised by Council)

PLANNING PERMIT

Permit No.: 2010/013898

Planning Scheme: Greater Dandenong

Responsible Authority: Minister for Planning

ADDRESS OF THE LAND: 890 Taylors Road, Dandenong South

THE PERMIT ALLOWS: To develop and use land known as 890 Taylors Road, Dandenong South, for the purpose of ~~a~~ Materials Recycling (~~s~~Soil ~~t~~Treatment ~~f~~Facility) in accordance with endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

1. Before the development and use starts, three (3) copies of an amended plan/ plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the plans submitted with the application, but modified to include:

- a) An amended landscape plan showing:
 - i. the height at the time of planting and approximate height at maturity of all proposed trees, shrubs and plants;
 - ii. detailed layout of the relationship between the pedestrian link to be created between the adjoining reserves public open space areas and the facility and associated screen planting;
 - b) detailed design of the internal vehicular access road, including details of bunds and draining to the trade waste collection and treatment system;
 - c) detailed design of any proposed car parking areas associated with the soil processing facility including layout and number of car parking spaces;
 - d) a rehabilitation plan to be implemented in the event that the use ceases or the permit expires.
2. The use and development as shown on the endorsed plans must not be altered without the further written consent of the Responsible Authority.
 3. Prior to the endorsement of plans under Condition 1, the owner must submit a Construction Management Plan to the Responsible Authority for approval. When approved, the Plan will be endorsed and then form part of the Permit.

The Construction Management Plan must include details on how the construction will be undertaken so it has minimal impact on the environment and surrounding area. Details to be provided in the Plan must include, but are not limited to:

- a) Full work schedule/construction management plan to ascertain impacts on surrounding properties, including consideration of construction hours;
- b) Measures to minimise and control noise, vibrations and dust from construction works;
- c) Measures to minimise the impact of construction vehicles arriving at and departing from the land; and
- d) Measures to minimise the creation of conditions likely to be a nuisance;

all to the satisfaction of the Responsible Authority.

The operator under this Permit must comply with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

- 4. Prior to the commencement of the use the permit holder must submit to the Responsible Authority and to the Environment Protection Authority an amended air quality assessment prepared in accordance with State Environment Protection Policy (Air Quality Management) which includes an assessment of:
 - a) the combined effect of existing sources of emission to the air environment from the landfill operations;
 - b) existing sources of emissions to the air environment from nearby industrial land;
 - c) the Health Study being conducted by the Department of Health into airborne emissions in the Dandenong South area.
- 5. Prior to the commencement of development the permit holder must submit the following to the satisfaction of the Responsible Authority:
 - a) a noise assessment which models the effect of noise emission on the nearby areas of public open space;
 - b) a report from a qualified ecologist which demonstrates that the permitted use and development will not have unacceptable impacts (including noise) on the habitat values of the adjoining land which is to be used as a public open space, reserve or 'offset' site.
- 46 Prior to the commencement of the use, three (3) copies of a Traffic Management Plan (TMP) shall be submitted to the Responsible Authority for approval. Once approved the TMP will be endorsed and form part of the permit. The TMP shall address the following matters to the satisfaction of the Responsible Authority:
 - a) loading and unloading of vehicles and the flow of vehicles throughout the site;
 - b) wheel washing requirements of vehicles using the site;
 - c) expected traffic movements generated to and from the site.
- 57 Prior to the commencement of the use, three (3) copies of a Vermin Prevention Plan (VPP) must be submitted to the Responsible Authority for Approval. Once approved the VPP will be endorsed to form part of the permit. Once approved, the use must be conducted at all times in accordance with the VPP to the satisfaction of the Responsible Authority.
- 68 Prior to the commencement of the use, three (3) copies of a Fire Prevention and Management Plan (FPMP) must be submitted to the Responsible Authority for approval. Once approved the FPMP will form part of the permit. Once approved, the use must be conducted at all times in accordance with the FPMP to the satisfaction of the Responsible Authority.

~~79~~ Prior to the commencement of the use, three (3) copies of a Stormwater Management Plan (SWMP) must be submitted to the Responsible Authority for approval. Once approved the SWMP will form part of the permit. The SWMP shall include measures which ensure that:

- a) drainage flows are connected to a lawful point of discharge as approved by the Responsible Authority;
- b) contaminated waste and contaminated effluent is not discharged into the stormwater system; and
- c) the wheel wash is maintained in good order and all liquid and solid waste or like material collected therein must be retained on the site for disposal to an appropriate facility;

The use and development must at all times be conducted and maintained in accordance with the SWMP all to the satisfaction of the Responsible Authority.

~~10~~ The use and development must all times be operated and maintained in accordance with:

- a) any works approval of waste discharge licence in force in relation to the land, pursuant to the *Environment Protection Act 1970* to the satisfaction of the *Environment Protection Authority*;
- b) any planning permit which applies to the land, to the satisfaction of the *Responsible Authority*.

~~811~~ All trade waste discharged to sewer must be discharged in accordance with a trade waste agreement entered into with the relevant water authority.

~~912~~ Once the development has started, it must be continued and completed in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.

~~4013~~ Provision must be made for the drainage of the site including landscaped and pavement areas, to the satisfaction of the Responsible Authority.

~~4414~~ Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge, to the satisfaction of the Responsible Authority.

~~4215~~ Before the use of the land starts, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- a) Constructed in accordance with the endorsed plan/s;
- b) properly formed to such levels that they can be used in accordance with the plans;
- c) surfaced with an all-weather sealcoat.;
- d) drained to the legal point of discharge;
- e) line-marked to indicate each car space and all access lanes;

to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times. The lighting of the signs must be so positioned that no direct light or glare shall be visible from any roadway or from adjoining property.

- ~~4316~~ The use and development must be conducted at all times in accordance with the requirements of any relevant works approval or licence or other approval in force from time to time under the *Environment Protection Authority Act 1970* to the satisfaction of the EPA.
- ~~4417~~ The buildings and works, including finishes, must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
- ~~4518~~ The loading and unloading of contaminated soils and other prescribed industrial wastes from or to vehicles must only be carried out undercover within the building and within the respective loading docks/ bays as shown on the endorsed plans unless with the written consent of the Responsible Authority.
- ~~4619~~ The site shall be kept in a neat and tidy condition at all times, all to the satisfaction of the Responsible Authority.

[The following conditions are adapted from the City Circle And Renex conditions – Conditions based on Renex are indicated]

Machinery

- ~~20~~ No plant, machinery or equipment may be installed or used on the land, other than plant, machinery or equipment shown on the endorsed plans, without the consent of the Responsible Authority.
- ~~21~~ Contaminated soils and other prescribed industrial wastes must not be stored outside the building/s, unless with the further written consent of the Responsible Authority. (*Renex*)
- ~~22~~ The loading and unloading of contaminated soils and other prescribed industrial wastes from or to vehicles must only be carried out undercover within the areas shown on the endorsed plans unless with the written consent of the Responsible Authority. (*Renex*)

General Amenity

- ~~23~~ The amenity of the area must not be detrimentally affected by the use or development on the land, through the:
- a) transport of materials, goods or commodities to or from the land;
 - b) appearance of any building, works or materials;
 - c) emission of artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, soil, grit or oil;
 - d) presence of vermin;
 - e) the storage of materials on the site; and/or
 - f) noise emanating from plant and equipment,
- all to the satisfaction of the Responsible Authority.
- ~~24~~ Any external lighting of the site, including car parking areas and buildings, must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.

Conditions required by the Environment Protection Authority (City Circle)

- 25 The operator must ensure that dust generation from operations on the site (eg stockpiles, vehicle movements, loading and unloading operations) does not cause a nuisance off-site.
- 26 Noise emissions from the land must comply with *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* (“SEPP N1”).

Enclosure of plant and equipment

- 27 All plant and equipment and machinery must be enclosed to the satisfaction of the Responsible Authority in consultation with the EPA.

Reporting

- 28 The operator must submit to the Responsible Authority and the Environment Protection Authority a report prepared by an industrial facilities environmental auditor appointed pursuant to the provisions of the *Environment Protection Act 1970*, biannually for the first year of operation and annually thereafter. The reports must be in a suitable format to ensure convenient assessment and identify (at minimum), to the satisfaction of the Responsible Authority and/or the EPA:
- a) whether airborne emissions from the premises are being adequately controlled;
 - b) whether any remedial actions are required to avoid or minimise impacts of the use and development on the environment; and
 - c) timeframes for implementing recommendations.
- 29 The permit holder must implement the recommendations provided by the auditor for the purposes of condition 28.

1730 The landscaping for the site as shown on the endorsed plans must be completed within three (3) months of the completion of the development, to the satisfaction of the Responsible Authority.

1831 The operator shall provide the responsible authority with a copy of any amended waste discharge licence issued by the EPA within seven (7) days of its issue.

1932 Without prior written consent from the responsible authority the hours the soils processing facility will accept delivery of soils shall be:

Monday to Friday: 6.00am to 6.00pm

Saturday: 6.00am to 3.00pm

~~Sunday: 9.00am to 4.00pm~~

2033 All external lighting of the site, including car parking areas and buildings, must be located, directed and baffled to the satisfaction of the Responsible Authority.

Melbourne Water

34 No buildings or works, including fill, is permitted within 5 metres of any Melbourne Water asset

35 Prior to the commencement of works a separate application, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water’s drains or watercourses. Evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

2136 This permit will expire if:-

- a) The development does not start within two (2) years of the date of this permit, or
- b) The development is not completed within four (4) years of the date of this permit; or
- c) The use does not start within (1) year of the completion of the development; or
- d) The use is discontinued for a period of two (years); or
- e) The landfill ceases to receive prescribed industrial waste or soils; or
- f) The last remaining prescribed waste cell of the landfill is capped.

37 Upon the expiry of the permit, the land must be reinstated to the satisfaction of the Responsible Authority so as to:

- a) remove all buildings and reinstate grassing across the land;
- b) implement the endorsed rehabilitation plan;
- c) ensure that the land is rehabilitated in a manner which does not prejudice the management objectives for the adjoining land;
- d) ensure that the objectives of any agreement under section 173 of the *Planning and Environment Act 1987*, or any permit condition requiring a section 173 agreement to be executed in respect of the landfill is not prejudiced.

In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Noise from mechanical plant and equipment must comply with State Environment Protection Policy (Control of Noise from Industrial, Commercial and Trade Premises) No. N-1 (SEPP N-1).

Date Issued:

Signature for the Responsible Authority:

Note: Under Part 4, Division 1A of the *Planning and Environment Act 1987*, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED

The Responsible Authority has issued a permit. (Note: This is not a permit granted under Division 5 or 6 of Part 4 of the *Planning and Environment Act 1987*.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- * from the date specified in the permit; or
- * if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
 - (ii) the date on which it was issued, in any other case.

Sch. 1 *Planning and Environment Regulations 2005, S.R. No. 33/2005, 35*

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and a plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - * the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if -
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years of the issue of the permit; or
 - * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years after the completion of the development; or
 - * the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision-
 - * the use or development of any stage is to be taken to have started when the plan is certified; and
 - * the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?

- * The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- * An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- * An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- * An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- * An application for review must state the grounds upon which it is based.
- * An application for review must also be served on the Responsible Authority.
- * Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Appendix 5 Draft planning permit – 20 July 2011 (as revised by Panel)

PLANNING PERMIT

Permit No.: 2010/013898

Planning Scheme: Greater Dandenong

Responsible Authority: Minister for Planning

ADDRESS OF THE LAND: 890 Taylors Road, Dandenong South

THE PERMIT ALLOWS: To develop and use land known as 890 Taylors Road, Dandenong South, for the purpose of **Materials Recycling (Soil Processing Facility)** in accordance with endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

1. Before the development and use starts, three (3) copies of an amended plan/ plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the plans submitted with the application, but modified to include:

- a) An amended landscape plan showing:
 - i. the height at the time of planting and approximate height at maturity of all proposed trees, shrubs and plants; and
 - ii. the location of detailed layout of the relationship between the pedestrian link to be created between the adjoining reserves public open space areas and the facility and associated screen planting.
 - b) detailed design of the internal vehicular access road, including details of bunds and draining to the trade waste collection and treatment system;
 - c) detailed design of any proposed car parking areas associated with the soil processing facility including layout and number of car parking spaces; and
 - d) changes made to the buildings to provide for the full enclosure of the facility and pre-processing areas as required by the EPA.
 - e) ~~a rehabilitation plan to be implemented in the event that the use ceases or the permit expires~~
2. The use and development as shown on the endorsed plans must not be altered without the further written consent of the Responsible Authority.
 3. Prior to the endorsement of plans under Condition 1, the owner must submit a Construction Management Plan to the Responsible Authority for approval. When approved, the Plan will be endorsed and then form part of the Permit.

The Construction Management Plan must include details on how the construction will be undertaken so it has minimal impact on the environment and surrounding area. Details to be provided in the Plan must include, but are not limited to:

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- a) Full work schedule/construction management plan to ascertain impacts on surrounding properties, including consideration of construction hours;
 - b) Measures to minimise and control noise, vibrations and dust from construction works;
 - c) Measures to minimise the impact of construction vehicles arriving at and departing from the land; and
 - d) Measures to minimise the creation of conditions likely to be a nuisance.

~~all to the satisfaction of the Responsible Authority.~~

The operator under this Permit must comply with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

- ~~4. Prior to the commencement of the use the permit holder must submit to the Responsible Authority and to the Environment Protection Authority an amended air quality assessment prepared in accordance with State Environment Protection Policy (Air Quality Management) which includes an assessment of:~~
 - ~~a) the combined effect of existing sources of emission to the air environment from the landfill operations;~~
 - ~~b) existing sources of emissions to the air environment from nearby industrial land;~~
 - ~~c) the Health Study being conducted by the Department of Health into airborne emissions in the Dandenong South area.~~
- ~~5. Prior to the commencement of development the permit holder must submit the following to the satisfaction of the Responsible Authority:~~
 - ~~a) a noise assessment which models the effect of noise emission on the nearby areas of public open space;~~
 - ~~b) a report from a qualified ecologist which demonstrates that the permitted use and development will not have unacceptable impacts (including noise) on the habitat values of the adjoining land which is to be used as a public open space, reserve or 'offset' site.~~
4. Prior to the commencement of the use, three (3) copies of a Traffic Management Plan (TMP) shall be submitted to the Responsible Authority for approval. Once approved the TMP will be endorsed and form part of the permit. The TMP shall address the following matters to the satisfaction of the Responsible Authority:
 - a) loading and unloading of vehicles and the flow of vehicles throughout the site;
 - b) wheel washing requirements of vehicles using the site; and
 - c) expected traffic movements generated to and from the site.
5. Prior to the commencement of the use, three (3) copies of a Vermin Prevention Plan (VPP) must be submitted to the Responsible Authority for Approval. Once approved the VPP will be endorsed to form part of the permit. ~~Once approved, †~~The use must be conducted at all times in accordance with the VPP to the satisfaction of the Responsible Authority.
6. Prior to the commencement of the use, three (3) copies of a Fire Prevention and Management Plan (FPMP) must be submitted to the Responsible Authority for approval. Once approved the FPMP will form part of the permit. ~~Once approved, †~~The use must be conducted at all times in accordance with the FPMP to the satisfaction of the Responsible Authority.

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7. Prior to the commencement of the use, three (3) copies of a Stormwater Management Plan (SWMP) must be submitted to the Responsible Authority for approval. Once approved the SWMP will form part of the permit. The SWMP shall include measures which ensure that:
- a) drainage flows are connected to a lawful point of discharge as approved by the Responsible Authority;
 - b) contaminated waste and contaminated effluent are is not discharged into the stormwater system; and
 - c) the wheel wash is maintained in good order and all liquid and solid waste or like material collected therein are must be retained on the site for disposal to an appropriate facility.

The use and development must at all times be conducted and maintained in accordance with the SWMP, all to the satisfaction of the Responsible Authority.

~~8. The use and development must all times be operated and maintained in accordance with:~~

- ~~a) any works approval of waste discharge licence in force in relation to the land, pursuant to the *Environment Protection Act 1970* to the satisfaction of the Environment Protection Authority;~~
- ~~b) any planning permit which applies to the land, to the satisfaction of the Responsible Authority.~~

8. All trade waste discharged to sewer must be discharged in accordance with a trade waste agreement entered into with the relevant water authority.

9. Once the development has started, it must be continued and completed in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.

10. Provision must be made for the drainage of the site including landscaped and pavement areas, to the satisfaction of the Responsible Authority.

11. Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge, to the satisfaction of the Responsible Authority.

12. Before the use of the land starts, areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- a) constructed in accordance with the endorsed plan/s;
- b) properly formed to such levels that they can be used in accordance with the plans;
- c) surfaced with an all-weather sealcoat;
- d) drained to the legal point of discharge; and
- e) line-marked to indicate each car space and all access lanes.

to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times. The lighting of the signs must be so positioned that no direct light or glare shall be visible from any roadway or from adjoining property.

13. The use and development must be conducted at all times in accordance with the requirements of the any relevant works approval or licence or other approval in

force from time to time under the Environment Protection Authority Act 1970 to the satisfaction of the EPA.

14. The buildings and works, including finishes, must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
15. The loading and unloading of contaminated soils and other prescribed industrial wastes from or to vehicles must only be carried out undercover within the building and within the respective loading docks/ bays as shown on the endorsed plans unless with the written consent of the Responsible Authority.
16. The site shall be kept in a neat and tidy condition at all times, all to the satisfaction of the Responsible Authority.
17. No permanent plant or machinery or equipment may be installed or used on the land, other than plant or machinery or equipment shown on the endorsed plans, without the consent of the Responsible Authority.
18. Contaminated soils and other prescribed industrial wastes must not be stored outside the building/s unless with the written consent of the Responsible Authority.
19. The loading and unloading of contaminated soils and other prescribed industrial wastes from or to vehicles must only be carried out undercover within the areas shown on the endorsed plans unless with the written consent of the Responsible Authority.
20. The amenity of the area must not be detrimentally affected by the use or development on the land, through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) appearance of any building, works or materials;
 - c) emission of artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, soil, grit or oil;
 - d) presence of vermin;
 - e) the storage of materials on the site; and/or
 - f) noise emanating from plant and equipment;all to the satisfaction of the Responsible Authority.
- ~~21. Any external lighting of the site, including car parking areas and buildings, must be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site.~~
- ~~22. The operator must ensure that dust generation from operations on the site (eg stockpiles, vehicle movements, loading and unloading operations) does not cause a nuisance off-site.~~
21. Noise emissions from the land must comply with *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* (“SEPP N1”).
22. All plant and equipment and machinery must be enclosed to the satisfaction of the Responsible Authority in consultation with the EPA.
23. The operator must submit to the Responsible Authority and the Environment Protection Authority a report prepared by an industrial facilities environmental auditor appointed pursuant to the provisions of the *Environment Protection Act 1970*, biannually for the first year of operation and annually thereafter. The reports

must be in a suitable format to ensure convenient assessment and identify (at minimum), to the satisfaction of the Responsible Authority and/or the EPA:

- a) whether airborne emissions from the premises are being adequately controlled;
- b) whether any remedial actions are required to avoid or minimise impacts of the use and development on the environment; and
- c) timeframes for implementing recommendations.

24. The permit holder must implement the recommendations provided by the auditor for the purposes of condition 22.

25. The landscaping for the site as shown on the endorsed plans must be completed within three (3) months of the completion of the development, to the satisfaction of the Responsible Authority.

26. The operator shall provide the responsible authority with a copy of any amended waste discharge licence issued by the EPA within seven (7) days of its issue.

27. Without prior written consent from the responsible authority the hours the soils processing facility will accept delivery of soils shall be:

Monday to Friday: 6.00am to 6.00pm

Saturday: 6.00am to 3.00pm

Sunday: 9.00am to 4.00pm

~~Sunday: 9.00am to 4.00pm~~

28. All external lighting of the site, including car parking areas and buildings, must be located, directed and baffled to the satisfaction of the Responsible Authority.

Melbourne Water Conditions

29. No buildings or works, including fill, is permitted within 5 metres of any Melbourne Water asset

30. Prior to the commencement of works a separate application, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses. Evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

31. This permit will expire if:

a) The development does not start within two (2) years of the date of this permit, or

b) The development is not completed within four (4) years of the date of this permit; or

c) The landfill has ceased to accept waste and the last cell of the landfill has been capped in accordance with EPA requirements.

~~d) The use does not start within (1) year of the completion of the development; or~~

~~e) The use is discontinued for a period of two (years); or~~

~~f) The landfill ceases to receive prescribed industrial waste or soils; or~~

~~g) The last remaining prescribed waste cell of the landfill is capped.~~

32. Upon the expiry of the permit, the operator must reinstate the land ~~must be reinstated~~ to the satisfaction of the Responsible Authority so as to:

- a) remove all buildings and reinstate the land in accordance with the rehabilitation plan required by the EPA;

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- b) implement the endorsed rehabilitation plan;
 - c) ensure that the land is rehabilitated in a manner which does not prejudice the management objectives for the adjoining land;
 - d) ensure that the objectives of any agreement under section 173 of the *Planning and Environment Act 1987*, or any permit condition requiring a section 173 agreement to be executed in respect of the landfill is not prejudiced.
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In accordance with section 69 of the *Planning and Environment Act 1987*, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Noise from mechanical plant and equipment must comply with State Environment Protection Policy (Control of Noise from Industrial, Commercial and Trade Premises) No. N-1 (SEPP N-1).

Date Issued:

Signature for the Responsible Authority:

Note: Under Part 4, Division 1A of the *Planning and Environment Act 1987*, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

PANEL VERSION 1

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED

The Responsible Authority has issued a permit. (Note: This is not a permit granted under Division 5 or 6 of Part 4 of the *Planning and Environment Act 1987*.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- * from the date specified in the permit; or
- * if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
 - (ii) the date on which it was issued, in any other case.

Sch. 1 *Planning and Environment Regulations 2005, S.R. No. 33/2005, 35*

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and a plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
 - * the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if -
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years of the issue of the permit; or
 - * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if -
 - * the development or any stage of it does not start within the time specified in the permit; or
 - * the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - * the use does not start within the time specified in the permit, or if no time is specified, within two years after the completion of the development; or
 - * the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision -
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