



Response to Submission from Western Region Environment Centre

**Works Approval Application
Wests Road Refuse Disposal Facility
Extension of Operations November 2016
WA1002260**

August 2017

The submission from Western Regional Environment Centre (WREC) was received by WCC via EPA on 18 May 2017.

The 'grounds of opposition' detailed in the WREC submission were very similar to the issues raised across all submissions. Council has responded to these issues previously in the Council's *Response to Thematic Issues* document. A response to the specific details and points in WREC's submission is also provided below and is best read in conjunction with a copy of the WREC submission. The response includes a statement of our understanding of the main issue(s) and our response in italicized writing.

Part 1

1. Introduction – who we are and our ‘standing’

Wyndham Council acknowledges and respects the hard work and dedication of the WREC volunteers and the contribution that the non-profit incorporated association makes towards protecting the environment and communities.

We note WREC’s significant involvement in waste management and landfill issues. The director of WREC, Harry Van Moorst, has been a valued member of Council’s Wests Road Refuse Disposal Facility and Waste Management Community Reference Group (RDF CRG) since 2012.

The submission states that the current concern of WREC is that the legitimate use of landfill for ‘last resort/residual waste’ is being seriously undermined by a narrow and unacceptable implementation of the Government’s Resource Recovery Policy.

WREC does not support the expansion of the landfill for a period of 30-40 years at the proposed height and does not support the establishment of waste ‘hubs’ with the impacts on two or three local communities. It suggests that a broader approach will secure community acceptance instead of growing opposition.

In this regard, it appears that the broad concerns raised by WREC throughout the submission are largely a criticism of and a lack of acceptance of the Victorian Government’s waste planning implementation plan and the nomination of the Wyndham Refuse Disposal Facility as a waste hub of state importance and a lack of acceptance that landfills will still be needed for in the future.

Council believes its Works Approval Application (WAA) is consistent with the State Waste Management Policy (WMP), the Statewide Waste and Resource Recovery Infrastructure Plan (SWRRIP) and the Metropolitan Waste and Resource Recovery Implementation Plan (MWRRIP). The WMP and the MWRRIP create a waste and resource recovery infrastructure system that aims to maximize the diversion of recovery but recognizes the need for landfilling to continue to provide essential services to the community. The Wyndham Refuse Disposal Facility is included in the Landfill Schedule in the MWRRIP upon the basis that it available space for at least the next 30 years. The removal of the proposed “piggyback” cells from an area previously used for landfill has reduced the expected life of the WAA to 2043, which is consistent with the 30 year timeframe in these documents.

2. The Wyndham waste landfill - the past ten years

The submission outlines the history in relation to planning permits given on the site, and suggests that Council has acted improperly in the past by issuing itself planning permits without giving proper notice to residents.

The proposed works are legally permitted under permit number WYP 1221/07.03 issued by the Victorian Civil and Administrative Tribunal (VCAT) on 18 June 2014. The fact that Council’s decision to issue this permit was reviewed and upheld by VCAT, following an appeal by a local resident, highlights that there was both an independent review and an opportunity for community involvement in the current planning permit.

It is noted that the existing planning permit WYP 1221/07.02 includes a condition to ensure that

community consultation and engagement is an ongoing requirement of the continued operation of the RDF. The Wests Road Refuse Disposal Facility and Waste Management Community Reference Group (CRG) which was established in 2012 undertakes this role and fulfills the requirements of the permit condition. Council has also commenced the preparation of a Community Engagement Strategy to review and document its approach to ongoing involvement in the operation of the RDF.

3. Government Policies

The submission states it is a requirement of the Planning and Environment Act that Works Approvals are granted on the basis of complying with Government policies. It is asserted that EPA is required to consider the broader state waste legislative and policy context within which the Works Approval is assessed including:

- The Planning and Environment Act (P&E Act)
- The Environment Protection Act (EPA Act)
- State Government Policy (including EPA policy)
- Victoria's Waste and Resource Recovery Policy, Getting Full Value (April 2013)
- Guidelines for Best Practice Environmental Management - Siting, Operations and Management of Landfills
- Wyndham City Council policies (and strategies)

Council agrees that the EPA is required to consider whether the application complies with the EP Act, EPA Policies and State Environment Planning Policies and any Best Practice Guidelines referenced in these policies, including the Best Practice Environmental Management guidelines for the siting, design and management of landfills.

The requirements of the Planning and Environment Act have already been assessed as part of the planning permit application. Only Council policies which are referenced in the Planning Scheme can be considered in the assessment of a planning permit. Otherwise Council policies guide Council decision making in relation to the allocation of resources within the municipality.

Implementing State Policy

This section of the WREC submission raises concerns with State Waste Policy and the MWRRIP and asserts that these documents have not met community expectations and that the State Government needs to do further work.

The WAA is not the appropriate process or forum to debate the content of State Government Policy. The EP Act requires the WAA to be consistent with the State Waste Policy and MWRRIP. The WAA has met this requirement. The continued operation of the Wyndham RDF is listed as an important asset to implement State Waste Policy and continue to provide essential services to the community.

EPA Policy (page 8)

Council agrees that EPA must consider the practice guidance in the Best Practice Environmental Management (BPEM) in the assessment of the works approval application. This document is referenced in the WMP.

The submission asserts that the WAA contravenes the BPEM because it is a mound landfill and the BPEM states that Mound landfills are to be avoided.

It is Councils view that the proposal in the WAA is not a mound landfill but an area landfill associated with the filling of a quarry void and the height of 44 m AHD is a consequence of meeting the maximum and minimum slope requirements in the BPEM document.

Community Rights and Needs (EPA BPEM 788.3)

The submission states that the requirements for community consultation are outlined in the BPEM. WREC is of the opinion that Council has not met these conditions and that an approval for a 30 year period will exclude the community for further decision making.

We fully acknowledge the need and benefit of full community consultation, however the requirements that WREC have outlined in their submission are from 5.1.1 of the BPEM and relate to the steps that Regional Waste Management Groups should use to establish the means and criteria for identifying and ranking sites for locating a proposed new landfill.

This section has limited application to the current WAA. The RDF is an existing landfill site. The RDF already has an existing planning permit. Prior to lodging the WAA, Council consulted with the community about the Works Approval application through the Wests Road Refuse Disposal Facility and Waste Management Community Reference Group. A Community Information Session was also held on 28 July 2016. Approximately 40 people attended this session. Council has commenced the preparation of the RDF Community Engagement Strategy to review and documents its commitment to ongoing consultation.

Wyndham City Council Policy

Contrary to WREC's submission, the legislative framework governing the assessment of the WAA does not require an assessment against the planning and environment policies in the Wyndham Planning Scheme. The assessment against the Planning Scheme was done by the responsible authority (Council) as part of the planning permit assessment.

The submission cites selected clauses of the Planning Scheme and states that these are not relevant to the landfill in any direct way and suggests that the lack of references should be taken to be a lack of support for the increased height of the facility.

In response to the criticism of the Planning Scheme, it is firstly noted that The Planning Scheme is a land use planning and assessment tool for the entire municipality and not an assessment tool for a Works Approval Application. Secondly, the submitter overlooked the following important direct reference to the RDF in the Planning Scheme.

Clause 21.04-2 Waste Management

The Wyndham Refuse Disposal Facility (Wyndham RDF) is identified within the Metropolitan Waste and Resource Recovery Strategic Plan: March 2009 as a regionally significant landfill site. It receives municipal, commercial and industrial waste (both solid inert and putrescible) from across Metropolitan Melbourne and the wider regional area. It is expected to continue for more than 60 years.

Key issues

- *Acknowledging that appropriately sited, designed and managed landfills play a critical role in protecting public health and the environment.*
- *Ensuring the long term security of well sited landfills such as the Refuse Disposal Facility from conflicting land uses.*

Objective 4

To provide for the ongoing and long term functional operation of the Wyndham RDF.

Strategies

- 4.1 Ensure use and development of land around the Wyndham RDF is compatible with site operations.*
- 4.2 Regulate the establishment and siting of amenity susceptible uses within proximity to Wyndham RDF.*
- 4.3 Ensure that the adverse amenity impacts from Wyndham RDF are minimised.*

This reference highlights Council's clear intent for the ongoing operation of the RDF, the importance of buffers, the threat of encroachment from development and the need for the application for a reverse amenity principle on developers as the agent of change, to avoid off-site amenity issues.

Wyndham Environment and Sustainability Strategy (WESS) 2011-2015

The submission then goes on to criticize the *WESS 2011-2015*. This Strategy has been superseded by the *Wyndham Environment and Sustainability Strategy 2016-2040*. The current strategy includes the following actions and targets which highlight Council's clear and strong commitment to becoming a best practice operation and diverting waste from landfill:

Topic / Action Area	Short term targets (working towards 2020)	Long term targets (working towards 2040)
<p>1.2 Refuse Disposal Facility (RDF) The Werribee RDF has been declared a waste hub of state-wide significance in Victoria's State-wide Resource Recovery Infrastructure Plan. Advancements in infrastructure and technology can ensure the RDF is a best practice operation leading the way in resource recovery, job creation, renewable energy and greenhouse gas abatement.</p>	<ul style="list-style-type: none"> Newly developed and operational Transfer Station Increase in collected recycled materials from the Transfer Station of 15% 75% of landfill gas generated at the RDF is captured for renewable energy generation and flaring 	<ul style="list-style-type: none"> Newly developed and operational Resale Shed & Education Centre established Waste pre-sorting technology and/or other feasible alternative waste treatment technologies maximising resource/energy recovery established at the RDF
<p>1.3 Waste and Recycling Services There are many benefits to diverting waste from landfill; including preservation of natural resources, reduced energy and water use and reductions in greenhouse gases. Education campaigns are required to ensure Wyndham's diverse and growing community is well informed on waste avoidance and diversion methods.</p>	<ul style="list-style-type: none"> Contamination rates in residential recycling bins to be under 15% (average of audited sample) Contamination rates in residential green waste bins to be under 3% (average of audited sample) Uptake of green waste bins 35% of resident base 25% of Hard Waste materials to be diverted from landfill Have Australian Standard bin infrastructure (lids and size) 	<ul style="list-style-type: none"> Landfill diversion rate of 90% (recyclables, green organics, hard waste and drop off materials) Uptake of green and/or food waste bins to 95% of resident base Household yield of garbage collected reduced by 50%

The submission lastly points out that the following Council strategies do not mention waste management or waste infrastructure and suggests that this means that there is a lack of support for the WAA:

- Social Infrastructure Planning 2040
- Wyndham City Plan 2011-2015
- Growth Area Framework
- Wyndham, Environment Planning Atlas, 2004
- Towards a Sustainable Wyndham, 2004-2007

A strategy cannot be all things to all people. A consideration of the purpose of each of the strategies identified by WREC indicates that the operation of the RDF was outside the scope of these documents. Each of these plans was developed through a process of community consultation. Community consultation is the key method of ensuring that each Council strategy is based on community priorities. The fact that the RDF does not feature highly in these strategies may be an indicator of a low level of concern about the ongoing operation of the RDF.

To highlight the importance of the RDF, Council has developed a specific plan for the facility. The RDF Strategic Plan and Vision 2040, adopted by Council in March 2016, articulates Council's vision for the RDF as follows:

Vision 2040: "The RDF will become the centre of a precinct focussed on resource recovery, with residual waste to landfill. Complementary businesses are co-located and the area is a centre for economic growth and green jobs. The centre plays a key role in environmental education and is acknowledged by the community."

Visual Amenity (page 12)

The submission states that the WAA landfill height is in direct conflict with Council's Wyndham Landscape Context Guidelines, March 2013 (LCG). The submission uses selected references from the LCG to support this view.

The statement that the proposed height is in direct conflict with the Wyndham LCG is incorrect.

The LCG were developed by breaking the study area into Key Sites. The submission suggests that the RDF is blocking important views from Key Site 2 and Key Site 8. The RDF however is in Key Site 14 located to the south of Key Site 2 and Key Site 8. It has no impact on the views from these sites.

Key site 14 is located north west of the entrance of the RDF. The LCG talks about the importance of the Cherry Tree Creek corridor and notes that these views allow travellers on the Princes Freeway to appreciate the Volcanic and Otway plains and assist with buffering the adjoining landfill and quarry sites immediately west of the Creek. It recommends that the views of Cherry Tree Creek and it's floodplain from the Princes Freeway are preserved. It is noted that the LCG do not suggest that there will be an uninterrupted view of the You Yangs from the Princes Freeway. The uninterrupted view of the You Yangs is to be provided from areas north of the RDF site.

The objectives and requirements identified in the LCG have been translated into an Environmental Significance Overlay Schedule 1 (ESO1). ESO1 has then been applied to many areas in Wyndham, including the area in the south-west corner of the RDF site, where the Cherry Tree Creek is located.

The application of ESO1 on part of the RDF site ensures that there is no development within the creek corridor and that a viewline of the creek is maintained. This matter would have been considered by both Council and VCAT as part of the decision on whether to issue a planning permit. The LCG is a reference document in the Wyndham Planning Scheme.

4.7 Lack of sound factual and evidence-based framework

The submission contents that the assessment of the need for additional landfill space in WMRRIP and the Landfill Schedule was not evidence based and had limited scientific basis.

Council is not responsible for the creation of the WMRRIP or the landfill schedule. Council believes that the Metropolitan Waste and Resource Recovery Group would be best to respond to this comment.

4.8 Risk of monopolies

The submission suggests that the EPA needs to consider the 'risk of monopolies' associated with the

consolidation of the landfill industry into fewer, larger sites.

The 'risk of monopolies' is not a relevant consideration of the assessment of a works approval. EPA is only required to assess whether the WAA is consistent with the State Government policy.

The consolidation of the landfill industry into fewer, larger sites and long term facilities, including the Wyndham RDF is a recognised and accepted part of the State Government Waste Management Policy and key element of the MWRRIP.

The Wyndham RDF is nominated as a Hub of State importance in the MWRRIP. The MWRRIP explains that State hubs provide a service to the local area, region and state. They receive consolidated material streams from both local and regional hubs and undertake higher order recovery, reprocessing or management. They can be one facility or a number of facilities that support each other.

Whilst the WREC submission states that there has not been any community consultation about turning the Wyndham Refuse Disposal Facility into hub, section 8.1.2 of the WMRRIP explains that the State identified the hubs of state importance 'considering feedback from community consultation'. Appendix B of the MWRRG outlines the stakeholder engagement that was conducted through the development of the MWRRIP.

4. No need for further landfill space at this time

Council agrees with WREC that EPA must consider the need for additional landfill space. The submission contains a view on the proposed steps to be undertaken to establish the need and to develop strategies to meet these needs.

Council notes that these same steps have been taken by the MWRRG as the responsible authority for planning of waste facility in the State of Victoria, in the preparation of the WMRRIP.

Strategically, the need for additional landfill space has been clearly identified in the WMRRIP.

Operationally, based on the current rate of incoming waste, there is clearly a strong market demand for future landfill airspace.

5. Odour

The submission correctly states that odour is regulated through the State Environment Protection Policy for Air Quality (SEPP-AGM) and through the Public Health and Wellbeing Act 2008 (PH&W Act).

Given the submission was made in response to a current works approval application, Council wishes to clarify that EPA is not responsible for the administration of the PH&W Act or administration of the regulatory provisions under the Act. The Department of Human Services administers the PH&W Act and councils are responsible for administering the Act's regulatory provisions in their municipality. Wyndham City Council is responsible for administering the regulatory provision of the Health and Well-being Act in the City of Wyndham. Part of the WAA process is the mandatory referral of the application by EPA to the Department of Human Services for comment. To date, Council believes that the Department of Human Service has not identified any specific issues with the WAA.

The submission asserts that the WAA does not meet the requirement of odour legislation and that Council has falsely claimed that there have been no 'verified' complaints regarding odour.

Could firstly notes that no environmental notices have been issued under the PH&W Act in relation to nuisances at the RDF. Nor has there been any EPA enforcement in relation its Licence condition to discharge odour beyond the boundaries of the premises since 2014/2015 year.

Council acknowledges that the RDF has received a number of 'complaints' which have been substantiated by the Manager Waste Management and Disposal at WCC. The Manager works actively and promptly to identify the source and eliminate the source if it is found to be the RDF. It is noted that a 'complaint' or complaint substantiated by WCC is different to a 'verified' complaint. A 'verified' complaint has been assessed and investigated by an accredited EPA assessor to confirm that the source was the RDF.

All non-compliances with Odour requirements in EPA Licence are fully documented in the Annual Performance Statement that Council submits to EPA each year.

The submission at clause 5.1.4 uses references to documented non-compliances in the Annual Performance Statement for the years 2011/12 and 2013/14 and comments from Audit Reports in 2011 and 2012. The current status of these matters is outlined in the 2015/16 Annual Performance Statement.

Clause 5.2 and 5.3 of the Submission detail WREC's concern with the Odour modeling that was completed for the site and submitted as part of the application. A statement from the previous 2014 Works Approval Application for the construction of Cell 4C is included however this is not relevant as that application has already been considered and approved.

In response to the submitter's concern with the model, Council has updated the odour modeling in 2017. The new modeling included a scenario of the RDF receiving 850,000 tonnes per annum thereby addressing the submitters concern at clause 5.3.1. The new model correctly assumes a maximum allowable tip face of 1250m² (i.e. 35 x 36m).

The submitter is concerned with the model's use of 5 odour units as the measure at which an odour may cause people discomfort. The use of 5 odour units is based on a risk assessment approach accepted by EPA for Intensive Broiler Industry and is discussed in detail in the updated odour modeling report prepared by consultants GHD.

The submitter's specific concerns with the odour emission rates that are used in the modeling were only measured during the winter period are noted. WCC proposes to conduct quarterly odour emission rate testing each quarter (coinciding with the peak spring, summer, autumn and winter season) over the next 12 months. The odour modeling will then be updated to include any seasonal variation in odour emission rates.

There was also concern that no 'unusual' weather events were included in the model. The updated model used AERMOD and used five years of meteorological data. Therefore unusual weather conditions that occurred across these five years will have been included in the modeling.

We note the statement of page 28 of the submission states that the 'aerial extend of cells note completed or effectively capped will be an ongoing, source of additional odour (possibly) 30+ years as the landfill progresses substantially above the ground and that this has not been considered in the modeling or the conclusions'. However, this is definitely not the case. Capping of cells will commence in 2017/18 and no cells will be uncapped for 30+ years.

6. Mounds, Leachate and Infrastructure Failure

The submission asserts that the height of the mound will result in increased leachate generation and odour. This is not the case. Leachate generation is a function of rainfall and total surface area of the cell. Interim and final capping direct water off the surface area of the cell. For a given incoming tonnage per year, a lower height requires a larger surface area, which will result in more leachate.

Final capping of cells will commence in 2017/18. The design of the cell and the cell capping takes into account and responds to all the technical engineering matters that the submitter raises, such as differential settlement, wind and temperature variations, pressure on leachate system. Detailed designs for both cell and cap construction require EPA approval.

Clause 6.7 of the submission asserts that the height of the landfill will lead to the contamination of Cherry Tree Creek and the RAMSAR wetland site to the west of the site and that an investigation is needed. The risks to groundwater have been assessed by the Auditor. It is the Auditor's view that there is no connection between groundwater and Cheery Tree Creek. It is noted that an old unused leachate pond was decommissioned in January 2016 and a new fully lined leach pond is in final stage of construction to reduce risks to ground water.

The submission also states that the proposed height of the landfill will substantially increase the risk of litter problems. Council has included money in the 2017/18 budget for significant new litter fencing

7. Piggy Back Cells (page 31)

WREC's concerns about the piggy-back cells are noted. The piggy-back cells have been deleted from the works approval application.

8. Fire

Contrary to the assertion in the submission, Council takes the management of fire risks at the RDF seriously and this was addressed in the WAA.

Section 4.7.9 of the WAA outlined the changes that were made at the site in response to the 2012 fire incident and the Victorian Fire Services Commissioner Review of Landfill fires report.

The following two documents were included as appendices to the WAA for EPA consideration:

- *RDF's Fire Management Plan, April 2015*
- *Fire Prevention and Fire Fighting Procedures - Section 4.15 of the Wests Road Refuse Disposal Facility Operations and Maintenance Procedures Manual (OMPM)*
- *Contingency Plans in the form of the Emergency Evaluation Procedure and the Environmental Emergency Preparedness and Response Procedure – Section 4.14 and 4.13 of the OMPM*

The risk of fire at the RDF was also re-assessed in February 2017. This assessment considered the existing fire protection equipment, response procedures and standards of the proposed continued operation of the landfill. The assessment method was based on the National Emergency Risk Assessment Guidelines and is consistent with the Australian Standards AS/NZS ISO 31000: 2009 Risk Management Procedures and Guidelines. The risk assessment identified 18 fire risks at the RDF. A Risk Treatment Plan has been developed to achieve and maintain all risks at a Low or Medium rating,

and achieve a satisfactory degree of fire risk.

A new Emergency Management Plan has also been developed for the site. The EMP includes a section on fire incident response.

There is currently 100,000L of water stored on site for fire fighting purposes and two water trucks. Council has allocated funding in the 2017/18 budget to provide a secure reticulated water supply, adequate for fire fighting purposes, to the site. There is also funding available to upgrade the two water trucks.

We wish to acknowledge the submission correctly states that a subterranean fire was detected in the landfill in June 2016. Council has demonstrated that it has the commitment and resources to efficiently manage and extinguish this fire.

The current practices, above documents and actions provide adequate evidence of ability to comply with the objective in clause 15 (3) and (4) of the Landfill WMP to prevent landfill fires and efficiently extinguish any that should occur.

It is noted that clause 8.8 of the submission (p.38) incorrectly states and exaggerates that the 'there will be an increase in intensity of operation due to the substantially increased quantities of waste per day and per hour – a situation that creates additional pressure on staff, equipment and infrastructure and hence the increase likelihood.' The WAA does not propose to significantly change the intensity of the operation.

9. Other Community Impacts

9.1 Hours of Operation – off-site odours, noise and traffic (pages 38-39)

No changes to the hours of operation are proposed in the WAA.

The current hours of operation are based on the operational needs of the industry to collect waste from its customers out of normal business hours.

9.2 Stigma (page 39)

The submission asserts that the landfill can operate without creating such a stigma if it remains at a reasonable size and low height and over a mutually acceptable time pan.

A stigma is a complex social construct that is difficult to measure on a site by site-by-site basis. The majority of the community has not objected to the Works Approval Application.

WCC believes the continual landscaping and cell rehabilitation and greening of closed cells at the approved height over time are appropriate measures to promote a positive visual perception of the site.

9.3 Anti-competitive Issues

The submitter's view that State Government Policy to create waste hubs is anti-competitive is not, in WCC's view, a relevant consideration in the assessment of the works approval application.

Contrary to the submitter's view, WCC can attest that there is a significant level of competition in the waste disposal sector at present

9.4 Problems with Leachate

WREC contend that the issues with leachate management, additional storage and the continuing non-compliances must be satisfactorily and fully rectified before any major expansion of the landfill can be considered. References are cited from the 2016 Audit report to highlight the problems with the current management of leachate based on the Auditor's misunderstanding that the 'new leachate pond will be located on cell 2A, which has no-side lining'.

The Auditor's statement about the location of the new leachate pond was factually incorrect and this has been brought to the Auditor's attention. The new leachate pond is located on an unfilled area adjacent to cell 2A and is not located on Cell 2A. The Auditor has advised WCC that this will be corrected in the next audit report.

9.5 Community Sense of Belonging

There is no evidence to support WREC's emotive claim that the continued operation of the landfill will undermine the sense of place and community pride.

The priority implementation of landscaping works and site rehabilitation will improve the visual amenity of the RDF. The completion of these works, the ongoing professional management of the RDF, improved environmental performance and improved community engagement activities will demonstrate that the facility can be a good neighbour.

The Wyndham City Plan 2017-2021 includes a range of positive strategies to improve the community's sense of place and community pride. The presence of an operating landfill within the municipality will have no bearing on the achievement of these strategies.

10. Risk and Environmental Justice

The submitter expresses support for the State Government's 'reform agenda' and the need for 'environmental justice' to be considered, implemented and enforced in EPA's decision-making. It is assumed that this was not just a general statement but that the submitter wants EPA to ensure that the WAA achieves 'environmental justice'.

In response, despite the 'reform agenda' the State Government has not included 'environmental justice' as a specific principle or defined any specific outcomes in relation to Environmental Justice in the EP Act. EPA therefore does not have any legislative framework to give further specific consideration of environmental justice, as it is not a principle of the EPA and there are no specific statutory outcomes through the EP Act.

Environmental Justice would appear to be considered under the existing principles of 'intergenerational equity' and 'shared responsibility', which are existing principle of the EP Act.

The planning of waste infrastructure in Victoria is done at a state level through the Metropolitan Waste and Resource Recovery Group (MWRRG). The MWRRG has prepared a written document/plan, the Metropolitan Waste and Resource Recovery Implementation Plan 2016 (MWRRIP), consistent with the principles of the EPA Act, with community input to show how this will

be done.

The MWRRIP includes a range of measures to supporting a viable resource recovery industry and reduce the amount of valuable material going to landfill to ensure that the impacts on the environment and public health are not disproportionately felt across communities of Victoria.

The Landfill Schedule in the MWRRIP nominates waste hubs to reflect macro-economic realities associated with the operating costs and an efficient use of scarce land resources. The map of the nominated waste hubs in metropolitan Melbourne (Figur5, page 64 MWRRIP) show how geographic economics and policy have combined to produce a distribution of waste hubs throughout different regions of metropolitan Melbourne.

Council accepts the RDF's role as a State Waste Hub and acknowledges and accepts the need to work with the local community, particularly neighbours to prevent and manage any adverse local amenity impacts.

10.1 Whose risk and acceptability?

Council agrees with the submitter that an important aspect of risk management is to ensure appropriate communication and consultation with stakeholders. Communication and consultation throughout the entire process for managing risk is vital to ensure that:

- *risks have been accurately identified*
- *controls for identified risks are adequate and effective*
- *"buy-in" from risk and control owners is secured*
- *all stakeholders are engaged and committed to the risk management process*
- *the risk management process is effective and well embedded within the organisation, and its culture and processes.*

The Wests Road Refuse Disposal Facility Community Reference Group is the key ongoing forum for the community to be involved in decision making in relation to the RDF. RDF Management incorporates the information and feedback received from the community in these meetings into their technical work.

The Community Engagement Strategy will review and reconsider Council's approach to community involvement in the various risk assessments conducted at the RDF.

10.2 Global WA excludes community rights

The submission appears to suggest that the performance based regulatory system that EPA operate with, means that Council needed to provide a higher degree of information in the WAA.

In response, it is noted that a preliminary meeting is held with EPA to determine the information required to be submitted in the WAA. To date, EPA have issued Council with two notices requesting further information and Council has complied with both of these requests. Council is willing to provide EPA with any information that they need to assess and decide the application. Council is expecting EPA to amend its Licence to include additional performance standards.

It is also noted that EPA will only be giving approval for anything that 'is' included in the current application. EPA still need to approve cell design and construction and cell capping and a separate works approval would still be needed in the future for any new plant, equipment and activity that

results in a discharge of waste to the environment, in an increase or alteration to an existing discharge of waste to the environment or a change in the way waste is treated and stored.

10.3 Potential legal and administrative problems

The submission notes concern that the Works Approval for the whole site will mean Council ‘could’ legally argue that a Works Approval for the entire site enables it to continue with works at the current standard. The submission notes their view that that a Works Approval for each new cell is the most convenient way for EPA to manage the ongoing development of landfill.

It is Council’s understanding that, regardless of whether works approval is granted for the whole site or not, that each new cell will be required to go through a separate approval process as detailed by EPA. Under this process the standard for each new cell will be the standard of the day and not that standard at the time any works approval is issued.

The submitters proposed approach of a two year approval is not effective or efficient. It will also not provide a good outcome.

It is completely impractical and economically unsustainable and does not allow the facility to do any long term planning and presents a risk to provision of essential waste services. A WAA application can take over 18 months to prepare and process. The design and construction of a landfill cell also takes over 12 months to complete. This effectively means that a new application is being prepared every 12 months, even before the previous application is approved. This would ensure the RDF’s resources were allocated to a continual cycle of preparing works approval applications and would ensure no resources could be allocated to evaluating and implementing alternatives to landfill or process improvements that result in a reduction in the waste going to landfill.

10.5 Excessive time horizon

The submitter seeks EPA prudence in considering any long term landfilling approvals.

The ‘piggy-back cells’ proposed in the original WAA have been deleted from the application. This has reduced the works approval timeframe to 25 years. The timeframe in the WAA application is now consistent with State WMP and the MWRRIP.

Council will continue to meet with the CRG and develop a community engagement strategy to broaden and strengthen its consultation and engagement strategies to secure a ‘social licence to operate’.

The RDF, owned by Council, will also continue to operate within the legislative framework of the Local Government Act. This means that all strategic decisions in relation to the governance of the RDF are made by democratically elected officials/community members.

11. Summary and Conclusions

The submission concludes that there are 14 serious flaws in the WAA. Council has provided a response to each of the submitter’s issues below:

	Flaw identified by WREC	Council response
1	Sampling for the studies was seriously inadequate,	The odour modeling has been

	Flaw identified by WREC	Council response
	especially for the odour assessments.	redone. Council will collect seasonal data on odour emission rates from October 2017 to July 2018 and then re-evaluate the odour modeling in light of the results from the odour emission testing.
2	Risk assessments fail to consider 'worst case' scenarios.	The new odour modeling is based on a worst case scenario tonnage of 850,000 tonnes and includes 'worst case' scenarios.
3	There is leachate leaking on the site and this could contaminate surface and ground water and then pollute Cherry Tree Creek and the RAMSAR wetland site to the west of the RDF	There is no evidence to support WREC's claim that leachate is leaking into surface waters or a connection between ground/surface water and the Cherry Tree Creek and RAMSAR wetland. An old unlined leachate pond that had the potential to leak was decommissioned in Jan 2016 and a new leachate pond (fully lined and compliant with EPA requirements) has been constructed and is currently awaiting Auditor and EPA approval prior to commissioning.
4	Failed to establish the need for the landfill at the approved height	The state government is responsible for the strategic planning of waste management facilities. The state government's plan, the WMRRIP identifies the need landfill infrastructure. The continued population growth of metropolitan Melbourne is expected to continue to create a demand for waste disposal.
5	Failed to provide adequate fire risk assessments or a fire management plans	A fire risk assessment has been completed and fire management plan has been prepared and submitted to EPA.
6	Failed to assess the infrastructure risks from the additional height above ground.	The risk of the proposed height have been assessed and submitted to EPA for consideration. The height of the facility did not have a large effect on the overall risk profile of the facility and there are adequate measures available to manage these risks.
7	Fails to assess hours of operation, traffic implications.	The WAA does not propose to

	Flaw identified by WREC	Council response
		make any changes to the hours of operation or traffic arrangements. Traffic implications are considered a planning matter.
8	There has not been any community consultation prior to the development of the Application. The CRG was not allowed the opportunity to consider the Works Approval.	This is untrue. A special meeting of the Community Reference Group was held on the 17 March 2016 to discuss the Works Approval Application. Harry Van Moorst from WREC attended this meeting. Notes from this meeting have been provided to EPA. Council also held a Community Information Session on 23 July 2016, prior to lodging the WAA with EPA.
9	The growing list of non-compliances makes it clear that the landfill is not up to 'best practice' standard.	Council acknowledges that there have been non-compliance events. Council uses a system of monitoring and auditing to identify and address non-conformances.
10	Failed to adequately show the 'works' being applied for.	EPA can ask Council for any further information it needs to assess the application. Council has complied with all requests for further information from the EPA to date.
11	Fails to accord with the Waste Hierarchy and other Principles of the EPA Act.	The EPA Act and Waste Management Policy recognize that whilst the disposal of waste to landfill is the least preferred method of waste management, it is still a necessary and vital part of the Waste Hierarchy. The long term aim of all levels of government and industry is to reduce the demand for landfill.
12	Not in accordance with government waste and resource recovery policy.	The WAA is in accordance with the MWRRIP. The RDF is nominated in the MWRRIP as a facility of statewide importance. The RDF is nominated in the landfill schedule to provide landfill services to the metropolitan Melbourne community for at least the next 30 years.
13	Not in accordance with community attitudes and	Council acknowledges and

	Flaw identified by WREC	Council response
	expectations	respects that the WAA does not have support from some members of the community. As a state facility, Council has an obligation to continue to provide essential waste services to metropolitan Melbourne. Council hopes to continue to work with and build trust and respect from the local community by continually improving the operation and performance of the RDF and delivery on key actions, such as the timely rehabilitation of closed cells, improved landscaping works and better communication.
14	Not in accordance with the Planning Principle of Net Community Benefit	There is net community benefit to the community of Wyndham in that the "profit" from the RDF is used to support the annual capital works program of council.

Annex 1 - Non Compliance Report 2013 - 2017

The submission presents the known non-compliances from the published Audit Reports as evidence of Council's poor performance.

Council acknowledges that there have been non-conformances with its licence in the past. Council also acknowledges that it has not undertaken the progressive rehabilitation of closed cells in a timely manner. Council has commenced the design stage of the final cap for cells 1B, 2A, 2B and 3 with the intention of commencing works within the 2017/18 year.

The independently designed and approved environmental monitoring system and audit are key ways for Council, EPA and the community to continually monitor, assess and improve the environmental performance of the landfill. The results from the monitoring program and annual Audit are used to identify, prioritise, plan and deliver areas for immediate rectification and improvement. For example, a protocol around the testing of clean fill was introduced after the auditor identified this as an issue (documented by the submitter in their submission at clause 4, page 66).

Complaints from the community are another vitally important part of the continuous improvement system. The Manager of the facility can be contacted 24 hours a day to record and investigate complaints to identify where the RDF is the source and any introduce management measures to reduce the source of the complaint, if possible.

Annex 2 - EPA Letter regarding timeframe of approval of Boral Planning Application – Melbourne Regional Landfill

This is a copy of a letter, dated 223 May 2014, from EPA to the Manager of Planning and Development at the City of Melton, advising that the site is an important strategic site for waste management in Victoria and that this is confirmed in the State's Waste Policy and Plans. EPA will be prudent in considering any long term landfilling approvals, that modeling would be required to identify the most appropriate buffer for that site and that a consultative approach to this matter would be in the best interests of all involved.

The Wyndham RDF is also an important strategic site for current and future waste management in Victoria. This is confirmed in the Statewide Infrastructure and Resource Recovery Plan and the Metropolitan Waste and Resource Recovery Implementation Plan (MWRRIP). The proposed timeframe for the works approval is consistent with these plans and the Landfill Schedule. The proposed timeframe is similar to the approval recently given to the Melbourne Regional Landfill.

Annex 3 - EPA letter re Visual Amenity

This is a copy of a letter, dated 30 August 2013, to Harry van Moorst from the former Chief Executive Officer of EPA, advising that EPA has powers to regular amenity issues associated with the height of a landfill, through the current landfill BPEM and that EPA will consider community concerns in the assessment of a works approval application.

EPA's request for further information required Council to prepare a risk assessment of the height of the landfill. The risk assessment found that the objectives and outcomes of the BPEM can be met at the approved height of 44m. Landscaping of the site and surround and the rehabilitation and greening of the existing closed landfill cells are key best practice measures to improve the visual amenity of the RDF.

Annex 4 – Photos of the Wests Road Landfill

Annex 4 contains 10 photos of various parts of the RDF.

Council assumes that these photos were included to demonstrate the points in the submission and has provided its own commentary of the photos as follows:

Photo 1-4 (Pages 70-71) – These photos show the operation of the tip face on one or possibly two occasions. The photos are not dated. The photos do not contain a scale, so it is hard to assess whether the size of the tip face was larger than permitted. The size of the permitted tip face is 1250m² and not 625m (25m x 25m) as suggested by the submitter. Without a date, Council is unable to provide any commentary on these photos.

Council has recently purchased and installed a GPS based design and tracking system to more precisely design and operate the tip face and comply with the Licence condition about the size of the tip face. Additional staff resources have also been allocated to improve traffic management and communication with delivery drivers to ensure waste is being deposited in accordance with designated areas only.

Photo 5 (Page 72) – This photo is a short view of parts of cell 4 from the buffer zone to the east of the RDF in 2013. Significant works have been recently undertaken to re-profile cell 4A and 4B to reduce the slope of the batter shown in this photo. These are closed cells, which will be rehabilitated, landscaped and greened, to integrate them into the landscape.

Photo 6 (Page 72) – This photo is a show view of part of cell 4 taken from near the entrance to the RDF. It appears that this is taken from the western side of cell 4. As per the photo above - Significant works have been recently undertaken to re-profile cell 4a and 4b to reduce the slope of the batter shown in this photo. These are closed cells, which will be rehabilitated, landscape and greened, to integrate them into the landscape.

Photos of Cells 4A and 4B from April and June 2017 (shown below) show the current status of these cells following the reprofiling work undertaken.



Cell 4A (view from the south west) – June 2017



Cell 4A (view from the east) – April 2017

Photo 7 (Page 73) – The photo shows the view of the site from one undesigned location in Little River, highlighting that it partially obscures the view of Melbourne CBD. The submitter appears to be suggesting that it is not appropriate to obscure the view of the Melbourne CBD from this location. It is unclear why this is an important and essential viewing corridor and who the beneficiaries of this particular view would be. There are numerous precedents in the development of metropolitan Melbourne where the long views of Melbourne have been partially or fully obscured. The view presented in the image is not considered offensive. The additional of the landfill to the landscape, reflects the ongoing development of land within the urban growth boundary. An alternative use of the land for industrial warehousing would have a similar or more adverse impact on this view line.

The closed landfill cells, once rehabilitated and landscaped will function as open space and be integrated into the landscape.

Photo 8 & 9 (Page 73-74) – These photos shows a snapshot in time of the construction of the batters of part of cells 4A and 4B, with visible waste. Cell 4A and 4 B have recently been re-profiled and shaped in preparation for final capping and rehabilitation (refer photos above).

Photo 10 (Page 74) – This photo shows one light tower at the RDF as visible from the Princes Freeway. Council operates the tip face from 12am to 4pm Monday to Friday and therefore lighting is required to ensure safe operation of the tip face during the nighttime period of operation. The darkness in the foreground of the photo demonstrates that the lighting is task oriented and does not result in any light spill to the surrounding areas or adversely affect the amenity of the locality (as per its planning permit condition).

Photo 11 & 12 (Page 75) – These photos show flooding adjacent to landfill site in 2017. It is unclear what these photos are demonstrating. Some of the land adjacent to the landfill site is flood prone however this is of no consequence to the environmental impact of the RDF as the exiting bund walls around the perimeter of the site prevent any storm water from entering the site.

Submission Part 2

Part II of the submission was prepared for WREC by Environmental Justice Australia (EJA). According to their website, EJA works with community based environment groups to provide strategic legal advice to support their campaigns. EJA take cases to court providing legal representation in cases that protect the environment.

EJA contend that the WAA should be refused because approval would be inconsistent with:

- The works approval and licensing regime of the EP Act.
- The principles of the EP Act.
- statutory policy

The submission provides an interpretation of the legal framework governing works approvals in the EP Act and seems to suggest that EPA's issue of a works approval in the form requested by Council would be unlawful. EJA submits that the application should be refused because it is inconsistent with the works approval and licensing regime of the EP Act and contained insufficient details to satisfy the requirement of a works approval application.

EPA has legitimately and formally received the application and is currently dealing with the application under Section 19B of the Act. Council's Works Approval application was submitted in the correct form, in a manner approved by the Authority, with the prescribed fee, in accordance with Section 19B(1) the EP Act.

Section 19B (2) says that the Authority shall not deal with an application which is not in the prescribed form and that the Authority must advise the application that the application does not comply. The Authority did not exercise its right under this section of the EP Act.

EPA has formally received the application in accordance with Section 19B(3), referred the application, issued public notice, provided Council with two notices for further information and held a section 20B conference. The Authority, having received and dealt with the application is now legally bound to issue or refuse an approval in accordance with section 19B(7).

Council does not agree with EJA's submission that the WAA is inconsistent with the principles of the EP Act or that it contravenes the objectives, principles and intent the Victorian State Waste Management Policy for the Siting, Design and Management of Landfills (WMP).

On the contrary the WMP recognizes that landfills are an important part of Victoria's waste management infrastructure. While disposal of materials to landfill is the least preferred waste management option and as a general principle must be minimized, the WMP recognizes that landfill will be required for the foreseeable future to manage wastes that cannot currently be recycled or reused.

The approval of the WAA will assist to implement the State's waste management policy and ensure that the RDF continues to operate as a key part of the metropolitan landfill network to meet the disposal needs of the Melbourne, in accordance with the schedule of fill detailed in Table 11 of the MWRRIP. The timeframe of the application generally aligns with the timeframe of the schedule of fill, which foresees the need for the RDF to continue to operate as a landfill site for the next 30 years.