

**Environment and Planning Committee
INQUIRY INTO RECYCLING AND WASTE MANAGEMENT
Parliament House, Spring St
EAST MELBOURNE VIC 3002**

SUBMISSION: INQUIRY INTO RECYCLING AND WASTE MANAGEMENT

Introduction

On behalf of Stop the Tip Inc, I would like to thank the Committee for the opportunity to provide this submission.

Stop the Tip Inc represents residents of Melbourne's west concerned about the impact that the massive expansion of the Ravenhall Tip will have on our community. We want homes, jobs and economic opportunity for the west – not to see our community become Melbourne's dumping ground.

On 24 March 2017, the Environment Protection Agency (EPA) issued a Works Approval for a 96-hectare expansion of the Melbourne Regional Landfill (Ravenhall tip). Around the same time, the Minister for Planning, the Hon. Richard Wynne MP, issued a planning permit for the same expansion.

Stop the Tip Inc joined the cities of Melton and Brimbank, among others, in seeking to have the EPA's decision to grant a works approval reviewed at the Victorian Civil and Administrative Tribunal (VCAT). Although hearings into the matter concluded in September 2018, at the time of writing the tribunal was yet to reach a decision.

Nevertheless, the tribunal heard damning evidence relevant to this inquiry, not the least of which is proof that the EPA has a long and documented history of failing to enforce the conditions of Cleanaway's licence, even when presented with evidence proving that breaches are occurring. Indeed, when provided with reliable odour modelling during the VCAT Review proceeding, the EPA refused to accept it. Instead, the EPA based its decision on its own odour observations largely conducted in unstable atmospheric conditions (daytime instead of night time/early morning), when stable conditions were more conducive to the detection of offensive tip odours.

While Ravenhall Tip represents a singular example of the failure by successive State Governments and their agencies – principally the EPA, Sustainability Victoria and the Metropolitan Waste Management Group (MWRRG) to effectively manage the State's waste it is by no means an isolated case.

In March 2018, a report by Environmental Justice Australia found that communities living in Melbourne's west needed better protection from the ill effects of expanding rubbish tips.¹ An altogether separate VCAT judgement slammed the EPA for failing to manage a "grossly overfilled" landfill in Melbourne's West.² A damning Auditor-General's report also found that the EPA had failed to adequately monitor air quality across the state.³

¹ Environmental Justice Australia, *Raising a Stink: Communities from Melbourne's West Struggle for Environmental Justice*, March 2018, p.2

² <https://www.smh.com.au/business/companies/epa-and-buxton-company-condemned-for-overfilled-tip-20180208-p4yzop.html>

³ <https://www.theage.com.au/politics/victoria/epa-fails-to-properly-measure-air-pollution-20180308-p4z3h8.html>

The EPA has precedent in this; last year the unlicensed Lara landfill site near Geelong competed with licensed landfill sites for the receipt of solid inert waste without having to pay the landfill levy. In September 2018 the site's rogue recycling operator, C & D Recycling, avoided a \$100 million clean-up bill for the colossal quantities of toxic waste left on Geelong's outskirts after it was declared insolvent for repeated refusal to pay a \$307,000 tax debt. Presumably the money to rectify this environmental disaster will be found in the Sustainability Fund.

These failures lay bare the Government's failure to develop and invest in reliable, innovative, sustainable and viable waste management industries and the EPA's failure to manage the waste industry, despite having a clear mandate and a wealth of resources with which to do so. Stop the Tip believes this inquiry is long overdue and places responsibility for the chaotic state of Victoria's waste management at the feet of the State Government.

This submission addresses the following inquiry Terms of Reference:

1: *The responsibility of the Victorian Government to establish and maintain a coherent, efficient and environmentally responsible approach to solid waste management across the state, including assistance to local councils;*

3f: *Identifying short and long-term solutions to the recycling and waste management system crisis, considering: the existing Sustainability Fund and how it can be used to fund solutions to the waste crisis;*

6: *Any other related matters.*

1. Failure to use the Sustainability Fund in the way intended by legislation

This submission draws attention to the second reading of the *Environment Protection (Resource Efficiency) Bill 2002*, on Thursday 9 May 2002. This legislation created the Sustainability Fund, established in 2005, from revenue generated by the Municipal and Industrial Landfill Levy (MILL).

Then Minister for Environment and Conservation, the Hon. Sheryll Garbutt MP, introduced the bill, telling the Parliament:

*"...this bill implements the government's vision for reducing waste and making Victoria a centre for the sustainable industries of the future. Innovation needs direct support. This government will make sure that funds are available to those with key roles in the search for better ways of reducing our waste and delivering sustainable outcomes. Local government and industry will be the major beneficiaries."*⁴

The Minister asserted that the MILL served two purposes:

"Firstly, they provide sufficient funding to enable the establishment of education programs and waste management infrastructure (such as recycling facilities and transfer stations)..."

*Secondly, having a levy on disposal to landfill provides a signal that encourages waste minimisation and the promotion of alternatives to landfill..."*⁵

⁴ Ms Sheryll Garbutt MP, Minister for Environment and Conservation, *Second Reading of the Environment Protection (Resource Efficiency) Bill 2002*, Victoria, Legislative Assembly, 9 May 2002, p.1322.

⁵ Ibid.

Seventeen years on from the establishment of the Sustainability Fund, it is yet to be used for its intended purpose – to promote recycling and innovative waste solutions, and to reduce the volume of waste that ends up in landfill. This represents a failure to fulfil the explicitly stated goals of the Act.

Victoria has not achieved the then Minister’s vision. It is not a centre for sustainable industries, it does not have an established recycling industry, it has not created circular economies and it has failed to facilitate meaningful private sector investment in residual waste-to-energy.

Instead, local governments and businesses have been inflicted with ever-higher landfill levy charges, while communities like Melbourne’s west shoulder the burden of landfills like Ravenhall, the sheer size, scale and impact of which were never contemplated by policymakers and regulators.

Nor has meaningful support been rendered to support significant innovation in recycling. This is substantiated by the Victorian Auditor-General’s Office July 2018 report, *Managing the Municipal and Industrial Landfill Levy*, which was damning of the management of the Sustainability Fund, and the failure to reinvest the staggering \$1.7 billion the MILL has collected since 2005.⁶

The report identifies that while the Government established the MILL to incentivise waste resource recovery, as of 31 December 2017, just 48 per cent (\$401m) of the \$829m collected since 2009 has been distributed from the fund.⁷

While only half the available funds, \$401m is an enormous amount of money. Despite this, the report states that it is “unclear how funded programs have contributed to the achievement of the fund’s legislative purposes and the extent to which, if any, they have addressed the challenges posed by waste and climate change”.⁸

This represents a failure to implement policy and a misuse of public funds. Of the money released by the fund, it would seem only a small proportion has been dedicated to developing recycling infrastructure at all.

In the Department for Environment, Land, Water and Planning’s (DELWP) July 2018 *Recycling Industry Strategic Plan*, Minister for Energy, Environment and Climate Change, The Hon. Lily D’Ambrosio MP, stated that since 2014:

“The Andrews Labor Government has provided a record amount of funding to address waste and resource recovery issues, totalling over \$100 million. This includes providing \$37 million dollars to deliver this Strategic Plan, strengthening Victoria’s recycling sector and ensuring our recycling efforts are rewarded.”⁹

If accurate, not considering that nearly four in 10 dollars spent in the last four years has been spent on the delivery of a plan devised and initiated in July last year, this means on average the Victorian Government has spent a paltry \$25 million a year to address waste and resource recovery issues across the State. The forecasted Sustainability Fund balance for 2017-18 alone is an astounding \$513m.¹⁰

⁶ Victorian Auditor-General’s Office, *Managing the Municipal and Industrial Landfill Levy*, July 2018, p.7.

⁷ Ibid, p.9.

⁸ Ibid, p.17.

⁹ DELWP, *Recycling Industry Strategic Plan*, 2018, p.2.

¹⁰ Victorian Auditor-General’s Office, *Managing the Municipal and Industrial Landfill Levy*, July 2018, p.9.

The consequences of under-investment have been exposed by China's decision to refuse Australia's recyclable waste. Victoria's already minimal capacity to recycle the waste it generates is severely overstretched.

Many existing recycling facilities in Victoria have become dangerously over-stocked, leading the EPA to shut down their operations for breaching fire regulations. SKM's South Geelong plant is the company's third recycling facility to close, after its plants at Laverton and Coolaroo were similarly closed by the EPA. Four Melbourne Councils have now confirmed they are sending their recyclable waste to landfill.

In February 2018, the Victorian Government announced a \$13 million support package for councils and industry affected by this issue.¹¹ The government likewise intends to resource this from the Sustainability Fund. Assuming this is additional to last year's \$37 million *Recycling Industry Strategic Plan*, the Victorian Government is therefore spending a third as much again on assisting local councils to deal with an issue arising from Government's own mismanagement in the first place.

Meanwhile Victoria is becoming more dependent on landfill. Less of its waste is currently recycled and a lack of investment in recycling facilities is resulting in the closure of existing ones. All the while the EPA - which is responsible for collecting and distributing the MILL under the Act –continues to support the expansion of landfills like Ravenhall.

2. Breaches of Licence Conditions

The control of odour and dust emissions is a part of the EPA's licence conditions for operation of the site. The specific conditions of the licence in relation to odour include the stipulation that offensive odours must not be discharged beyond the boundaries of the premises.

EPA submitted in this case that this licence condition only applied to provide protection from offensive odours, in residential areas and adjacent public open spaces where the residential area was so identified in the planning scheme. On this basis, schools, hospitals, prisons and commercial zones are not to be protected by the EPA's offensive odour licence conditions.

Landfill Operation Limited's original February 2016 *Melbourne Regional Landfill Air Quality Assessment* study determined that odour on Ravenhall's north side was "extending well into suburban areas" and was sufficient to constitute "potential for annoyance and complaint" and further revealed odour at three of 25 receptors east of the site.¹²

Further odour monitoring was conducted by Landfill Operation Limited's consultants between November 2017 and February 2018. Odour was detected at the boundary of the landfill in 32 of 48 tests. On 11 occasions, odour was detected in residential areas as far as 5km from the landfill (for example, on Leakes Road, Tarneit, at 9.15am on 21 February 2018).

Landfill Operations Limited is therefore in breach of its EPA licence, and the EPA is shamelessly negligent in enforcing those licence conditions probably because this landfill has become "too big to fail". How could the EPA now shut this landfill down for repeated failure to comply with its licence when it is believed to account for almost half Melbourne's waste disposal needs? There is nowhere

¹¹ Ibid, p.10.

¹² Pacific Environment Operations Pty Ltd on behalf of Landfill Operations Pty Ltd, *Melbourne Regional Landfill Air Quality Assessment*, February 2016, p.80

else for this volume of waste to go. The failure of the EPA to place an annual volume limit on this landfill has placed it in a position where it is now beyond practical regulatory control.

The failure of Sustainability Victoria and Metro Waste Group to identify and support smaller landfill alternatives away from residential areas will guarantee a continuation of this regulatory stalemate and a continued reduction in Western suburb residential amenity, into the foreseeable future.

With a 2016 population of 217,122, and growth rate of 34 per cent, approved residential communities in the City of Wyndham are fast approaching within 2 km of the southern boundary of the Ravenhall site. If the abysmal state of Victoria's waste management system is not addressed now, sites like Ravenhall are only going to fester as exemplars of bad policy and community disregard in direct contravention of the Principle of Equity as set out below.

3. Contravening the fundamental "Principle of Equity" in the Environment Protection Amendment Act (2018)

The *Environment Protection Amendment Act* (2018) was enacted in September 2018 and comes into effect on 1 July 2020. S21(2) of the Act states that:

"Principle of equity"

"People should not be disproportionately affected by harm or risks of harm to human health and the environment."

The definition of 'harm' in S4 of the Act includes both:

"(a) an adverse effect on the amenity of a place or premises that unreasonably interferes with or is likely to unreasonably interfere with enjoyment of the place or premises; or

(c) a change to the condition of the environment so as to make it offensive to the senses of human beings."

There can be no doubt that residents of Melbourne's west, and especially communities surrounding the Melbourne Regional Landfill, are disproportionately affected by the landfill's adverse effects. VCAT testimony from local residents demonstrates this. On 9 July 2018, Caroline Springs resident Anita Vojtek stated:

"The odour is sometimes so putrid that it makes me gag at times. Sometimes, it is so offensive that my family and I have left our home and visited friends to escape the odours..."

I have had to rewash my clothes and linen because they did not smell fresh. Often I would dry clothes inside to keep my laundry clean...

Often I wonder if these odours are causing my family and I any harm."

Testimony from Truganina resident, Kanishka Epa Senevirathne corroborated this experience:

"In summer, the odour comes into house when we switch on the evaporative cooler. This makes very hard on hot summer days as it is very uncomfortable to live inside the house while cooling is switch on..."

It is a very unpleasant stinking smell. It makes me feel sick and vomit...

I smell the odour at least one day in every month...

It affects everyone in my family. We bought this home so that our kids would have a yard to play in. Our kids are unable to play outside, we are unable to work in garden or have a leisure walk."

Odour, escaped litter and congestion are issues of constant concern for residents of these communities. The landfill causes significant environmental and amenity impacts that Cleanaway has repeatedly failed to address. Complaints about odour are regularly dismissed without being properly acknowledged, let alone investigated. In one instance, documents released to Stop the Tip under Freedom of Information dismissed an odour complaint from a community member as 'Fake News'.

0200081136	2017-06-08	Odour	LANDFILL OPERATIONS PTY LTD (CLEANAWAY RAVENHALL)	Note 04.07.2017 15:13:30 s.33(1) FAKE NEWS.
				Note 13.06.2017 09:57:44 s.33(1) have emailed advising to continue to report when impacted.
				Note 08.06.2017 15:22:59 s.33(1) s.33(1) is reporting a bad odour coming from the ravenhall tip. The odour is very bad today. No wind. Has been ongoing for years.

Figure 1: Freedom of Information documents revealing the EPA describing a community member's odour complaint as 'Fake News'.

Three incidents demonstrate this. On Monday, 11 July 2016, the EPA fined Cleanaway \$15,000 over two incidents. Less than a month later, on June 7, further elevated methane levels were detected.

At best, Cleanaway's management of environmental, amenity and public safety risks is inadequate. It has resulted in communities in Melbourne's west being disproportionately affected by harm from the landfill, in direct contravention of the principles of Victoria's new "World Leading Environment Protection"¹³ regime.

4. Conflict between ongoing reliance on landfill and strategic planning for the West Growth Corridor

Related to the above, Melbourne's west is one of the fastest growing areas in Australia. The area encompassed by the West Growth Corridor Plan will eventually accommodate at least 377,000, people tens of thousands of whom will live in communities such as Tarneit and Truganina, directly downwind from the current and proposed Ravenhall landfill.

In 2016, the combined population of Tarneit and Truganina was 58,428. By 2036, it will be 144,229. There is a need to protect these communities from the impacts of the landfill by requiring all amenity buffers be internalised on the landfill site and for landfill daily acceptance volumes to be reduced to manageable levels.

The State Government's reliance on ever-growing landfills is in direct conflict with long-standing strategic planning for Melbourne's growth. As communities in approved residential developments continue to grow, they will continue to experience adverse amenity impacts in contravention of their

¹³ <https://www.premier.vic.gov.au/world-leading-environment-protection-for-victoria/>

statutory entitlement under the Principle of Equity that the *Environment Protection Amendment Act (2018)* seeks to prevent.

RECOMMENDATIONS

In the lead up to the 2018 Victorian State Election, Stop the Tip encouraged all parties contesting the election to consider the following policy initiatives. We urge the committee to consider them as part of this inquiry.

1. Fulfil the legislated purpose of the Sustainability Fund as stipulated in the Environment Protection (Resource Efficiency) Bill 2002 by releasing significantly greater funds for recycling and innovative waste management infrastructure, starting with:

a. Committing an additional \$30 million to the Waste to Energy Infrastructure Fund.

The Waste to Energy Fund has now been committed to projects which, while worthy, are not of a scale that will make a significant difference to overall Waste to Energy generation. It is estimated that a large-scale facility could process over 100,000 tonnes of waste per year. To manage the total amount of 1.45 million tonnes of organic waste, at least ten new facilities are required in Victoria, requiring significant capital. The State Government should make funding available to accelerate private sector investment.

b. Providing \$5.2 million to the MAV to encourage local government to accelerate the negotiation of long-term secure contracts for feedstocks and outputs.

One of the significant barriers to investment in Waste to Energy is facilities' reliance on long-term secure access to feedstock. Some industry representatives estimate that for projects to be bankable, they require feedstock contracts of 15 to 20 years. Contracts are usually developed by councils negotiating collaboratively, but councils are under-resourced to negotiate. Providing project funding for 25 council officers over two years (spread across local and regional councils) to carry out these negotiations, and requiring them to commit to completion of contracts within two years, would accelerate Waste to Energy roll-out in the State.

c. Providing \$2 million for Investment Facilitation resources within Government to accelerate businesses trying to invest in Victoria's waste sector.

Sustainability Victoria offers investment facilitation services to support businesses trying to invest in Victoria's waste sector. This service connects investors with people, data, insight and expertise to establish new facilities in Victoria. However, resources dedicated to Waste to Energy would speed up this complex area of approvals and expedite project commencements.

2. Require existing landfill operators to offset Waste to Energy operations from existing landfill.

This measure would ensure that the waste being turned into energy was not simply the excess waste produced by population growth but a meaningful diversion of waste from landfill.

3. Require new Waste to Energy facilities to be outside the Urban Growth Boundary in the absence of demonstrated community support.

These new facilities have a demonstrated benefit for the State's carbon footprint, add to the economic viability of the State (with jobs and investment) and can add power to the Victorian Electricity Grid. But they must be managed carefully. The community must be involved in decisions about the projects that impact their local area. Community attitudes must be considered in the early stages of any proposal, and the costs of addressing them incorporated into decision making.

4. Require that buffers to protect community safety and amenity from the impacts of the Ravenhall landfill be internalised on site

It is a requirement of Cleanaway's licence to operate the Ravenhall landfill that offensive odour not be detectable beyond the boundary of the landfill. Cleanaway's own testing proves the presence of landfill odour as far as 6km from the landfill in the residential areas of Tarneit and Truganina.

In 2016, the combined population of Tarneit and Truganina was 58,428. By 2036, it will be 144,229. There is a need to protect these communities from the impacts of the landfill by requiring all amenity buffers be internalised on the landfill site.

Such a position would be consistent with recommendation 49 of the Victorian Ombudsman in his 2009 report *Brookland Greens Estate – Investigation into methane gas leaks*, to ensure the landfill owner, not adjoining landowners, bear the onus for providing appropriate buffers from landfills.

5. Commit to no further expansion of existing landfills within the Urban Growth Boundary (UGB) and commit to no new landfill facilities within the UGB.

While there will always be a place for a small amount of landfill, ideally the State should limit landfill use to manage only 'residual waste' after all other options such as reducing, recycling and recovery of energy are exhausted.

Existing landfills are projected to provide sufficient capacity to manage Victoria's residual waste over the next 10 years on current projects. Regional analysis shows that there may be shortages in some areas, but these could be addressed through modest expansions of existing landfills rather than new landfills.

A commitment to no new landfills over the life of the next Government would encourage waste providers to build alternative waste disposal facilities for the future.

Identify, plan and locate new landfill locations outside the UGB, away from residents and businesses, to protect these facilities from urban encroachment and to protect existing and future growth corridor communities.

6. Commit to landfill bans including zero organic waste to landfill by 2025 (with appropriate exemptions such as waste with a high water content / sewage sludge) and accelerate the ban on E-Waste and a ban on the disposal of mattresses.

This approach will not only help reduce landfill and allow existing landfill sites to last longer it will also encourage new technologies, new business (and associated employment) in the State.

Evidence

Should the Committee wish to hear evidence regarding this submission, Stop the Tip's legal representative, Mr Peter Merrylees of Merrylees Legal Pty Ltd, can be available at the committee's convenience.

Conclusion

I trust this submission will be valuable to the Committee in this inquiry. Should you have any questions, please do not hesitate to call me on [REDACTED] or via email at info@stopthetip.com.au.

Yours sincerely



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