

Maribyrnong City Council – Submission to the EPA Inquiry

30 October 2015

Council welcomes the opportunity to provide a submission to the EPA Inquiry and thanks you for the meeting on 21 October 2015 providing Council the opportunity to provide comments to the Committee.

We would like to mention that Council has an important and positive relationship with the EPA across a number of key areas namely Environmental Health, Planning, Waste Management, Regulatory Services and Transport.

Maribyrnong City Council and the EPA have worked effectively together in a number of areas for example.

Building Site Management – to control runoff and litter from building sites. EPA provides guidelines and compliance support, and Maribyrnong Council has Local Laws Litter Officers that enforce litter and soil containment within building sites. A collaborative relationship has been reached with enquiries being responded to within 24 hours particularly with assisting on matters with regard to building construction noise and starting times.

Air Quality Management - Responding to community concerns about poor air quality. Council has appreciated the support received from the EPA with regard to the work undertaken to date on the 'Trucks and Inner West' project last year which assisted in introducing additional truck curfews.

Dust and Noise Issues - Council has had a positive relationship with the EPA particularly around dust and noise issues and congratulates the EPA on responding to the ongoing dust and air pollution issues in Brooklyn, working with Brooklyn Community Reference Group, the local industry and community and the recent development of a Memorandum of Understanding.

Issues:

Maribyrnong City Council has a number of issues that it would like to raise in this submission.

1. Contaminated Land:

Contaminated land is an ongoing issue for inner Council's such as Maribyrnong, particularly in the redevelopment of brown field sites, and sites where there are known or suspected contamination issues.

Given the difficulty in identifying suspected contaminated land, and the number of documents that need to be referred to in trying to identify contaminated land and the process to follow, Council has developed a Potentially Contaminated Land Policy.

Maribyrnong has taken a lead in developing this policy to further address the complexity of managing Potentially Contaminated Land through the planning system.

The Environment Audit Overlay (EAO) is a limited planning control and only relates to the period prior to a sensitive use commencing. The EAO does not contain any permit triggers for building and works or non sensitive uses.

The Potentially Contaminated Land policy has the following policy basis:

- *Maribyrnong City Council aims to ensure that potentially contaminated land is identified, appropriately tested and remediated to a standard suitable for the intended use or development.*
- *Depending on the type of contamination non sensitive land uses may also be affected, particularly where land is contaminated with petroleum products, solvents or chemicals that have potential for release of harmful vapour, gas migration or impact on groundwater.*

The Potentially Contaminated Land Policy formed part of Planning Scheme Amendment C82 a revised Municipal Strategic Statement and Planning Policies to the Maribyrnong Planning Scheme.

The Minister for Planning informed Council on 1 September 2011 that the amendment has been split into two parts and stated that, "*The proposed revised Potentially Contaminated Land Policy has not been approved at this time but will be progressed once the findings of the Advisory Committee on Potentially Contaminated Land have been considered.*"

Council is still awaiting a response from the Minister for Planning on the progress of the approval of the Policy. In addition, strengthening and advocating for informative and practical planning tools to deal with contaminated land related matters would be a matter for the EPA to investigate with Local Government and the Department of Environment, Land, Water and Planning.

Further, the EPA should investigate making appropriate changes to the Building Act and Regulations, to recognise the environmental audit system and the potential obligations that Statement of Environmental Audit conditions may have on development.

Council continues to make use of Section 173 Agreements under the Planning and Environment Act 1987 with registration on title in order to implement environmental requirements as there is no other effective tool to secure environmental obligations with a land owner. Through the mechanism of the Sect 173 Agreement the Council becomes the enforcer of the environmental requirements. It is recommended that the EPA consider being party to these Agreements (which has been problematic for the EPA).

A mapping exercise of all known quarries within the City of Maribyrnong has been completed by Environmental Consultants on behalf of Council. The age and type of quarry and any known history of the fill material has been identified. The obligations in

relation to the “*Best Practice Environmental Management - Landfill Management Publication EPA 2010.*”(BPEM) are quite onerous and costly for Council and the community and assistance from the EPA in managing the requirements and further investigation would assist.

It should be noted that the obligations of BPEM, particularly the requirement for a buffer zone from a landfill site and the potential requirement for a Sect 53 V Environmental Audit for any use or development within the buffer zone is not referenced or required by any Planning Schemes.

In addition, the following is requested by Council:

- Greater assistance from the EPA in managing regional contamination matters, particularly along watercourses and transport corridors that traverse several Council's with different approaches and priorities potentially taken by individual Council's.
- Greater advocacy and consultation by the EPA with regard to informing Councils and relevant stakeholders on emerging issues within their municipality.
- The EPA work more closely with Council on matters relating to Pollution Abatement Notices on Council managed land by providing reasonable times and requirements, proportionate to the risks. For example, Council in the past has been directed by the EPA, acting on auditor advice, to undertake remediation mitigation works even though test results obtained by the environmental assessor did not warrant any further action. This resulted in Council investing significant costs to implement a treatment strategy that was not considered to be required by the expert consultant.
- In considering planning matters Council would like more open advice and comments from the EPA on contaminated land or industrial buffers. For example, Council recently had to seek information about a buffer matter and was directed to request a freedom of information request from the EPA.

2. Landfill Buffers:

Recent state policy seeks to protect both future and existing resource recovery and landfill sites. This includes buffers around these sites as well as the establishment of Special Use (Resource Recovery) zones or overlays. A large part of Maribyrnong Council residential areas fall within the buffer zones. Half of West Footscray, and Yarraville (including the new Bradmill Development) and most of the suburb of Kingsville are within 2km of the Laverton organics processing facility and 10,000 new residences are planned to be built within 1km of the Dynon Road transfer station.

Further work is needed to recognise pre-existing residential development and to develop additional measures to protect resource recovery zones in existing urban areas, working with the local community to reduce noise, odour and truck queuing and idling, rather than relying solely on buffer zones.

3. Environmental Justice and Disproportionate Impact on Communities in the West in Relation to Imminent Landfill Closures:

The majority of landfill space in the South East half of Melbourne will be closed within the next 3 to 5 years, with plans to transport all of Melbourne's waste to landfills in the North and West with existing capacity. This will be an interim measure until replacement reprocessing facilities are established in the South East. Significant clusters of landfills and processing facilities occur in the western region of Melbourne, especially in Werribee, Laverton, Deer Park and Brooklyn, which means that local populations in the west will be disproportionately affected by the additional vehicle emissions and noise from waste trucks. Owing to the current practice of trucks avoiding Citylink tolls, truck traffic from South East councils is likely to flow through the inner west and the City of Maribyrnong via residential streets in order to reach their final destinations. The health of communities located on these truck routes and those that are sited close to landfills and processing facilities may be adversely impacted by this change.

In order to facilitate environmental justice the EPA can recognise the existing burden that our local communities face in living in residential streets designated as truck routes. While there are a number of initiatives that are working to address this, in the meantime, the EPA can take some immediate measures to reduce this burden on our community. One way that this can be done is to anticipate that a range of waste contracts will move from the South East to the North West and ensure that all new local and state government contracts for transport of waste to landfills include a clause to use the West Gate Bridge/Western Distributor so that local communities in the west are not impacted by government servicing of waste in other locations.

4. Thermal Waste to Energy Technologies:

Using thermal waste to energy technologies such as pyrolysis and gasification to treat municipal solid waste, and extract energy are proposed for investigation in Victoria. There is growing community concern about the toxicity of emissions from thermal waste technologies. The European Union classifies pyrolysis and gasification as forms of incineration, along with open source incinerators and specifies treatments for them. Unlike Europe, incineration is banned in Victoria and does not have community support. While there may be economic benefits of the proposed treatment plants, there is likely to be community opposition to such proposals. The EPA needs to ensure that there is a high level of transparency about thermal waste to energy technologies and that the community is able to fully participate in discussions around the introduction, regulation and siting of any proposed facilities.

5. Organic Waste:

Organic waste including food waste is the largest proportion of recoverable material in household residential waste bins. Maribyrnong Council supports the state government goal to establish effective organic infrastructure and reprocessing markets and reduce organics being sent to landfill. However, actions to achieve this goal could have significant impacts on the design of Council waste services, potentially affecting the size and number of bins and services that Councils provides.

The EPA could assist this and promote resource recovery of organics from the waste stream by implementing long term planning and financial support to Councils who will be impacted by changes in organics processing to enable them to

- provide new organics bin services
- restructure their long term waste contracts and assets to design for improved resource recovery

6. Landfill Levies

In common with all other Victorian councils, Maribyrnong City Council pays significant amounts of landfill levies every year to the EPA for municipal waste collections. Very little of the funds collected come back to the municipality in terms of meaningful projects. There was \$431 million of landfill levy funds in the Sustainability Fund at the end of 2015 listed in the EPA Victoria 2014/15 Annual Reports. This is equivalent to more than two years of landfill levies from all Victorian Councils and this reserve has been accumulating over a number of years. Many of the landfill levy funds collected appear to have been 'parked' and not spent. There are major projects that are sorely needed to be rolled out across Victoria including, infrastructure projects, organic waste programs and communications around waste minimisation and recycling to CALD communities. The few grant programs funded by the landfill levies generally require further matching funds from Councils.

Maribyrnong City Council would like to see these funds used effectively to rollout metropolitan or state wide waste minimisation programs without the need for further matching funds from Councils. As the funds are being contributed by our community, some of whom are amongst the most vulnerable in the state, Maribyrnong Council would like to see that all funds collected by the landfill levy are spent every year, and that projects and initiatives from the funds are used to benefit the communities that contribute the funds.

7. Planning for Waste Management and Resource Recovery in Higher Density Developments.

Maribyrnong City Council is experiencing urban growth where a number of former industrial sites are being developed into residential developments. The growth is mostly in the form of dwellings with higher densities than existing housing stock,

including townhouses, medium and high density multi unit dwellings. In ten years, up to ten percent of our population will be housed in high rise buildings.

Planning for the provision of waste and recycling services to new multi unit developments is an important issue. Council will need to consider the appropriate levels of Council waste and recycling services to offer to multi unit dwellings (MUDs.) There is also a growing need to ensure appropriate design for waste storage and collection is included in MUD developments whether this is undertaken by Council or private contractors.

Currently, design of waste management and resource recovery in higher density developments is essentially unplanned with a large number of contractors visiting various buildings in highly dense communities in an unregulated fashion – often in the small hours of the morning. Resource recovery services are extremely limited or non-existent and space for hard waste collections are not even considered by developers resulting in dumping of furniture and appliances by residents due to lack of transport and collection services.

While Maribyrnong Council is working to introduce more regulation and planning around waste services in higher density developments, this is within a context where there is very little state government support, direction or regulation. Many Councils are experiencing the same issues and it would be useful for the EPA to take a greater role in developing State wide guidelines and regulations in relation to waste management and the provision of recycling and hard waste services to these higher density developments, rather than each affected Council having to grapple with the issues in isolation.

8. Stormwater Harvesting – Subsidised by Councils:

The Inquiry should consider the role for the EPA in alternative water projects. There is an increasing expectation that Councils will finance major stormwater harvesting projects. Previously major water infrastructure was funded by the state through Melbourne Water and Water Retailers. This new cost shift is a barrier to the implementation of stormwater harvesting within this Council. In addition, financing options for stormwater harvesting and alternative water projects provided by some government owned organisations are not commercially competitive and these charges are not regulated by the essential services commission. For example, Interest or ROI requirements on the provision of funds or leases for alternative water projects, by other government organisations is much higher than a commercial loan from a bank. Where Council does not own the alternative water asset, commercial loans are not an option.

9. Stormwater Maintenance:

Council believes that there is a role for the EPA to support shared services of stormwater maintenance throughout the state between Councils, Melbourne Water and Water Retailers. Councils do not necessarily have the resources or skills to do this well and this has implications for the quality of stormwater discharging to local

waterways. Maintenance issues and associated costs with recent Water Sensitive Urban Design (WSUD) initiatives have also been identified as a major barrier to the initiation of new WSUD projects within the City of Maribyrnong. Shared maintenance services would help to increase the quality of maintenance, increase the skill levels of those working on maintaining drainage and stormwater assets and decrease costs for all parties. It would also improve confidence in the viability of new alternative WSUD projects.

10. Land Use Planning:

When residential developments take place in areas of high vehicle pollution (air and noise), the EPA needs to take a more active role in determining whether the setbacks are adequate to protect future residents.

The use of zoning for sensitive land uses along proposed transport corridors is a very powerful tool for ensuring that harm minimisation, from the effects of both noise and air pollution, is a paramount consideration. Excessive noise from vehicles, impacting on sensitive land uses such as residential, schools, kindergartens, aged care facilities and hospitals, can have major repercussions on the short and long term health and well being of those in residence and daily attendance at those facilities. Noise pollution in transport corridors is also accompanied by air pollution from the offending vehicles, particularly diesel powered vehicles. There is a distinct lack of understanding in the community and among planning professionals, about the extent of the undesirable health effects of noise and air pollution.

11. Climate Change:

Under the EP Act 1970, the EPA has a responsibility to the people of Victoria to have regard to the principles of environment protection in administering the Act. Several of the principles, listed below, relate directly to the impacts of climate change.

1B Principle of integration of economic, social and environmental considerations

1C The precautionary principle

1D Principle of intergenerational equity

1E Principle of conservation of biological diversity and ecological integrity

1G Principle of shared responsibility

The EPA's role should be to ensure that these principles are an integral part of their decision-making process in all matters related to climate change.

Maribyrnong City Council recently became a Zero Carbon Council achieving zero emissions for Council operations. Council also supports Low Carbon West, a transitional strategy for Melbourne's West developed by the Western Alliance for Greenhouse Action (WAGA). Maribyrnong City Council, along with 7 other Councils, is a member of this alliance which developed this strategy which includes delivering

industrial energy reporting and resource efficiency plans. Council's expectation is that the EPA will support regional carbon reduction initiatives.

12. Air Quality:

Diesel emissions have recently been reclassified as a human carcinogen. The EPA need to become more involved in actively improving the air quality in the 'diesel hot spots' around Melbourne, e.g. Francis St and Somerville Rd Yarraville. There are a number of ways this can occur:

- Lobbying governments at the State and Federal level for compliance standards. Unenforceable guidelines are currently not working, as objectives in Francis St are regularly exceeded.
- Introduce a Clean Truck program to reduce diesel emissions from older trucks, targeting the Port of Melbourne.
- Lobby the State government to ban non-local trucks from residential streets in Maribyrnong to improve the local air quality.
- Ongoing air quality monitoring along truck routes.

Conclusion

Council has provided a number of suggestions and recommended outcomes for the EPA in this submission that would help support Council to improve environmental outcomes for the Maribyrnong community.

I trust that the information provided will assist the Committee in preparing its findings and report, and Council welcomes any further opportunity to assist in the matter.

Further information can be obtained from:

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