

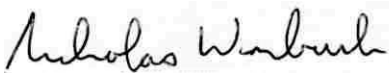
Planning and Environment Act 1987

Advisory Committee Report

Clarinda Recycling Facility Advisory Committee

18 August 2020

Planning and Environment Act 1987
Report under section 151 of the Act
Clarinda Recycling Facility Advisory Committee
18 August 2020



Nick Wimbush, Chair



Sophie Handley, Member



Colin McIntosh, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Council	Kingston City Council
COVID-19	Novel Coronavirus 2019
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority (Victoria)
GWAZ	Green Wedge A Zone
KGWP	Kingston Green Wedge Plan
MWRRG	Metropolitan Waste and Resource Recovery Group
MWRRIP	Metropolitan Waste and Resource Recovery Implementation Plan
PEM (M&E)	Protocol for Environmental Management (Mining and Extractive Industries)
PPF	Planning Policy Framework
SEPP AQM	State Environment Protection Policy (Air Quality Management)
SEPP N-1	State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1
SMEIP	Site Management and Environmental Improvement Plan
SOSP	Sandbelt Open Space Project
SWRRIP	Statewide Waste and Resource Recovery Infrastructure Plan
The Applicant	Alex Fraser Pty Ltd
The Committee	Clarinda Recycling Facility Advisory Committee
The Facility	Clarinda Recycling Facility run by the Applicant
UGB	Urban Growth Boundary
VCAT	Victorian Civil and Administrative Tribunal

Overview

Summary

Advisory Committee	Clarinda Recycling Facility Advisory Committee
Brief description	The Clarinda Recycling Facility (see Figure 1) recycles construction and demolition materials and small amounts of glass at its facility in Clarinda under a planning permit issued in 2008. The permit will expire in 2023 but contains a condition allowing for consideration of a permit extension. An application for extension via secondary consent was refused by Kingston City Council in late 2019; as was an application to amend the permit. The Applicant appealed these decisions to the Victorian Civil and Administrative Tribunal. The appeal was then called in and sent to this Advisory Committee by the Minister for Planning.
Subject land	275-315 Kingston Road, Clarinda (see Figure 2)
The Applicant	Alex Fraser Pty Ltd
Planning Authority	Kingston City Council
Notification	November 2019
Submissions	910 objections to the planning permit applications were received

Committee process

The Advisory Committee	Nick Wimbush (Chair), Sophie Handley and Colin McIntosh
Directions Hearing	19 May and 10 June 2020
Hearing	By video conference on 29, 30 June and 1, 2, 6, 7, 8 July 2020
Site inspections	An accompanied inspection of the site on a bus was held on 23 June 2020 with appropriate COVID-19 arrangements in place. Individual members undertook unaccompanied inspections at other times.
Appearances	See Appendix B
Citation	Clarinda Recycling Facility ACI [2020] PPV
Date of this Report	18 August 2020

Figure 1 Site map¹



¹ From Document 137 – Site Visit Plan

Figure 2 Site location with higher order road network²



² From Document 137 – Site Visit Plan

Executive summary and recommendations

Alex Fraser Pty Ltd (the Applicant) has been running a construction and demolition recycling business at 275-315 Kingston Road Clarinda under a permit issued in 2008. The existing permit expires in 2023 and the permit includes provision for the permit holder to apply for an extension.

In 2019 the Applicant applied to Kingston City Council (Council) to extend the permit for 15 years or amend it to achieve the same result. Over 900 objections to the grant of the extension were received. In November 2019 Council refused the extension request. In December 2019 the Planning Committee of Council refused the permit amendment application under delegation.

The Applicant consequently lodged an application for review of both decisions with the Victorian Civil and Administrative Tribunal (VCAT) on 23 December 2019.

The Minister for Planning called in the permit application from VCAT on 16 February 2020 and the Clarinda Recycling Advisory Committee (the Committee) was appointed on 29 April 2020. Due to COVID-19 constraints, the Committee conducted Directions Hearings and the main Hearing via videoconference. After the conclusion of the first Stage 3 lockdown period, the Committee was able to undertake a carefully regulated accompanied site inspection.

The original objectors to the applications were re-notified and some additional submissions were received. At the Hearing several objectors presented and elaborated on their concerns. Major issues raised in objections went to:

- the inappropriateness of the continuing use in the Green Wedge when measured against planning policy
- the clear strategic direction for the Green Wedge in this area and the non-conforming use of the recycling facility within the zone
- the near-complete transition of the area from a quarry/landfill history to an open space/recreation future
- amenity impacts on the area including noise and dust
- the need for the Applicant to find a more appropriate site to continue their role in recycling.

An eight day Hearing was held via videoconference for the Applicant, Council, objectors and agencies to elaborate on their written submissions. In general, State Government waste management agencies and others with an interest in using the facility were supportive of its continued operation; as were private sector users.

The Committee has considered the submissions and evidence and has drawn the following conclusions:

- The area has been gradually but clearly transitioning from quarries and landfills with high amenity impacts to a future of open space and recreation; a process that is nearly complete.
- This process has been driven by clear Green Wedge planning policy which directed and facilitated the transition over a long period of time, culminating in Amendment C143 in 2015.

- The Applicant's recycling operation is clearly inconsistent with the long term planning direction for the area; but is being operated to a very high standard with little to no offsite amenity impacts.
- The current recycling operation is strategically a very significant part of the construction and demolition resource recovery industry, both in south east Melbourne and at a metropolitan level.
- The premature closure of the operation without a suitable site being found to replace it would have a significant impact on resource recovery and likely lead to an increase in the waste stream to landfill and the more rapid exploitation of quarry resources.

On balance the Committee considers that the short to medium term imperative of resource recovery in these circumstances outweighs the longer term, highly desired future planning for the Kingston Green Wedge. The continuation of the use on the site for a further period, of up to 15 years, will not in the Committee's view, compromise either the short term Green Wedge objectives of providing the Chain of Parks or the long term vision of the broader Green Wedge.

The Committee has concluded that an extension of 15 years, but not longer, is appropriate to provide a significant period for further site investigations and State strategic waste planning. The Committee is strongly against the suggestion of providing for the continuation beyond 15 years of this permit. Any extension of the use beyond 15 years should be the subject of strategic planning and a planning scheme amendment if it was to be countenanced and should take into consideration the circumstances, policies and strategies of the day.

While they are not determinative of the Committee's primary recommendation, the Committee also considers the discussions around the future transfer of the site to Council including a potential active recreation use should be revisited as they would seem to provide an opportunity for an even more beneficial community outcome.

Recommendation

- 1. The Minister for Planning recommend the Governor in Council issue amended planning permit KP881/07A with the conditions shown in Appendix E of this report.**

Further recommendation

The Committee makes the following further recommendations:

- 2. The relevant government agencies and the City of Kingston should collaboratively develop the Clayton South Precinct Hub Plan to articulate the long-term waste and resource recovery needs and recommended facilities in the area including opportunities in the Clayton South industrial zone.**
- 3. The Minister for Planning encourage Kingston City Council and Alex Fraser Pty Ltd to engage in discussions around a community benefit package that might, amongst other things, bring the site into public ownership over time and assist with the delivery of active recreational facilities.**

1 Introduction

1.1 Background

1.1.1 The Facility

The Clarinda Recycling Facility (the Facility) operated by Alex Fraser Pty Ltd (the Applicant) in Clarinda processes about 700,000 tonnes per year of waste concrete, masonry, asphalt and glass sands into construction products such as road base. There is also a small waste transfer station on the site that enables smaller contractors and residents to dispose of mixed waste that is sorted for recycling or disposal.

Large blocks of concrete are broken into smaller pieces with mobile cutting jaws and steel reinforcing is removed. Waste is then transported to the on-site crushing plant where it is processed to meet size specifications of the final product.

Movements into the site of source materials and movement offsite of product are by truck. Approximately two thirds of the truck fleet is operated by the Applicant with the balance being individuals and contractors.

1.1.2 The current planning permit

The existing planning permit was issued by the Minister for Planning on 5 December 2008 following consideration by an Advisory Committee.³ The planning permit is included in Appendix D and allows:

The use and development of the land for MATERIALS RECYCLING in conjunction with a REFUSE TRANSFER STATION for a maximum of 15 years duration (with provision for extension of the permit); the display of business identification signage; a reduction in the car parking requirement for the materials recycling use; the removal of native vegetation; and alteration of access to a road in a Road Zone, in accordance with the attached endorsed plans and subject to the following conditions:

Condition 8 of the permit is:

The use must cease and associated signs must be removed 15 years from the date of issue of this permit. The Responsible Authority may extend the permit if a request is made in writing not less than three years before the permit expires. The conditions of the permit may be amended if the permit is extended.

The current permit expires in December 2023.

1.2 The Advisory Committee's role

In late 2019 the Applicant made two applications to Kingston City Council (Council). These were to:

- extend the term of the permit via secondary consent under Condition 8
- amend the permit under s72 of the *Planning and Environment Act 1987* (the Act) to achieve the same end.

Council refused both applications and the Applicant sought review of the decisions at the Victorian Civil and Administrative Tribunal (VCAT).

³ Kingston Road Clarinda Transfer Station (ACI) [2008] PPV85

On 16 February 2020 the Minister for Planning called call in the applications from VCAT under Clause 58 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1988*. On 29 April 2020 this Advisory Committee (the Committee) was appointed to advise the Minister on the applications.

The Committee was provided with a Terms of Reference signed on 29 April 2020 (see Appendix A) which provides guidance to the Committee. In particular Clause 3 of the Terms of Reference is:

The purpose of the Advisory Committee is to advise the Minister for Planning on whether the planning permit should be extended and if so, for how long.

And further at Clause 18, the Terms state:

The Advisory Committee must produce a written report for the Minister for Planning, providing the following:

- a. An assessment of all relevant matters relating to the applications for review and any amended application material submitted to the Advisory Committee.
- b. An assessment of submissions and objections to the Advisory Committee.
- c. A recommendation as to whether an amended planning permit should be granted and the reasons for this recommendation.
- d. A recommendation as to whether the request for consent should be granted and reasons for the recommendation.
- e. A, without prejudice, draft amended planning permit including relevant conditions.
- f. Any other relevant matters raised during the Advisory Committee hearing.
- g. A list of persons who made submissions considered by the Advisory Committee.
- h. A list of persons consulted or heard.

The Committee notes in relation to Clause 18(g) above, that 910 objections to the permit amendment applications were received by Council. The names of these objectors are not included in this report, but Council and the Committee have them on record and the issues raised have been considered by the Committee.

1.3 Procedural issues

1.3.1 Further notice

A very significant number of objections (910) were received to the permit amendment application; the vast majority of these being of a pro-forma nature. Only a small number of objectors wished to be parties to the VCAT Hearing.

By consent between Council and the Applicant, and endorsed by the Committee, the opportunity for additional submissions to be made and to be heard by the Committee was provided to the 910 objectors. The Applicant and Council worked very closely in ensuring this occurred during the first COVID-19 lockdown; and for this the Committee expresses its gratitude.

1.3.2 Videoconference

The Committee's work has proceeded through the first COVID-19 lockdown; the easing during lockdowns; and is being completed during the second lockdown.

The Committee was able to undertake an accompanied, bus based, inspection with appropriate health precautions between lockdowns, an opportunity that was valuable in terms of the Committee's understanding of the site.

The Committee wishes to express its gratitude to the Council, Applicant, government agencies and the community for participating in the Hearing process in trying circumstances.

1.4 Summary of issues raised in submissions

1.4.1 Objections

As noted, 910 objections to the planning permit amendment application were received by Council; many of which were of a pro-forma nature. The issues raised in the objections were summarised by Council as:⁴

The valid grounds of objection raised are summarised as follows:

- The use is prohibited under the Zone (GWAZ);
- Contradicts the long-term planning policy (Chain of Parks, conservation of biodiversity and landscapes); and
- Offsite amenity impacts (traffic, dust, noise).

Council provided comprehensive submissions and evidence in objection to the permit applications to the Committee, generally on the same grounds as the objections above.

1.4.2 Supporting submissions

A number of supporting submissions were provided in the Hearing for the continuation of the operation of the Facility by agencies including Sustainability Victoria, the Department of Jobs, Precincts and Regions and the Metropolitan Waste and Resource Recovery Group (MWRRG). These submissions generally went to the importance of the Facility in the metropolitan resource recovery system, the lack of alternative facilities, and the importance of the Facility in providing product for major projects.

The Heatherton Christian College provided a supporting submission for the Facility on the basis that there has been no amenity impacts and there is an obligation to support recycling in the community.

1.4.3 Other submissions

The Environment Protection Authority Victoria (EPA) provided comments on the planning permit conditions.

1.5 The Advisory Committee's approach

In undertaking its task, the Committee has considered the original objections to the advertising of the permit applications, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have

⁴ Document 91, Council Agenda of 11 December 2019, section 9.1.

been considered by the Committee in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

The Committee has assessed the permit application(s) against the Kingston Planning Scheme and in accordance with the Terms of Reference provided by the Minister. In particular the Committee has carefully considered the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

This Report deals with the issues under the following headings:

- Amenity
- Strategic waste policy
- The Green Wedge
- Planning permit assessment
- Community benefits package.

2 Amenity

2.1 Noise

The movement of vehicles and plant around the site and the operation of the crushing plant all generate some level of noise.

The issues are:

- Are sensitive areas adversely impacted by noise emanating from the site?
- Is the amenity of the nearby open space adversely impacted by noise from the site?

2.1.1 Evidence and submissions

Although no residents that presented to the Committee stated they are or have been impacted by noise from the Facility, many written objections listed noise as an issue.

The Committee was provided with an expert witness statement of Mr Darren Tardio of Enfield Acoustics called by the Applicant. Mr Tardio carried out site inspections and noise monitoring to confirm compliance with the permit conditions. Mr Tardio reported:

My evidence is that there is no material noise impacts being generated from the Subject Land and there is no evidence that this would change in the future⁵.

His evidence was not contested by Council other than an opinion expressed in his report that the subject site and the surrounding area did not have a high noise amenity.

Mr Tardio's statement explained that the broader area is dominated by heavy truck noise on the Dingley Bypass south and west of the Alex Fraser site and from Clayton Road east of the site. Mr Tardio reported that:

The ambient noise levels observed during the measurements are appreciably high and appears to mask any material noise emissions from the Subject Land operations⁶.

Mr Tardio observed that the existing earthen wall around the site provides some noise attenuation. He further noted that mobile plant moving around the site is fitted with broadband alarms when reversing.

As noted by Mr Tardio, the existing Planning Permit specifies that noise emissions from the Facility must comply with noise limits specified in *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1* (SEPP N-1). On the basis of his observations and long term noise recordings, Mr Tardio concluded:

I am satisfied that the Subject Land is complying with SEPP N-1 and is not generating any adverse noise impacts⁷.

2.1.2 Discussion

The Committee wrote to the EPA to request complaint information for the previous five years related to the facility. The EPA subsequently advised⁸ that no complaints regarding noise have

⁵ Document 111 Mr Tardio's Expert Witness Statement paragraph 42

⁶ Document 111 paragraph 24

⁷ Document 111 paragraph 31

⁸ Document 131 EPA letter of 15 June 2020

been made about the facility. Similarly, Council advised in its Part A Submission⁹ that it had not received any complaints over the past five years.

The Committee noted during its visits that road traffic noise was noticeable in areas around the site.

Based on the evidence provided by Mr Tardio, and the lack of dissenting information, the Committee considers that the amenity of the surrounding area is not adversely impacted by noise emissions from the Facility.

2.1.3 Conclusions

The Committee concludes:

- The measures taken to protect beneficial uses and meet the objectives of SEPP N-1 are effective.
- As no expansion of the Facility is proposed, noise is unlikely to be an issue if the planning permit is extended.
- Noise emissions from the Facility should not adversely impact the abutting Chain of Parks land.

2.2 Dust

Concrete and masonry crushing and vehicle movement on unsealed surfaces has the potential to generate dust.

The issues are:

- Are dust emissions from the site adversely affecting the amenity of the surrounding area?
- Does the site pose an unacceptable risk of future dust emissions?

2.2.1 Evidence and submissions

Most submissions received prior to the commencement of the Hearing reported dust emissions as a concern. Several residents (for example Ms Nina and Dr Brian Earl¹⁰, Ms Silvana Antony¹¹, Mr Mayo Ahlip¹² and Ms Sarah Herring (oral presentation only)) submitted that dust from the Facility affects the local area. Ms Antony and Mr Ahlip also raised concern about the release of hazardous respirable crystalline silica from the Facility.

Two expert witness statements were provided, one by Dr Terry Bellair of Environmental Science Associates called by the Applicant and the second by Mr Peter Ramsay of Peter J Ramsay and Associates called by Council.

The *State Environment Protection Policy (Air Quality Management)* (SEPP AQM) provides guidance on how to manage air quality, including emissions to air to protect the beneficial uses of the air environment in Victoria. It includes a requirement that facility operators manage emissions in accordance with the SEPP AQM, apply best practice to control emissions and strive for continuous improvement to manage air emissions. This policy specifies that for area-based sources and roads, the applicable criteria for dust, PM₁₀ (particles less than 10

⁹ Document 113 Council's Part A Submission

¹⁰ Document 170 Nina and Brian Earl

¹¹ Document 176 Silvana Anthony

¹² Document 179 Mayo Ahlip

micron in size) and PM_{2.5} (particles less than 2.5 microns in size) are specified in the relevant industry Protocol for Environmental Management (PEM).

Both experts agreed that while there was not a specific PEM for operations such as those conducted at the Facility, the criteria specified in the *Protocol for Environmental Management: Mining and Extractive Industries*¹³ (PEM (M&E)) provide a useful “yardstick” for assessing dust emissions.

Table 1 Particulate assessment criteria for mining and extractive industries (PEM)

Indicator	Criteria	Averaging Period
PM ₁₀	60 µg/m ³	24 hour average
PM _{2.5}	36 µg/m ³	24 hour average
Respirable crystalline silica (as PM _{2.5})	3 µg/m ³	Annual average

In his statement, Dr Bellair reported¹⁴:

Analysis of data collected by AFG’s real-time particulate monitoring system indicates that emissions from the SE corner of the site (most sensitive location because of the proximity of the Heatherton Christian College and meteorological factors) indicates that:

- The PM₁₀ concentrations are well below the (24-hour) 60 µg/m³ “yardstick”;
- PM_{2.5} concentrations are substantially below the (24-hour) 36 µg/m³ “yardstick”;

(i) Best practice

Both the SEPP (AQM) and the PEM (M&E) require the application of best practice to control air emissions. A description of the various dust mitigation measures is contained in the *Site Management and Environment Improvement Plan*¹⁵ (SMEIP). The dust management practices identified in the SMEIP can be summarised as:

- wetting of unsealed roadways
- wetting of waste both incoming and stockpiled material
- feeder and crusher plant largely enclosed
- water sprays at conveyor transfer points
- water sprays at pug mill (where materials are mixed)
- reactive dust monitoring program.

Dr Bellair’s statement described the natural and enhanced natural attributes of the site. This included operations conducted on the floor of the old sand quarry site about seven metres below natural ground level and that the facility is surrounded by a five metre high bund wall which is extensively vegetated. He considered the extensive vegetation on the bunds help reduce dust emissions.

In his presentation¹⁶ to the Committee, Dr Bellair stated that:

Dust management practices are consistent with the “upper end” of good practice.

In his oral evidence, Mr Ramsay said that he rated the facility at the “upper end” of best practice.

¹³ Document 24 Protocol for Environmental Management: Mining and Extractive Industries, EPA Publication 1191

¹⁴ Document 111 Dr Bellair’s Expert Witness Statement section 10.1

¹⁵ Document 110a Site Management and Environment Improvement Plan, 8 December 2008

¹⁶ Document 161 Dr Bellair’s Presentation slide 1

(ii) Separation distance

Where Mr Ramsey did differ from Dr Bellair was in regard to the dust monitoring program and the appropriate separation distance between the Facility and sensitive uses.

Mr Ramsay referred to EPA Publication 1518, *Recommended Separation Distances for Industrial Residual Air Emissions*¹⁷ which recommends separation distances to minimise the off-site impacts on sensitive uses arising from unintended odour and dust emissions.

As separation distances for a material recovery or a material recycling facility are determined on a case by case basis, Mr Ramsay provided the following explanation for his estimation of an appropriate separation distance:

The operations at the Facility are similar to the activities performed in a quarry without blasting, a separation distance of 250 metres is recommended between the activity area for the Facility and sensitive land uses.¹⁸

Dr Bellair's oral evidence was that he considered that while the Facility operations and quarries are broadly comparable, quarries extend over much larger areas and loading and unloading of vehicles with typically dry material differentiates these activities from those conducted at Clarinda. He considered a distance of 100 metres was more appropriate.

(iii) Dust monitoring

Dr Bellair provided the following description of the dust monitoring system¹⁹:

Four "Osiris" (solar powered) continuous PM10 and PM2.5 particulate monitors (each equipped with wind speed and direction sensors) are installed, each one inside the boundary near the corners of the site.

The primary purpose of the monitoring system is to provide a "real time" management tool whereby a text message (eg. "SW DUST EXCEEDENCE ALARM" is sent to the mobile phones of the Site Manager, Leading Hand and Victorian Production Manager if a 1-minute averaged "peak" PM₁₀ concentration exceeds 250 µg/m³ at any of the four monitors.

The concerns raised by Mr Ramsay regarding the dust monitoring can be summarised as:

- no allowance should be made for background dust levels in reported measured levels
- whether the dust monitoring stations are at the most appropriate locations
- conduct one year of monitoring for Respirable Crystalline Silica
- conduct monthly monitoring using depositional gauges
- allow greater community access to data.

The response by Dr Bellair in his oral presentation to the Committee can be summarised as:

- monitoring results will include background levels
- dust monitors are located optimally for reactive management purposes
- assumption of respirable crystalline silica based on earlier work by Dr Bellair (not provided to the Committee). Even if all PM_{2.5} was assumed to be silica, the annual concentration was still less than 3 µg/m³
- "Dustfall" monitoring is a relatively crude technique, as sampling extends over monthly periods and it is not possible to determine the dust sources

¹⁷ Document 27 Recommended Separation Distances for Industrial Residual Air Emissions EPA Publication 1518

¹⁸ Document 117 Mr Ramsay's Expert Witness Statement lines 159-161

¹⁹ Document 110 section 10

- it would be difficult to provide real time data and doubtful it would be reviewed.

Mr Ramsay's overall conclusion is that there is unlikely to be a problem:

The existing controls, if effectively maintained, are likely to be sufficient to control risk to human health at an acceptable level²⁰.

(iv) Local amenity

The submission by the Dingley Village Community Association²¹ noted there has been an improvement in the amenity of the area due to the closure of local landfills.

The cessation of tipping activities has brought real benefits to surrounding residents with the repurposing of tips now providing Kingston's largest public park, (old S'Vale tip) sporting facilities (old Din San tip) and the virtual elimination of Noise and Foul odours

The closest sensitive use to the activity area (where vehicle movement, material handling and processing occurs) on the site is the Heatherton Christian College. In its submission²² to the Committee, the College wrote:

Our initial concern over excess dust has been unfounded, and dust is not an issue for the College.

There are several other sensitive uses near the Facility, including a Function Centre on Clayton Road, a Buddhist Temple on the south eastern corner and single residences to the west, north and east of the Facility. No objections were received from these premises.

Regarding dust impacts in the surrounding area, Dr Bellair noted:

It is clear that a number of potentially dusty land uses are (and have recently been) located in the vicinity of AFG's site, including landfills, sand quarries, market gardens and unsealed roads²³.

In his presentation to the Committee regarding dust emissions, Dr Bellair noted²⁴:

Dust emissions are unlikely to have any significant adverse effect on local amenity (providing existing controls continue to be implemented).

2.2.2 Discussion

The Committee acknowledges that there has been a long history of sand mining and waste management in the Clayton South area, with an associated history of very poor amenity. There are several closed landfills in the immediate area of the Facility, which are now in various stages of rehabilitation. During the site visit and from the aerial photographs, large areas of disturbed earth and exposed earth in the nearby market gardens are visible.

The Committee accepts that dust emissions have been an issue for the Clayton South and Clarinda community for a long period of time. The Committee acknowledge that there is the potential for further dust impacts from the ongoing rehabilitation of closed landfills until such time as those sites are vegetated or otherwise covered.

EPA advised the Committee in its letter of 15 June 2020, that in the previous five years it had received only one complaint alleging fine dust emission from the Clarinda site. EPA did not

²⁰ Document 117 lines 275-276

²¹ Document 199 Dingley Village Community Association, 2 July 2020

²² Document 127f Heatherton Christian College 3 June 2020

²³ Document 110 section 3.2

²⁴ Document 161 slide 1

confirm that the Facility was the source of the dust. EPA conducted a site inspection and did not record any non-compliances that required follow-up.

The Committee is satisfied the Facility is operated to a very high standard with the dust management controls placing it high within the best practice range. Best practice is not static and the Committee feels that if the Facility continues to operate, there should be periodic reviews of dust management practices at the site. The Committee accepts Mr Ramsay's observations and the submission from Dingley Village Community Association that the location of the dust monitors should be reviewed to ensure they are in the most appropriate locations.

Opinion of the two air quality experts on appropriate separation distances varied. Mr Ramsay considered 250 metres appropriate whereas Dr Bellair felt 100 metres was adequate. The evidence before the Committee was that the facility was operated to a "best practice" standard which is borne out by the lack of evidence of actual dust impacts from the Facility. The Committee considers the separation distances are adequate, but not necessarily ideal.

The Committee considers there should be greater community access to the air monitoring data. In the absence of verified complaints, and as the Operator responds to a one minute text notification rather than wait for the one hour exceedance as specified in the PEM (M&E), the Committee feels that real time notification is not required. The Committee accepts the evidence of Mr Ramsay when he advocates that "gross" one hour levels of particulates should be reported, which includes background levels as specified in the PEM (M&E).

The EPA submitted suggested permit conditions following the Hearing. The Committee has reviewed these and adopted some suggestions as shown in Appendix E where they do not go above and beyond issues discussed in the Hearing.

2.2.3 Conclusions

The Committee concludes:

- The Facility is operated to a "best practice" standard.
- The overall evidence strongly indicates that the amenity of the surrounding area is not adversely impacted by dust emissions from the Facility.
- The control of dust emissions is dependent on following the procedures of a well-developed Site Management and Environment Improvement Plan, which should be subject to review.
- To ensure the Facility maintains best practice, the planning permit should be revised to include:
 - three yearly review of the Site Management Environment Improvement Plan including examining the location and type of dust monitoring and the adequacy of the monitoring plan to demonstrate compliance with Permit conditions.
 - quarterly public reporting of the dust monitoring program with PM₁₀ and PM_{2.5} reported as gross and net concentrations.

The revised permit conditions are included in Appendix E.

3 Strategic waste policy

Victoria has significant policy directed towards improving resource efficiency. State planning policy at clause 19.03-5S – Waste and Resource Recovery – has relevant objectives and strategies as outlined in Chapter 5.2.

The clause identifies the following documents, as well as others, relevant in the consideration of resource recovery facilities:

- Statewide Waste and Resource Recovery Infrastructure Plan (Sustainability Victoria, 2015)
- Metropolitan Waste and Resource Recovery Implementation Plan (Metropolitan Waste and Resource Recovery Group, 2016).

3.1 Issue

The issue is:

- How does the application to extend the life of the Facility accord with relevant state policies regarding waste management?

3.2 Evidence and submissions

Two expert witness statements were provided by Mr Michael Barlow²⁵ of Urbis Pty Ltd for the Applicant and Mr Rob Milner²⁶ of Kinetica for Council. Written and oral submissions were provided by Sustainability Victoria and the Metropolitan Waste and Resource Recovery Group (MWRRG).²⁷

3.2.1 Statewide Waste and Resource Recovery Infrastructure Plan²⁸

The Statewide Waste and Resource Recovery Infrastructure Planning Framework established under the Environment Protection Act requires Sustainability Victoria to prepare the Statewide Waste and Resource Recovery Infrastructure Plan (SWRRIP).

Sustainability Victoria made a written submission²⁹ and an oral presentation³⁰ to the Committee. Ms Karen Wilson of Sustainability Victoria explained that the SWRRIP will be renamed the *Victorian Recycling Infrastructure Plan* as outlined in the government's new circular economy policy, *Recycling Victoria: A new economy*. She advised the Facility is identified as part of the Clayton South Waste and Resource Recovery Hub, a hub of state importance. Regarding the significance of the hub, Ms Wilson said:

²⁵ Document 164 Mr Barlow's Expert Witness Statement

²⁶ Document 115 Mr Milner's Expert Witness Statement

²⁷ There were many letters of support for the Facility continuing received with the application and through the Hearing process from among others; the Level Crossing Removal Authority, the Victorian Waste Management Association, the Infrastructure Sustainability Council of Australia, Visy, Roads Australia, Invest Assist (Department of Treasury and Finance), Major Road Projects Victoria, Australian Workers Union and the Construction Materials Processors Association

²⁸ Document 35 Statewide Waste and Resource Recovery Infrastructure Plan 2018

²⁹ Document 128a Sustainability Victoria, Letter, 5 June 2020

³⁰ Document 198 Sustainability Victoria, Presentation Notes

A “hub of state importance” means that any impact on the functionality of the hub would, consequently, have significant impacts on the state’s capacity to manage the waste and resource recovery system.³¹

Ms Wilson explained the Facility is one of two construction and demolition recycling facilities in Melbourne’s south east. The other is at Hallam and is smaller in size and 17 kilometres distant. She explained that due to the heavy nature of the material, it is costly to transport and is typically reprocessed near the area where it is generated and used. In regard to the potential consequences of closing the Facility in Clarinda, Ms Wilson stated:

Given the volume of material processed at the Facility and its proximity to a significant amount C&D activity, its closure would have a major impact on the state’s ability and capacity to reprocess C&D materials and achieve Victoria’s waste and recycling policy objectives³².

Sustainability Victoria’s submission was very clear on its position with regard to whether the Permit should be extended:

SV is supportive of the continued operation of the Facility, subject to any Council specific requirements and the site operating to best practice. SV previously outlined its availability to work with the City of Kingston and Alex Fraser to identify opportunities for a transition plan that meets the objectives of both organisations – i.e. continued operations at the site beyond 2023 and long-term transition to parklands³³.

Mr Milner reviewed the SWRRIP regarding its description of the Clayton South Precinct Hub³⁴. He highlighted sections that in his opinion, advocates for the relocation of the Facility, potentially to nearby industrial zoned land, including³⁵:

- Closure of the landfills provides opportunities, particularly the land zoned for industrial and commercial activities.
- This presents an opportunity to establish sorting and consolidation facilities in or near the precinct to provide options to maximise transport efficiencies.
- develop a long term plan for the next phase of resource recovery activities for this precinct.

This view was expressed in Council’s Part B submission, who considered the SWRRIP required an integrated planning approach be taken to find suitable located and zoned land be available for waste resource needs. Council gave the following view of the relevance of the description of the Clayton South Precinct Hub in the SWRRIP:

The description of the hub refers to Alex Fraser, but it does not support an extension of its occupation. To the contrary, C143 and open space policy is acknowledged, and the Plan refers to the need for strategic planning to take up the challenge of meeting current resource recovery needs, and for the development of a long term plan for the next phase of resource recovery for the precinct³⁶.

Mr Barlow gave evidence that the SWRRIP was first released in 2015 and then updated in 2018. He considered it significant that even after the approval of Amendment C143 in 2015, the updated version of the SWRRIP still acknowledged the Clayton South Precinct, including

³¹ Document 198 paragraph 9

³² Document 198 paragraph 24

³³ Document 128a paragraph 16

³⁴ Document 35 page 70

³⁵ Document 115 paragraph 171

³⁶ Document 114 Council Part B Submission paragraph 70

the Facility, as a “*hub of state significance*”. He considered this designation was “*a recognition of the ongoing role of the Alex Fraser site*”³⁷.

3.2.2 Metropolitan Waste and Resource Recovery Implementation Plan

The MWRRG is a State Government Statutory Body responsible for coordinating and facilitating the delivery of waste management and resource recovery across metropolitan Melbourne. It is responsible for preparing the Metropolitan Waste and Resource Recovery Implementation Plan (MWRRIP).

The MWRRG submission noted the overlap with the SWRRIP and the significance of the Facility:

Both the SWRRIP and Metropolitan Implementation Plan identify the Clayton South Precinct Hub as one of the 14 hubs of state and metropolitan importance in Melbourne and acknowledges that the Alex Fraser resource recovery operation is a significant metropolitan facility for C&D waste recovery and end market applications for recycled glass³⁸.

Council’s Part B submission observed the MWRRIP recognised the zoning of the area has changed, making it less tenable for the Facility to continue at its current site. Council stated the MWRRIP says “*that consideration should be given to supporting its relocation*”³⁹. Council further stated that the MWRRIP advocated that a solution should be found through the collaborative development of a master plan for the strategic development of the hub.

Mr Milner noted the MWRRIP recognised that the Facility may need to be relocated. He considered there is a need for “*a long term plan for the next phase of resource recovery activities, outside of the Green Wedge*”⁴⁰.

Mr Barlow’s evidence referenced the MWRRIP regarding the potential consequences if the facility should close:

If this facility does not remain in the region, the south east is at risk of inadequate AM&S⁴¹ reprocessing⁴².

Mr Shane Robb of Urbis was called by Alex Fraser to provide an expert witness statement⁴³ that considered the potential to find an alternative site for the current operation of the Facility. His opinion was that a significant period of time would be required to find an alternative site and concluded a period of ten years may not be adequate.

Regarding the relocation of the Facility, Ms Michelle Lee for MWRRG noted it has worked with the Applicant, Sustainability Victoria and Invest Assist, but have not found any suitable sites in the south east metropolitan area.

All parties acknowledged that both the SWRRIP and MWRRIP identify the need for a Clayton South Precinct Hub Plan, as well as for other state significant hubs, to be developed through a strategic planning process. Hub Plans identify the role and function of waste and resource recovery facilities within that hub and are to be developed with appropriate engagement with

³⁷ Document 107 paragraph 92

³⁸ Document 191 MWRRG Letter, 5 June 2020

³⁹ Document 114 paragraph 77

⁴⁰ Document 115 paragraph 170

⁴¹ AM&S – Aggregates, masonry and soil

⁴² Document 28 section 14.6.2

⁴³ Document 108 Mr Robb’s Expert Witness Statement

state agencies, local government and waste and resource recovery facility operators. The Committee heard from MWRRG that there had been some engagement with Council in 2019 which identified a difference of opinion. Council's closing submission expressed its view that the hub "*could not contain green wedge land*⁴⁴."

MWRRG in its further submission⁴⁵ indicated that it was keen to continue to work with Council but believed that "*given the size and significance of the Hub, there is benefit in developing a Hub Plan for the entire area, including a preliminary risk assessment of all closed landfills*".

3.2.3 Other policies

(i) Infrastructure Victoria: Advice on Recycling and Resource Recovery Infrastructure in Victoria (April 2020)⁴⁶

Infrastructure Victoria identified the need to support improved resource recovery for priority materials, including glass, to enable more to be reprocessed and re-used in Victoria. Mr Milner noted this report identified a need for 87 potential new or updated facilities including 52 in regional Victoria in order to meet recycling targets. He noted that no new infrastructure is identified within the City of Kingston⁴⁷.

One of the six focus areas listed in the Infrastructure Victoria Report is glass, including increasing the amount that is recycled as new glass or as glass sand which can be substituted for virgin sand in building products. Mr Cocks of MRA Consulting Group was called by Council to provide expert evidence⁴⁸ on the state of glass recycling. He gave evidence that the Applicant was the market leader in providing reprocessed glass in the form of glass sands as a replacement for virgin sand in south east Melbourne.

(ii) Recycling Victoria: A new economy

On 26 February 2020, the Victorian Government released its policy *Recycling Victoria, A new economy*⁴⁹, which further advances principles from Plan Melbourne to integrate land use planning and waste and resource recovery infrastructure planning.

Sustainability Victoria in its oral submission advised that under this policy:

... bidders for infrastructure projects will be required to demonstrate how they will optimise the use of recycled materials. The policy specifically targets recycled aggregates, glass, plastic, timber, steel, ballast, crushed brick, crumb rubber, reclaimed asphalt pavement and organics, to be prioritised over the use of virgin materials⁵⁰.

Sustainability Victoria's submission was that the Facility was one of the largest suppliers of recycled material to infrastructure projects and that the "*successful delivery of Recycled First would be put at risk*⁵¹" if the Facility closed.

⁴⁴ Document 156a Council Closing Submission paragraph 48.3

⁴⁵ Document 193 MWRRG Response Letter, 7 June 2020

⁴⁶ Document 44 Infrastructure Victoria: Advice on Recycling and Resource Recovery Infrastructure in Victoria

⁴⁷ Document 115 paragraph 144

⁴⁸ Document 116 Mr Cocks Expert Witness Report

⁴⁹ Document 45 Recycle Victoria: A new economy, February 2020

⁵⁰ Document 198 paragraph 22

⁵¹ Document 128a paragraph 8

3.3 Discussion

All the evidence and information before the Committee supports the view that the Facility significantly contributes to Victoria's ability to recycle building material. Recycling reduces demand for landfill space and for new extractive industries. The Facility is within the Clayton South Precinct Hub identified as a "*hub of state significance*" in both the SWRRIP and the MWRRIP. The Committee accepts that if the facility closes without suitable alternative material recycling capacity in place, objectives for the quantity and type of materials to be recycled would be compromised.

The wording of both the SWRRIP and MWRRIP clearly acknowledge that the local planning circumstances for the continued operation of the Facility at its current site have changed with the approval of Amendment C143. The Committee does not accept the assertion that both plans envisage the continued indefinite operation of the Facility. The Committee accepts that Sustainability Victoria and the MWRRG both recognise the need for the Facility to continue, but at a site with appropriate planning to provide longer term security of use.

The Committee heard evidence of the difficulty in finding an alternative site to relocate the Facility and of the many years that it can take to establish a new site. Due to the significant part the Facility plays in meeting Victoria's recycling targets, the Committee considers its ongoing operation in the medium term is essential for the construction and demolition recycling industry in Melbourne and the south east. In the interim, while the Facility continues operation, the "Hub Plan" that both the SWRRIP and MWRRIP envisage must be developed.

The broader planning issues are considered in Chapters 4 and 5.

3.4 Conclusions

The Committee concludes:

- The State Waste Framework is a relevant matter for the Committee to consider, but not at the exclusion of local policy considerations.
- Both the SWRRIP and MMRRIP identify the Clayton South Precinct Hub as one of the 14 hubs of state and metropolitan importance in Melbourne and acknowledges that the Facility is a significant metropolitan facility for construction and demolition resource recovery and end market applications for recycled glass.
- The closure of the Facility without other infrastructure in place will significantly impinge on Victoria's ability to meet construction and demolition recycling targets and likely result in increased landfilling and extraction of virgin quarry material.

The Committee has recommended that strategic planning for the Clayton South Precinct Hub be undertaken to secure the long term future of recycling and resource recovery in the area.

4 The Green Wedge

4.1 Issue

It was agreed amongst parties that the site is outside the land identified as part of the Chain of Parks. The issue not agreed was the impact the continued use of the site for recycling would have on implementing the Sandbelt Open Space Project (SOSP) and the Kingston Green Wedge Plan (KGWP).

The issues are:

- Would the extension of the permit and continued use of the land by the Facility undermine the implementation of the Chain of Parks?
- Would the longer term objectives of the Kingston Green Wedge be irreversibly impacted by the extension of the permit?

4.2 Evidence and submissions

4.2.1 Metropolitan Green Wedge Planning

It was common ground that planning of metropolitan Melbourne incorporates spines of urban growth that followed major transport infrastructure with green corridors in between.

Mr Milner identified the “*longevity of the green wedge planning concept*”⁵², referencing the Future Growth of Melbourne report of 1967 which planned for growth corridors and intervening green wedges to provide for “*breathing space and dynamic non-urban spaces close to urban communities*”⁵³. Mr Milner identified that subsequent metropolitan planning documents reinforced the green wedge concept, including Melbourne 2030, the introduction of an urban growth boundary (UGB) and the Green Wedge Zone. Importantly Mr Milner’s evidence notes:

The complementary Green Wedge Zone was specifically purposed to manage activities and protect important non-urban uses outside the UGB, including conservation areas, recreation, agriculture, airports, sewage treatment plants and quarries which, it was recognised, could not be located among ‘normal’ urban development.

Melbourne 2030 for the first time acknowledged that green wedges were locations that might be used for or suited to waste disposal and recycling.⁵⁴

This position was further reinforced in subsequent strategies; Melbourne @ 5 Million (2008), Delivering Melbourne’s Newest Sustainable Communities (2009), Plan Melbourne (2014 and 2015). Noted specifically was Direction 4.5 of Plan Melbourne 2017-2050 which directs that Melbourne’s green wedges and peri-urban areas should:

- protect major State infrastructure and resource assets, including water supply dams and water catchments and waste management and recycling facilities; and
- protect and manage the value of green wedges consistent with green wedge management plans.⁵⁵

⁵² Mr Milner Kinetica p23

⁵³ Mr Milner, Kinetica p23

⁵⁴ Mr Milner, Kinetica p24

⁵⁵ Mr Milner, Kinetica p25

Mr Barlow did not provide contradictory evidence in relation to the history of metropolitan planning, rather he offered complementary views on the establishment of urban and non-urban corridors radiating from central Melbourne. Mr Barlow cited similar sections of metropolitan planning documents including the Melbourne 2030 strategy that acknowledged the green wedges as *“open landscapes that were set aside, more than 30 years ago, to conserve rural activities and significant natural features and resources between the growth areas of metropolitan Melbourne”*⁵⁶.

Mr Barlow highlighted matters such as:

A key direction of Plan Melbourne is:

Direction 1.4 – Support the productive use of land and resources in Melbourne’s non-urban areas

Melbourne’s green wedges and peri-urban areas are immensely important to the State’s economy, community and environment and support a wide range of non-urban land uses and activities. For instances, some of Victoria’s most productive agricultural is located within these areas. Other productive non-urban land uses include natural resource extraction, tourism, airports, sewage plants and waste and resource recovery operations.

These areas also accommodate businesses that need buffers from residential and incompatible land uses. Non-urban land uses in the green wedges and peri-urban areas should be carefully planned and managed to avoid irreversible land-use change and support their ongoing productivity. (Mr Barlow’s emphasis)⁵⁷

4.2.2 Kingston Green Wedge Planning

(i) Sandbelt Open Space Project

Mr Barlow advised the Committee that:

The Sandbelt Open Space Project Development Plan was prepared by Melbourne Parks and Waterways in May 1994. It recommended a series of parklands covering some 1060 hectares, more than double the size of the park in the Open Space Plan, and of this approximately half is private land including both existing established golf courses and land in a range of land uses including market gardens, extractive industry/landfill.⁵⁸

Mr Barlow noted that *“The subject site is not located within the Core Parkland area and currently is not intended to be acquired for public open space purposes”*⁵⁹, this fact was not in dispute.

All parties acknowledged the SOSOP Development Plan formed the basis for local policy in the Kingston Planning Scheme that sought to implement the Chain of Parks concept. Figure 3 shows an extract from the SOSOP with the ‘Chain of Parks’ core in yellow.

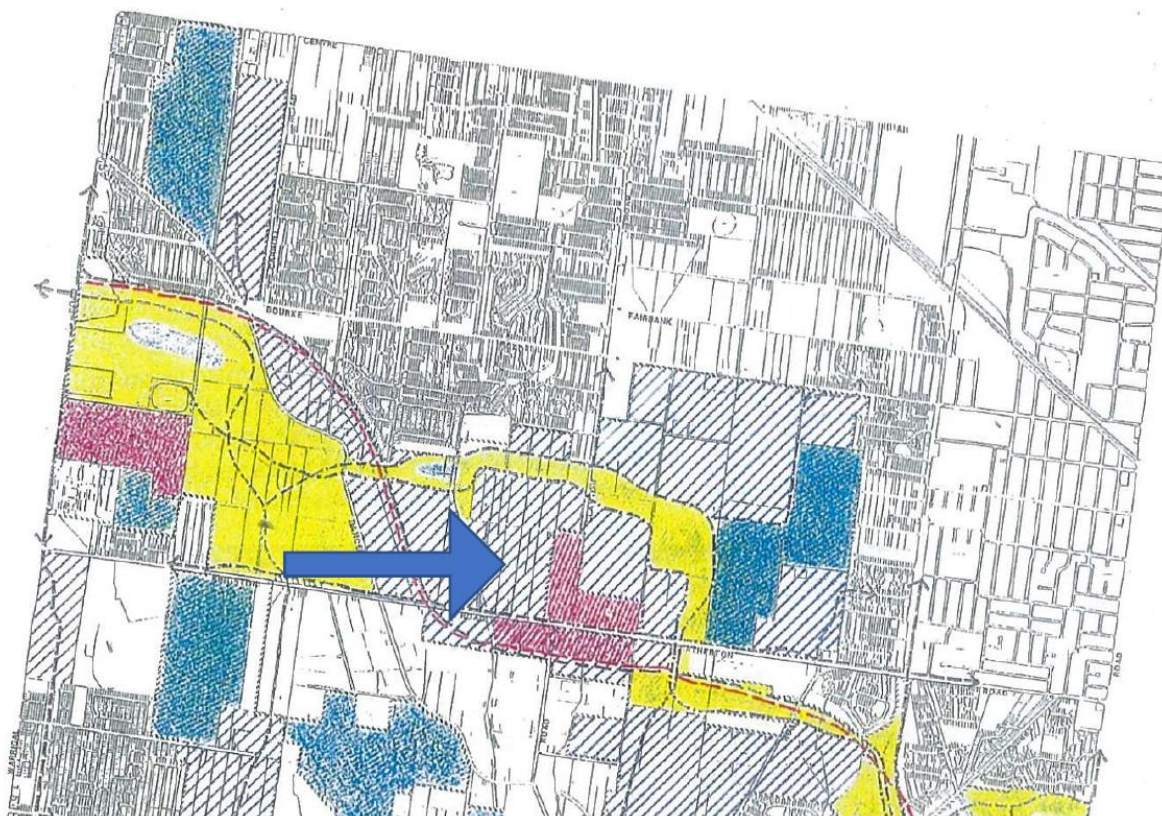
⁵⁶ Mr Barlow Urbis p25

⁵⁷ Mr Barlow, Urbis p25

⁵⁸ Mr Barlow, Urbis, p29

⁵⁹ Mr Barlow, Urbis p29

Figure 3 Part of Sandbelt Open Space Development Plan (arrow approximately marks site)⁶⁰



(ii) Kingston Green Wedge Plan

The KGWP was adopted by Council in 2012.

Mr Milner made reference to the KGWP, and the subsequent development of local policy seeking to *“direct rehabilitation of the green wedge landscape while being cognisant of the extended timeframe over which this is likely to occur”*.⁶¹

Further evidence was put outlining local policies within the Kingston Planning Scheme that support and promote the transition of non-urban areas of Kingston from resource extraction and land filling to open space, recreation and other complementary non-urban uses. Specifically referenced were Clause 22.01 The Sandbelt Open Space Project and 22.02 the South East Non-Urban Area policies.

In relation to waste management facilities in the green wedge, Mr Milner referred to Clause 22.09 of the Kingston Planning Scheme and noted that *“the policy is directed to ensure that new facilities or expansion to existing facilities do not affect the long term development of the Green Wedge while the Kingston Green Wedge Management Plan (KGWMP) is being implemented”*.⁶²

⁶⁰ Figure 9 from Sandbelt Open Space Plan. The Core Parkland is shown in yellow. The black and white diagonal shading is ‘Other proposed private and public compatible activities’.

⁶¹ Mr Milner Kinetica p26

⁶² Mr Milner, Kinetica p31

Mr Barlow identified the multiple uses the KGWP provides for “including to preserve areas away from urban uses for service industries and infrastructure including airports, freeway reservations, quarries and waste management operations”.⁶³

Mr Barlow drew the Committee’s attention to the specific references and commentary in the KGWP to recycling and the Facility. This acknowledged the existence of the current planning permit with its limited life and the need for this type of use to transition out of the area over time. The report commented on the emergence of the growing recycling industry and its potential to develop technology and operations over a period of 10-15 years, whereby it could successfully coexist with nearby residential and agricultural uses. The following was put forward from the KGWP:

If technology improves to this extent, there should be the opportunity within the Green Wedge Plan to revisit this issue, in limited locations and within strict parameters. For this reason, the Plan retains an ‘open mind’ about future possibilities in this field, while remaining firm that any such uses with off-site impacts such as dust, noise, fumes or heavy transport through residential areas, is unacceptable. The areas designated ‘Transition Areas’ on the Land Use Map are the locations where this type of activity might be considered in the long term should all environmental concerns be satisfied. (Mr Barlow’s emphasis).⁶⁴

The Facility was acknowledged as being within a ‘Transition Area’ and Mr Barlow went on to point out that the KGWP stated under the heading “*What are we going to do?*”:

- Monitor the continued operation, within all approvals, of existing recycling facilities.
- Investigate the potential for state of-the-art household waste transfer and recycling facilities with no off-site impacts as a possible future use of Transition Areas identified on the Land Use Map.
- Phase out, in line with current approvals, the operation of existing landfills, waste transfer and materials recycling activities.⁶⁵

Council, in response, emphasised the point that the reference to current approvals did not necessarily include an extension to a permit, and the ‘Transition Area’ references the year 2025.

In relation to implementation, Mr Barlow commented that:

Since the adoption of the KGWP further work has been undertaken to advance the introduction of the Chain of Parks. The former landfill site in Victory Road to the immediate north of the subject site is to be transferred to Council and incorporated into the Chain of Parks once the site has been remediated. Council has also purchased the current market garden at 1 Victory Road (at the northern end of Peace Road) with the intention to incorporate this site into the public open space system.⁶⁶

And further that:

To date there is no clear plan for how the non-public open space sites will be utilised in the future. The KGWP advances ‘ideas’ for how the privately owned land might be used (e.g. regional energy park and active recreational area) but does not provide any background as to how these might be viably established and operated.⁶⁷

⁶³ Mr Barlow, Urbis, p26

⁶⁴ Mr Barlow, Urbis, p27

⁶⁵ Michael Barlow, Urbis, p27

⁶⁶ Mr Barlow Urbis, p33

⁶⁷ Mr Barlow, Urbis, p32

Council has continued to pursue the implementation of the Chain of Parks through open space and landscape planning and acquisition of sites. Plans depicting the landscaping, active recreation uses, pathways and a lookout proposed for the adjacent Victory Road parkland were presented to the Committee.

In Mr Barlow's opinion:

The site and its operations will not be readily visible from the new park (even the location of the proposed lookout) given the well-established landscape buffer along the northern boundary of the site. It will be possible to see part of the waste transfer building through the opening in the landscape buffer – however this will be at a distance of more than 200 metres from the possible location of the lookout.⁶⁸

Photographs were presented to the Committee by Council that showed the visibility of the Facility over the existing landscaping. Landscaping plans were presented on behalf of the Applicant that sought to incorporate additional screening in response to these concerns.

4.3 Community submissions

Submissions from local residents provided valuable insights into the history of land use changes and the efforts of the community to effect change over a long period of time.

Ms Anthony summarised the views of 910 objectors to the planning permit extension, including:

- the negative health and well-being impacts the neighbouring community has suffered due to landfill operations, dust generation and traffic impacts
- benefits they have witnessed so far in the rehabilitation of previous landfill sites
- the positive contribution to biodiversity and quality of life that wetland restoration works have brought to the local community
- expectations of the community that the Facility would cease use at the end of the 15 year period and provide a recreational use in line with the KGWP.

Similar issues were put to the Committee by other community members, emphasising concerns about the risk of extension of the permit leading to permanency of the Facility and disappointment that the "*promises*" made when the Kingston Planning Scheme was amended to include the land in the GWAZ, that no further industrial uses would follow, have not been kept. These sentiments were raised by Mr Ahlip, the Defenders of the South East Green Wedge, Kingston Residents Association, Friends of Dingley Village and Friends of Edithvale Seaford Wetlands Inc.

The Earls provided submissions objecting to the permit extensions on similar grounds and provided letters from several groups opposing the Facility.⁶⁹

4.4 Discussion

There was no dispute about the length of time the community of Melbourne has planned for, and been committed to, the establishment and enhancement of green wedges as part of the metropolitan area. A review of the documents referenced has shown an evolution from the

⁶⁸ M Barlow Urbis, p48

⁶⁹ Including from Kingston Residents Association, Mordialloc-Beaumaris Conservation League Inc., Port Phillip Conservation Council Inc., Friends of the Grange, Kingston Conservation and Environment Coalition Inc.

green wedge providing for a multitude of uses, that could not easily be provided for in built up urban areas, to a clear preference by Council for open space and recreational uses.

It is accepted that the efforts of Council have borne success through the development of policy, provisions, acquisition of land and development of parklands. However, the journey is far from over and there are many elements of the green wedge that are yet to be settled.

The SOSP Development Plan of 1993 *“defines the boundaries as well as the range and distribution of activities within the study area. It sets out the way in which both the public and private sector should develop the area”*.⁷⁰ The SOSP Development Plan was produced by Melbourne Parks and Waterways in conjunction with the local councils (pre-amalgamation), to assist their vision to deliver the transformation of the south east non-urban area to a place of recreation and leisure.

In relation to the extent of land covered in the SOSP, the plan comments:

Major parks are often located to conserve and give access to some special feature which provides the rationale for the park. In contrast, the concept for the Sandbelt Open Space Project was initiated from the need to develop a constructive end use for a large area of degraded land. In addition, there is a need to ensure provision of a Regional Park for an area presently under catered for in open space.⁷¹

Interestingly, the plan identified *“the need to meet the changing recreation needs of the community and accommodate high impact (noisy and visually intrusive) activities and sports which are generally not catered for within local and district open space”*.⁷² In the Committee’s view, this indicates there is an expectation that some recreational land uses will have off-site impacts; that is, not all of green wedge land will be occupied by passive recreation and ‘natural’ landscapes. This leads to the consideration of measuring the compatibility of other permissible land uses.

As acknowledged, the subject site does not form part of the core parkland identified in the Chain of Parks. The SOSP states that:

The designated non core area provides the opportunity for public and private organisations to develop a range of commercial businesses, primarily recreation based, which are complementary to the core area. It has been designed to enable the development of land on sites which are not critical to the trail network or public open space system.⁷³

The Committee is satisfied that the site is not required for the successful achievement of a linked network of open spaces through the south east non-urban area, and that the development plans adopted by Council do not rely on the site to achieve a physical link. This is not to say that the Committee does not consider that the site could positively contribute to the Chain of Parks as an adjacent recreational offering.

The KGWP brings the focus of green wedge planning to the local level. The KGWP recognises the role of the green wedge land to provide for a range of non-urban uses and some uses that require large pieces of land such as public infrastructure. In relation to classifying non-urban uses, agriculture is classed as a non-urban use, but recreation is a vital use in both urban and non-urban settings. Landfills and recycling operations are also found in both urban and non-

⁷⁰ Sandbelt Open Space Project Implementation Plan, 1993, p1
⁷¹ Sandbelt Open Space Project Implementation Plan, 1993, p21
⁷² Sandbelt Open Space Project Implementation Plan, 1993, p1
⁷³ Sandbelt Open Space Project Implementation Plan, 1993, p41

urban areas, and one might suggest that a location away from a built-up urban location would be preferable for such uses. Green wedges provide for this setting in locations near the source of the waste material. Recycling facilities can be an acceptable land use in the green wedge, but only in certain locations.

The KGWP holds the position that the subject site is not such a location. It identifies the land for potential active recreation to be developed by the private sector. However, the site is recognised as currently used for materials recycling and is included in the ‘Transition Areas’ on the Land Use Map which are the locations where recycling activity “*might be considered in the long term should all environmental concerns be satisfied*”.⁷⁴ The KGWP stated that the:

Recycling industry is considered a ‘developing’ industry. As availability of non renewable resources declines, investment in recycling processes becomes more viable. It is possible that technological and operational improvements could increase to a point within the next 10 to 15 years that some form of recycling activity activities may be compatible with nearby residential / agricultural uses. Recycling of glass, computer, clothing or other household waste may become possible and even desirable in a location close to urban areas without off-site impacts.⁷⁵

It is the Committee’s view that the reference to 10 to 15 years above leads to the notation in the Land Use Map of 2025 as it relates to transition. This would be interpreted as a period of research and development in recycling methods as they relate to off-site impacts. After that time, Council would determine if the activity is compatible with surrounding uses. However, other references in the KGWP indicate that the transition refers to the cessation of the current recycling use by 2025. There appears to be some contradiction how recycling should be treated in some parts of the KGWP, other parts are clear, such as the recommendations about planning scheme amendments:

Recognise the medium term operation of landfill, materials recycling and transfer station activities under current approvals in ‘Transition Areas’, require best practise methods to reduce offsite impacts of the operations, and eventually cessation of these activities at the end of the current approval timeframes.⁷⁶

This raises the matter of timeframe. All the policy documents recognise that the transition of the green wedge to achieve open space, recreation and leisure objectives will take place over a lengthy time period. Many factors in transition have been identified, such as demand for natural resources based on the state of the development industry, funding for acquisition and development and landfill rehabilitation processes. As noted in evidence by Mr Milner and Mr Barlow, green wedges have been integral to metropolitan policy and planning schemes since the 1960s. Submissions to the Committee made reference to the expected filling of former quarries to be completed around 2017, and the 15 year life of the current permit was referenced in the KGWP.

The green wedge has provided for a range of uses, some conflicting and many complementary over the years. Indeed, the KGWP supports the commercial and industrial uses adjoining the subject site as they provide employment and “*do not generate any significant amenity impacts or land use conflicts*”.⁷⁷ In the Committee’s view, an extension to the continued use of the

⁷⁴ KGWP KCC, p63

⁷⁵ KGWP, KCC, p63

⁷⁶ KGWP KCC, p79

⁷⁷ KGWP, KCC, p64

land for materials recycling for a further 15 years can be accommodated without denying the achievement of the green wedge objectives in the long term.

There can be no question that the long term future of this land should conform with the objectives of the GWAZ and the open space objectives for the area. However, the Committee finds that the continued use for recycling for a further interim period will not result in undue impact on the usability and enjoyment of the Chain of Parks as its implementation proceeds.

4.5 Conclusions

The Committee concludes:

- The long term future of the locality is clearly to meet the objectives of the Green Wedge A Zone and implement an important regional open space and recreational vision.
- The medium term continuation of the use on the Alex Fraser site for a further interim period should not result in undue impact on the usability and enjoyment of the Green Wedge; or compromise its medium to long term objectives.

5 Planning permit assessment

5.1 Background

Alex Fraser lodged two planning permit applications for consideration:

- KP-2007/881/A - an application to amend the current permit under s72 of the Act
- KP-2007/881 - an application for secondary consent under condition 8 of the existing permit.

Both applications seek the same outcome; that the permit be extended for an additional 15 years. Council considered both applications separately under the appropriate provisions of the Act and against the established guiding principles for secondary consents. It refused both applications. The Committee considers it unproductive to undertake two separate planning permit application assessments to consider the merits of the proposed 15 year extension of the permit. Its consideration will focus on the merits of the proposal against current State and local policies and planning controls.

5.2 Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area

The summary of relevant factors is included in the tables below.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

5.3 State and local policies

The following State and local policies within the Kingston Planning Scheme are of most relevance.

Table 2 State and local policies

Clause	Summary of relevance
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Clause 11.01-1R	<p>Green Wedges – Metropolitan Melbourne</p> <p>Seeks to protect green wedges from inappropriate development and includes the following strategies:</p> <ul style="list-style-type: none"> - Promote and encourage the key features and related values of each green wedge area. - Support development in the green wedge that provides for environmental, economic and social benefits. - Plan and protect major state infrastructure and resource assets, such as airports and ports with their associated access corridors, water supply dams, water catchments and waste management and recycling facilities.
Clause 15.03-2S	<p>Aboriginal Cultural Heritage</p> <p>Seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.</p> <p>Includes the strategy to provide for the protection and conservation of pre-contact and post-contact Aboriginal cultural heritage places.</p>
Clause 19.02-6R	<p>Open Space – Metropolitan Melbourne</p>
Clause 19.03-5S	<p>Waste and resource recovery</p> <p>Aims to reduce waste and maximise resource recovery so as to reduce reliance on landfills and minimise environmental, community amenity and public health impacts.</p> <p>The following strategies apply:</p> <ul style="list-style-type: none"> - Ensure future waste and resource recovery infrastructure needs are identified and planned for to safely and sustainably manage all waste and maximise opportunities for resource recovery. - Protect waste and resource recovery infrastructure against encroachment from incompatible land uses by ensuring buffer areas are defined, protected and maintained. - Ensure waste and resource recovery facilities are sited, designed, built and operated so as to minimise impacts on surrounding communities and the environment. - Encourage technologies that increase recovery and treatment of resources to produce energy and other marketable end products. - Enable waste and resource recovery facilities to locate close together in order to share separation distances, reduce the impacts of waste transportation and improve the economic viability of resource recovery. - Site, design, manage and rehabilitate waste disposal facilities in accordance with the Waste Management Policy (Siting, Design and Management of Landfills) (Environment Protection Authority, 2004). - Integrate waste and resource recovery infrastructure planning with land use and transport planning. - Encourage development that facilitates sustainable waste and resource recovery.

Consideration of any applicable Regional Waste and Resource Recovery Implementation Plan required.

Clause 21.02-2

Green Wedge Management

This policy recognises the multiplicity of roles the green wedge fulfils. It seeks to manage the challenge of competing and uses through structure planning and ensure land uses are not driven by short term economic expediency but seek to achieve sustainable use and development outcomes.

The objectives are:

- To ensure activities in the green wedge are consistent with, and contribute to, optimal long-term planning solutions for the whole of the south eastern regional green wedge.
- To protect and enhance the scenic and landscape values of the green wedge area
- To create a predominantly non-urban, major regional north-south open space spine.

These objectives are supported by strategies, some of which recognise the transitional nature of the area and the achievement of these objectives over time. These include:

- Protect the green wedge land from intrusion of urban uses
- To support the transition of landfill, recycling or transfer stations on appropriate land to new uses that are consistent with long term strategies for the Green Wedge
- Progressively remediate and redevelop disused landfill sites and other disturbed land in the Green Wedge for open space
- Give priority to the rehabilitation of those sites which form part of the designated core parkland areas identified in the Open Space Framework Plan
- Strongly discourage any new refuse transfer stations, materials recycling facilities or landfills on land in the Green Wedge north of Kingston and Heatherton Roads.

Clause 21.10

Infrastructure

Further strategic work: Develop a Waste Strategy for Council to implement in its day-to-day considerations for the municipality.

Clause 22.02

Sandbelt Open Space Project

Objectives:

- To implement the objectives of the Sandbelt Open Space Project and associated Development Plan.
- To promote the development of a series of connected parks providing for a wide range of regional and local recreation opportunities within a quality environment.
- To promote the rehabilitation and conversion of extractive industrial and landfill sites to open space or other productive after uses which are compatible with the Sandbelt Open Space Project.

- To recognise different concepts of leisure and recreation and provide for equitable access to both passive and active recreational pursuits not widely accessible elsewhere.

Key policy statements include:

- Development be guided by the Sandbelt Open Space Development Plan attached to this clause
- Trail networks be integrated with existing recreational networks and provide linkages with nearby open space and adjoining urban areas
- The use and development of private land adjacent to the core parkland areas be compatible with, and contributes to, the Sandbelt Open Space Project
- A vegetation pattern and character be promoted which restores positive elements of the locality's former ecology and landscape and results in the improvement of landscape character through the non-urban area

Relevant decision guidelines include:

- Whether the proposal is compatible with surrounding land uses and furthers the implementation of the Sandbelt Open Space Project
- The impact on the character, appearance and landscape features of the area, including features of architectural, historic and cultural significance.

Clause 22.03	<p>South East Non Urban Area Policy</p> <p>This policy is based on the principles of the 'South East Non Urban Study' (1997) and promotes a strategic and structured approach to the management of Kingston's non urban areas.</p> <p>Preferred uses include:</p> <ul style="list-style-type: none"> - Public open space facilities including parks, sports fields, bicycle networks, etc. - Public utilities and major infrastructure facilities such as retarding basins and effluent treatment works <p>Foresees further strategic planning and structure plans guiding development</p>
Clause 22.04	Enterprise sites policy – land adjoining
Clause 22.07	<p>Outdoor advertising sign policy</p> <p>Provides guidance for signs in non urban areas</p>
Clause 22.09	<p>Materials recycling</p> <p>Policy basis includes:</p> <p>Materials recycling facilities have played an important role in reducing waste at landfill sites. It is anticipated that there will be continued demand for these facilities within the south east of Melbourne however as landfill sites cease operation in Kingston alternative locations in the region outside Kingston's Green Wedge require consideration. It is important that these facilities are located appropriately in order to minimise off site impacts ensure that the establishment of any new facilities or expansions to existing facilities do not affect the long term development or amenity of the Green Wedge while the Kingston Green</p>

Wedge Plan is being implemented. The Kingston Green Wedge Plan will provide the strategic basis for any necessary future amendments to this Planning Scheme.

Policy statements are:

- Materials recycling facilities are not supported in areas which are in close proximity to agriculture, residential areas and sensitive uses or in highly visible locations.
- Materials recycling facilities must be sited and managed to minimise the effect on the amenity of the surrounding area with regard to noise, odour, vibration, emissions to air, land or water, traffic and access, visual appearance and impact, and hours of operation.
- Materials recycling facilities must be provided with real time dust particulate monitoring where a likelihood exists of airborne dust omissions.
- Sufficient area is set aside on site to provide a buffer and adequate landscaping to enhance the visual appearance of the site.
- Access to a Materials Recycling facility must not be via residential streets.
- All treatment of materials on the site must be conducted within buildings.
- The burning of waste materials must not occur on site.
- Materials recycling facilities must be designed to enable the loading and unloading of materials to be carried out within the site.
- Materials recycling facilities in association with Refuse Transfer Stations be discouraged.
- Extensions/amendments to existing materials recycling facilities are not supported where land use in proximity has changed to agriculture, residential or other sensitive use.

Decision guidelines include:

- The effect on long term open space planning objectives including the proximity of any facilities to areas identified as future parkland or Chain of Parks Linear Trail in the Sandbelt Open Space Project Policy.
- The Kingston Green Wedge Plan

Other State policies of relevance have primarily been identified and addressed as noted in Table 3.

Table 3 Other relevant policy and strategies

Strategy/Policy	
State and Metro Waste policies	See Chapter 3
Environment Protection Policies	See Chapter 2

5.4 Zones, Overlays and Provisions

The following zones, overlays and provisions of the Kingston Planning Scheme apply.

Table 4 Zones, Overlays and Provisions

Zone	
Clause 35.05 GWAZ	<p>Green Wedge A Zone</p> <p>Purpose:</p> <p>To implement the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To provide for the use of land for agriculture.</p> <p>To protect, conserve and enhance the biodiversity, natural resources, scenic landscapes and heritage values of the area.</p> <p>To ensure that use and development promotes sustainable land management practices and infrastructure provision.</p> <p>To protect, conserve and enhance the cultural heritage significance and the character of rural and scenic non-urban landscapes.</p> <p>To recognise and protect the amenity of existing rural living areas.</p>
Clause 35.05-1 GWAZ	<p>Table of Uses:</p> <p>Industry (including Materials recycling) is a Section 3 prohibited use in the table</p>
Clause 35.05-5 GWAZ	<p>Buildings and works:</p> <p>A permit is required for buildings and works</p>
Overlays	
Clause 42.01	<p>Environmental Significance Overlay Schedule 4</p> <p>Statement of Significance</p> <ul style="list-style-type: none"> - Parts of Clayton South and Heatherton have been extensively developed and used for the purposes of extractive industries with subsequent rehabilitation of the land through waste disposal by landfilling. - Land developed and used for the purpose of waste disposal by landfilling and adjoining or surrounding land may be impacted by the migration of landfill gas and/or leachate contamination of waters (groundwater or surface water) during the operation of the landfill and for decades after the closure and rehabilitation of a landfill. <p>Environmental Objective to be achieved</p> <ul style="list-style-type: none"> - To ensure any development, including buildings or works, is designed to: - Mitigate the accumulation of landfill gas in confined spaces; - Mitigate the abstraction of leachate or groundwater contaminated with leachate, other than for the purpose of management of the landfill (i.e. monitoring or storage, treatment and disposal or irrigation); - Protect the buildings or works from damage caused by settlement of the waste in any landfill; and - Minimise any impact on any landfill, including final capping, landfill gas system, leachate system, surface drainage, trade waste infrastructure, monitoring infrastructure or landscaping, including protective vegetation of a landfill.
Clause 44.04	<p>Land Subject to Inundation</p>

Purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria). To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

No specific management objective nor statement of risk is scheduled.

Clause 45.03

Environment Audit Overlay

Purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

Particular provisions

Clause 51.02

Metropolitan Green Wedge Land – Core planning provisions

Purpose:

- To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values.
- To protect productive agricultural land from incompatible uses and development.
- To ensure that the scale of use is compatible with the non-urban character of metropolitan green wedge land.
- To encourage the location of urban activities in urban areas.
- To provide transitional arrangements for permit applications made to the responsible authority before 19 May 2004.
- To provide deeming provisions for metropolitan green wedge land.

Materials Recycling is not a prohibited use if used in conjunction with Refuse disposal or Transfer station.

Clause 52.05

Advertising Signage

Purpose:

- To regulate the development of land for signs and associated structures.

- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Provisions:

This clause incorporates detailed requirements for signs. No specific matters are scheduled in Kingston Planning Scheme.

Clause 52.06

Car Parking

Purpose:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Provisions:

This clause incorporates detailed requirements for parking across all uses and zones.

Clause 52.29

Land adjacent to a Road Zone Category 1

Purpose:

- To ensure appropriate access to identified roads.
- To ensure appropriate subdivision of land adjacent to identified roads.

Provision:

A permit is required to create or alter access to a road in a Road Zone, Category 1. The matter must be referred to the Roads Corporation

Clause 53.10

Uses and Activities with Potential Adverse Impacts

Purpose:

- To identify those types of uses and activities, which if not appropriately designed and located, may cause offence or unacceptable risk to the neighbourhood.

Provisions:

The threshold distance set for a transfer station of this nature is 200 metres, for other recycling operations is not specified. Referral to EPA is required if threshold distance is not met or not specified.

Clause 53.14

Resource Recovery

Purpose:

- To facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area.

This clause applies to all land used and developed or proposed to be used and developed for:

- A Transfer station;
- A Materials recycling facility

Decision Guidelines:

- The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.
- The impact of the proposal on the amenity of the surrounding area.
- The Statewide Waste and Resource Recovery Infrastructure Plan (Sustainability Victoria, 2015).
- Any Regional Waste and Resource Recovery Implementation Plan including the Metropolitan Waste and Resource Recovery Implementation Plan (Metropolitan Waste and Resource Recovery Group, 2016).

General provisions

Clause 63.05

Existing Uses

An existing use right is established in relation to use of land under this scheme if any of the following apply:

- The use was lawfully carried out immediately before the approval date.
- A permit for the use had been granted immediately before the approval date and the use commences before the permit expires.
- A permit for the use has been granted under Clause 63.08 and the use commences before the permit expires.
- Proof of continuous use for 15 years is established under Clause 63.11. The use is a lawful continuation by a utility service provider or other private body of a use previously carried on by a Minister, government department or public authority, even where the continuation of the use is no longer for a public purpose.

A use in Section 2 or 3 of a zone for which an existing use right is established may continue provided:

- No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.
- Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.
- The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

5.5 Authority comments

Council referred the permit application amendment under section 52 and reported the following responses to the Planning Committee⁷⁸.

Table 6 Agency referrals

Referral Department	Section 52/55	Determining/ Recommending	Objection	Comments
Moorabbin Airport	52	Recommending	N/A	No response received; it is considered that Moorabbin Airport has no conditions for objection to the proposal.
Parks Victoria	52	Recommending	N/A	No response received; it is considered that Parks Victoria has no conditions for objection to the proposal.
EPA	52	Recommending	N/A	EPA does not object to the proposed amendment of the planning permit expiry.
VicRoads	52	Recommending	N/A	VicRoads noted that the development will not have a significant impact on the safety and operational efficiency of Kingston Rd close stop accordingly VicRoads has no objection to the proposal.

5.6 Advertising

The council officer report⁷⁹ on the planning permit application reported on the advertising of the application as follows:

Following the commencement of advertising, nine hundred and ten (910) objections to the proposal were received. The valid grounds of objection raised are summarised as follows:

- the use is prohibited under the zone (GWAZ);
- contradicts the long term planning policy (Chain of Parks, conservation of biodiversity and landscapes); and
- offsite amenity impacts (traffic, dust, noise).

The matters raised in community objections have been covered in the assessment of the permit application and formed much of the discussion at the Hearing.

⁷⁸ Council Planning Committee Meeting 11 December 2019, p31

⁷⁹ KCC Planning Committee Meeting 11 December 2019, p31

5.7 Assessment against provisions

The subject site is in the GWAZ under which the use of land for Industry (including materials recycling) is prohibited. The site benefits from the current permit which, despite prohibition, allows for the continuation of the use and the consideration of the extension of time.

The overlays are not of particular relevance to the matter of the extension of time.

Clause 51.02 Metropolitan Green Wedge core does not prohibit materials recycling, and the scale of the use is compatible with the non-urban character of metropolitan green wedge land.

Clause 53.14 Materials recycling supports the use of the land as is.

At the regional level, Clauses 11.01-1R Green Wedges – Metropolitan Melbourne supports the use of the land for materials recycling.

State policy at Clause 19.03-5S – Waste and Resource Recovery strongly supports the existing use and proposed extension.

Local policy at Clause 21.02-2 Green Wedge Management, supports the transition of recycling facilities to uses that are consistent with long term strategies for the Green Wedge over time. It discourages new recycling facilities in this location.

Clause 22.02 the SOSF, provides clear direction for the use of the land. While the site is not included as 'core parkland', it is immediately adjacent and is identified for active recreation. It is not identified for public acquisition and therefore its development for recreational use will be dependent upon the willingness of the owner to invest in redevelopment. Of relevance is the policy statement that:

The use and development of private land adjacent to the core parkland areas be compatible with, and contributes to, the Sandbelt Open Space Project.

Management of offsite amenity issues would suggest that the continued use of the land is compatible with the open space objectives of the adjacent land. The level of contribution towards implementation of the SOSF is limited.

Clause 22.09 supports recycling in Kingston and defers to the KGWP to give direction to the continued use and development of new recycling facilities. As noted in Chapter 4, the KGWP is somewhat conflicted in its position on the continued use of existing recycling facilities in the Transition Areas. However, the Committee has concluded that the continuation of the existing use for a further 15 year period will not compromise the long term achievement of the Plan. Therefore the proposal meets this clause.

5.8 Discussion

Evidence and submissions to the Committee provided a range of views in relation to assessment of the proposal against the provisions of the planning scheme and relevant State strategies. The Committee has been assisted by these in its deliberations.

It is clear there are matters where parties agree, such as the legitimacy of the application for, and consideration of, an extension of the permit, despite the use now being prohibited by the zoning of the land. There are matters where resolution appears to be manageable through operational adjustment, such as dust monitoring and landscaping.

The matters where the parties are at odds are centred around pursuit of the Green Wedge Plan and recycling objectives and determining the primacy of these competing policies.

As can be seen in the tables above, the Kingston Planning Scheme provides policy direction for the use and development of the land. As evidence and submissions identified, the planning provisions applicable to the area have evolved over the years to cater for community needs at the time and its vision for the future. The use of this site provides a clear example of this, having been approved for use for sand extraction and then for materials recycling within the policy context at the time. The planning scheme recognises that the achievement of the vision for the green wedge is a 'long game' and Council has considered and approved applications for use while acknowledging they would not necessarily be suitable in the long term future.

Amendment C143 included the land in the GWA in Council's vision towards encouraging the land to be used for active recreation in accordance with the KGWP. The Panel for that Amendment raised some concerns about achieving this change and recommended against application of the zone to the Facility (and other land) at that time. The Council, and ultimately the Minister were not convinced, and the land was rezoned.

The current use of the land is non urban, is recognised as a suitable use in the green wedge but does not meet the provisions of the scheme as it relates to the current Green Wedge A Zone. The most relevant applicable strategy seeks use of the land for active recreation following cessation of its current use.

Essentially, the issue comes down to that key concepts in planning; net community benefit and sustainable development. Planning in Victoria revolves around the concepts and there is no hard and fast 'test' as to where that benefit lies in any given matter; it must come down to the context and balancing the needs of the time and place. Importantly the outcome only needs to be 'acceptable' in planning terms; it does not need to be some 'perfect' or 'ideal' outcome.

Net community benefit has been well argued in front of Panels, VCAT and the higher courts. One of the most often quoted paragraphs on the topic is from Osborn J in the Supreme Court:⁸⁰

The test of acceptable outcomes stated in the clause is informed by the notions of net community benefit and sustainable development. An outcome may be acceptable despite some negative characteristics. An outcome may be acceptable because on balance it results in net community benefit despite achieving some only of potentially relevant planning objectives and impeding or running contrary to the achievement of others. [Committee emphasis]

In considering whether this proposal derives a net community benefit, the Committee considers:

- there is a clear need and demand for construction and demolition recycling; and strong policy support in general
- there is no clear alternative to this Facility or a clear short to medium term replacement for the service provided
- premature closure of the Facility is likely to lead to an increase in waste to landfill which is inconsistent with policy

⁸⁰ *Rozen v Macedon Ranges Shire Council & Anor* [2010] VSC 583 at para 171.

- there is strong policy support for a different, cleaner, greener recreation and open space future for the Green Wedge and this site, in time
- this site is not identified as being specifically needed to achieve the long term recreation and open space vision; and there is no acquisition pathway to include it
- there is no evidence of local amenity impact from the current operations and the operation is not proposed to expand.

Taking these factors into account, the Committee considers the best net community benefit and furthering sustainable development outcomes lie in avoiding waste to landfill and reducing the need to extract natural resources. These benefits accrue to the local, regional, metropolitan and state community. These outweigh in this case the medium term delay to achieving a relatively small part of the desired green wedge outcome; benefits that accrue to for local and regional community.

The current use is legitimate and an extension to the current permit is allowable under the provisions of the Planning Scheme. Having considered the relevant factors, including State and local strategies and policies, the provisions of the planning scheme, community submissions and agency input, the Committee concludes that the planning permit should be extended for a further period of 15 years from the existing expiry date.

The Committee notes the Applicant submitted that a longer extension, perhaps out to 30 years, might be appropriate. The Committee wishes to make it clear that in its view, this should not be countenanced. If the Facility is to continue beyond the 15 year extension recommended in this report, then taking into account the higher level long term objectives of the Green Wedge, any consideration must be undertaken as part of a broader strategic review and planning scheme amendment, not another permit extension.

On balance, the Committee considers that the permit extension should be granted for a further 15 year period.

5.9 Conclusions

The Committee concludes:

- Amenity impacts from the operation are minimal and do not preclude the ongoing operation of the Facility subject to adhering to permit conditions.
- The ongoing contribution that the Facility makes to construction and demolition resource recovery and minimisation of waste to landfill strongly contributes to State and local waste policy objectives.
- The continued operation of the Facility is not consistent with the objectives and purpose of the Green Wedge A Zone, however the extension of the permit for a further period does not compromise the long term objectives of the zone.
- The layout of the site and operation of the Facility does not create undue negative impact on the enjoyment of the nearby developing open space.
- The continued operation of the Facility for a limited period will not prevent implementation of the Kingston Green Wedge Plan
- The permit should be extended for a further period of 15 years from the current expiry date.
- The specific reference to a possible further extension of the permit should be removed.

The planning permit should be amended, and a permit issued in accordance with the recommendations in this report as shown in Appendix E. How the permit expiry is expressed in the amended permit may require further consideration. For the avoidance of doubt, the Committee considers the permit should be extended for no more than 15 years past the expiry date of the existing permit. The existing permit expires on 5 December 2023; therefore, the amended permit should expire no later than 5 December 2038.

6 Community benefits package

6.1 Background

The Applicant offered a ‘Community benefits package’ with the applications in the form of a draft s173 agreement under the Act. The Community benefits package included, amongst other things, a significant contribution to active recreation; the right for Council to, after at least five years, give five years notice to the owner of the land to cease the use; and the transfer of the land to Council after 2033 for a nominal fee.⁸¹

The Applicant provided a future recreation concept as shown in Figure 4.⁸²

Figure 4 Possible future recreation concept



This is a conceptual image of what Alex Fraser’s 22 hectares of land could look like in the future – owned by the local Kingston community.

LEGEND:

- 1 Senior Oval (Dual AFL and Cricket Pitch)
 - 2 Senior Soccer Field
 - 3 Netball Courts
 - 4 Pavilions
 - 5 Picnic/Community Activity Hub
 - 6 Junior and Senior Playspaces
 - 7 Half Court
 - 8 Kick-about area
 - 9 Multi-Use Venue (Community Hall and Two Indoor Basketball Courts)
 - 10 Car Parking
 - 11 Pedestrian Entrances
 - 12 Vehicle Entrance/Exit
- Existing Trees
 - Proposed Infill Tree Planting
 - Proposed Tree Planting
 - Proposed Lawn
 - Existing Water Storage Pond

Council did not consider that the Community benefits package should (or could) be considered with the applications. In the Council agenda of 25 November 2019, the following was put:⁸³

- 5.1 Kingston City Council has received legal advice that:
 - 5.1.1 ...;

81 Document 85, Draft Section 173 agreement
 82 Document 97, note this is a possible concept
 83 Document 89, at 5.1

- 5.1.2 There is not nexus between the Land Transfer, Rent or Contribution and the requirements of the Planning and Environment Act 1987 (Vic) or the Kingston Planning Scheme;
- 5.1.3 The Land Transfer, Rent or Contribution is not reasonably capable of being related to implementing planning policy;
- 5.1.4 In the absence of any planning purpose the Land Transfer, Rent or Contribution should be disregarded to ensure the integrity of the statutory planning process guarding against any adverse effect on the proper exercise of the statutory power.
- 5.2 In reliance on this advice the proposal the Land Transfer, Rent or Contribution are considered irrelevant in the absence of any implementation of planning policy.

6.2 Discussion and conclusion

The Committee was not privy to the Council's legal advice in relation to the Community benefits package and is not in the position to comment on its legality.

However, it appears to the Committee that such an agreement offers considerable benefit to Council and the community in the long term implementation of green wedge planning policy in this area; and is a pathway to bring the site into the public realm with significant active recreational facilities.

Elsewhere in this report, the Committee has recommended the planning permit be extended, irrespective of the Community benefits package. The Committee has concluded this is where the net community benefit lies in this case.

If the Minister for Planning accepts the advice that a permit extension is warranted, it seems prudent and desirable that discussions continue between the Applicant and Council with a view to bringing the Community benefit package to fruition in some form.

The Committee has provided a general recommendation accordingly.

Appendix A Terms of Reference

Terms of Reference

Clarinda Recycling Facility Advisory Committee

Version: April 2020

Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to report on applications for review of Kingston City Council's decisions to refuse to extend permit KP-2007/881.

The permit allows for the use and development of the land for materials recycling in conjunction with a refuse transfer station for a maximum of 15 years duration (with provision for extension of the permit), the display of business identification signage, a reduction in the car parking requirement for the materials recycling use, the removal of native vegetation, and alteration of access to a road in a road zone, in accordance with the attached endorsed plans and subject to the following conditions (VCAT references: P2452/2019 and P2454/2019).

Name

1. The Advisory Committee is to be known as the 'Clarinda Recycling Facility Advisory Committee'.
2. The Advisory Committee is to have a Chair and members with the following skills:
 - a. Statutory and strategic planning policy,
 - b. environmental and waste policy, and
 - c. understanding of green wedge provisions and policy.

Purpose

3. The purpose of the Advisory Committee is to advise the Minister for Planning on whether the planning permit should be extended and if so, for how long.

Background

1. On 3 September 2019, Alex Fraser Pty Ltd applied to Kingston City Council for:
 - a. A secondary consent approval to extend the planning permit for a further 15 years, and
 - b. An application to amend the existing planning permit to extend the planning permit for a further 15 years.
4. Notice of the application to amend the permit was given and approximately 910 objections were received.
5. On 25 November 2019, the council refused the secondary consent request to extend the planning permit.
6. On 11 December 2019, the council refused the application to amend the planning permit.
7. Alex Fraser Pty Ltd lodged reviews of both decisions of council with the Victorian Civil and Administrative Tribunal (VCAT) on 23 December 2019.
8. VCAT allocated the reviews the following proceeding numbers:
 - P2452/2019 for the section 149(1)(a) of the *Act* review of council's secondary consent request refusal and
 - P2454/2019 for council's refusal to extend the planning permit under section 77 of the *Act*.
9. Alex Fraser requested the Minister for Planning to intervene in the matter of the extensions of time on 7 January 2020.

10. The Kingston City Council requested the Minister for Planning to call in both proceedings on 13 February 2020.
11. The Minister for Planning decided on 16 February 2020 to call in the proceeding from VCAT under clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998*, on the grounds that the proceeding raises a major issue of policy and the determination of the proceeding may have a substantial effect on the achievement or development of planning objectives.

Method

12. All parties to VCAT proceedings P2452/2019 and P2454/2019 must be provided with notice of the Advisory Committee hearing and be given the opportunity to be heard.
13. The Advisory Committee may inform itself in any way it sees fit, and must consider all relevant matters, including but not limited to:
 - a. Relevant provisions of the *Planning and Environment Act 1987* and the Kingston Planning Scheme, including any adopted plans, strategies or planning scheme amendments;
 - b. *Plan Melbourne 2017-2050*, the *Recycling Industry Strategic Plan 2018*, the *Statewide Waste and Resource Recovery Infrastructure Plan 2018*, *Market Development Strategy for Recovered Resources 2016*, *Recycling Victoria 2020*, the *Victorian Infrastructure Plan 2017* and any other policy document that the Advisory Committee considers relevant.
 - c. The *Kingston Green Wedge Management Plan, 2012*.
 - d. All relevant material prepared by or for the applicant or otherwise provided to the Advisory Committee, including any amended application material submitted.
 - e. The views of the applicant and Kingston City Council.
 - f. All submissions and objections received by the Advisory Committee.
 - g. All submissions or objections provided to the Kingston City Council in regard to the extension of time requests made by Alex Fraser in relation to planning permit application KP-2007/881 and all submissions or material provided to VCAT regarding proceedings P2452/2019 and P2454/2019.
14. The Advisory Committee is not expected to carry out any other additional public notification or referral but may do so if it considers it to be appropriate.
 - a. The Advisory Committee may request comments from relevant parties to any amended application material submitted during the hearing.
15. The Advisory Committee may conduct hearings, workshops or other meetings as necessary.
16. The Advisory Committee may limit the time of parties appearing before it and may prohibit or regulate cross-examination.
17. The Advisory Committee is expected to carry out a public hearing which may be undertaken using video conferencing or similar technology as soon as practicable.

Outcomes

18. The Advisory Committee must produce a written report for the Minister for Planning, providing the following:
 - a. An assessment of all relevant matters relating to the applications for review and any amended application material submitted to the Advisory Committee.
 - b. An assessment of submissions and objections to the Advisory Committee.
 - c. A recommendation as to whether an amended planning permit should be granted and the reasons for this recommendation.
 - d. A recommendation as to whether the request for consent should be granted and reasons for the recommendation.
 - e. A, without prejudice, draft amended planning permit including relevant conditions.

- f. Any other relevant matters raised during the Advisory Committee hearing.
- g. A list of persons who made submissions considered by the Advisory Committee.
- h. A list of persons consulted or heard.

Submissions are public documents

- 19. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
- 20. Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain confidential.

Timing

- 21. The Advisory Committee is required to set dates for a Directions Hearing and Public Hearing no later than 20 business days from the date it is formally notified of its appointment.
- 22. The Advisory Committee is also required to consider before setting the dates the dates already allocated by VCAT to the two reviews in April and June 2020.
- 23. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 30 business days from the completion of its hearings.

Fee

- 24. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
- 25. The costs of the Advisory Committee will be met by Alex Fraser Pty Ltd.



HON RICHARD WYNNE MP
Minister for Planning

Date: 29 / 04 / 2020

Appendix B Parties to the Committee Hearing

Submitter	Represented by
Kingston City Council	Mr Jason Pizer QC and Paul Chiappi of Counsel instructed by Russell Kennedy Lawyers, who called expert evidence on: <ul style="list-style-type: none"> - Town Planning from Mr Rob Milner of Kinetica - Resource Recovery from Mr David Cocks of MRA - Dust Emissions and Health Risk Assessment from Mr Peter Ramsey of Peter J Ramsey and Associates
Alex Fraser Pty Ltd	Mr Chris Townshend QC and Ms Alex Guild of Counsel instructed by Norton Rose Fulbright, who called expert evidence on: <ul style="list-style-type: none"> - Planning from Mr Michael Barlow of Urbis - Facility Siting Aspect from Mr Shane Robb of Urbis - Economics from Mr Justin Ganly of Deep End Services - Noise from Mr Darren Tardio of Enfield Acoustics - Air Quality from Dr Terry Bellair of Environmental Science Associates - Mr Peter Murphy, Managing Director of Alex Fraser (Facility Manager: non-independent expert)
Sustainability Victoria	Ms Karen Wilson
Department of Jobs, Precincts and Regions	Dr Helen Foard
Metropolitan Waste and Resource Recovery Group	Ms Michelle Lee
Defenders of the South East Green Wedge	Ms Diana Donohue
Friends of Edithvale Seaford Wetlands Inc	Mr Robin Clarey
Friends of Dingley Village	Mr David Madill
Heatherton Christian College	Mr Peter Cliffe
Mr Mayo Ahlip	
Ms Silvana Anthony	
Ms Nina and Dr Brian Earl	
Ms Sarah Herring	

Appendix C Document list and Hearing Book

Prior to the Hearing the Committee ran a normal document list. In the Hearing a Document List was run by Norton Rose Fulbright at the Committee's request.

Advisory Committee Document List

Version 1 – 14 07 2020

No.	Date	Description	Presented by
1	06 05 20	Directions notification letter	PPV
2	"	Correspondence with Melbourne Waste and Resource Recovery Group	"
3	13 05 20	Submission on Procedural Matter on behalf of Council	Mr Chiappi on behalf of Council
4	14 05 20	Submission from Sustainability Victoria	Mr Genever, Sustainability Victoria
5	18 05 20	Advice to Sustainability Victoria regarding Directions Hearing	PPV
6	"	Procedural Matters and Proposed Timeline	Ms Brezzi, Norton Rose Fulbright on behalf the Proponent
7	"	Advice from the Environmental Protection Authority	PPV
8	"	Submission from Department of Jobs, Precincts and Regions	Mr Syzmanski, DJPR
9	20 05 20	Panel Directions	PPV
10	21 05 20	Advice to Mr Ahlip regarding Site Inspection	"
11	"	Advice to Proponent and Council regarding site inspection	"
12	22 05 20	Notification letter sent to VCAT objectors	Ms Brezzi, Norton Rose Fulbright on behalf the Proponent
13	01 06 20	Letter regarding videoconferencing matters	PPV
14	"	Letter to EPA	"
15	05 06 20	Submission of Melbourne Waste Removal and Recovery Group	Ms Riseley, MWRRG
16	"	Dingley Village Community Association Submission	Mr Madill, Dingley Village Community Association
17	"	Submission of Department of Jobs, Precincts and Regions	Mr Krbaleski, DJPR
18a	"	Supplementary submission of Sustainability Victoria	Ms Wilson, Sustainability Victoria

No.	Date	Description	Presented by
18b	“	Sustainability Victoria - letter of objection	“
19	09 06 20	Correspondence regarding submissions and Directions Issued on 20 May	PPV
20	10 06 20	Supplementary Submission - Jennifer Hattingh	Ms Hattingh
21	“	Supplementary Submission - John Kolitsis	Mr Kolitsis
22	“	Supplementary Submission - Luke Salman	Mr Salman
23	“	Supplementary Submission - Nina & Brian Earl	Mr and Ms Earl
24	“	Supplementary Submission - Robin Clarey	Ms Clarey
25	“	Supplementary Submission - Agnes & Brian Fletcher	Mr and Ms Fletcher
26	“	Supplementary Submission - Heatherton Christian College	Mr Cliffe
27	11 06 20	Directions and Timetable (v1)	PPV
28	15 06 20	Response to Advisory Committee	Ms Brice on behalf of the EPA
29	“	Expert witness statement of Justin Ganly (Economics)	Mr Bryce, Norton Rose Fulbright on behalf the Proponent
30	“	Expert witness statement of Shane Robb (Alternative Sites Analysis)	“
31	“	Part A Submission	Mr Fiedler on behalf of Kingston City Council
32	“	Expert witness statement of David Cocks - MRA	“
33	“	Expert witness statement of Rob Milner - Kinetica	“
34	16 06 20	Expert witness statement of Michael Barlow - Urbis	Mr Bryce, Norton Rose Fulbright on behalf the Proponent
35	17 06 20	Expert Witness Statement of Darren Tardio - Enfield Acoustics	“
36	“	Expert Witness Statement of Terry Bellair - Air Quality Assessment	“
37	“	Expert witness statement of Terry Bellair - Environmental Improvement Plan - ESA	“
38	“	Expert Witness Statement of Peter Ramsey - Peter J Ramsey & Associates	Mr Fiedler on behalf of Kingston City Council
39	19 06 20	Peter Murphy - Outline of Evidence	Mr Murphy, on behalf of the Proponent

No.	Date	Description	Presented by
40	“	Site inspection itinerary	Mr Bryce, Norton Rose Fulbright on behalf the Proponent
41	22 06 20	Submission	“
42	“	Virtual Site Tour video	“
43	14 07 20	Index Sheet of E-book	PPV
44	“	E-book of material tabled at the Hearing	“

In-Hearing Document List**PANEL BOOK – CLARINDA RECYCLING ADVISORY COMMITTEE HEARING****1. Current planning controls**

No	Document
1.	Planning Property Report
2.	Zones and Overlays: <ul style="list-style-type: none"> a) Clause 35.05 Green Wedge A Zone and Schedule (GWAZ) b) Clause 45.03 Environmental Audit Overlay (EAO) c) Clause 42.01 Environmental Significance Overlay and Schedule (ESO4) d) Clause 44.04 Land Subject to Inundation Overlay and Schedule (LSIO)
3.	SPPF: <ul style="list-style-type: none"> a) SPPF Clause 11 Settlement b) SPPF Clause 11.01-1R Green Wedges - Metropolitan Melbourne c) SPPF Clause 11.01-1S Settlement d) SPPF Clause 13 Environmental risks and amenity e) SPPF Clause 13.05-1S Noise abatement f) SPPF Clause 13.06-1S Air quality management g) SPPF Clause 13.07-1S Land use compatibility h) SPPF Clause 14 Natural Resource Management i) SPPF Clause 14.01-1R Protection of agricultural land – Metropolitan Melbourne j) SPPF Clause 15.03-2S Aboriginal cultural heritage k) SPPF Clause 17 Economic Development l) SPPF Clause 17.03-2S Sustainable industry m) SPPF Clause 19 Infrastructure n) SPPF Clause 19.02-6R Open space – Metropolitan Melbourne o) SPPF Clause 19.02-6S Open space p) SPPF Clause 19.03-5S Waste and resource recovery
4.	LPPF: <ul style="list-style-type: none"> a) LPPF Clause 21 Municipal Strategic Statement b) LPPF Clause 21.01 Vision and Strategic Framework c) LPPF Clause 21.02 Settlement d) LPPF Clause 21.03 Environment and Landscape Values e) LPPF Clause 21.05 Natural Resource Management f) LPPF Clause 21.06 Built Environment and Heritage g) LPPF Clause 21.08 Economic Development h) LPPF Clause 22.01 Sandbelt Open Space Project i) LPPF Clause 22.02 South East Non Urban Area Policy

No	Document
	<ul style="list-style-type: none"> j) LPPF Clause 22.04 Enterprise Sites Policy k) LPPF Clause 22.09 Materials Recycling in the Green Wedge
5.	Particular Provisions: <ul style="list-style-type: none"> a) Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions b) Clause 52.05 Signs c) Clause 52.06 Car parking d) Clause 52.09 Extractive industry and extractive industry interest areas e) Clause 53.10 Uses with Adverse Amenity Potential f) Clause 53.14 Resource Recovery
6.	General Provisions: <ul style="list-style-type: none"> a) Clause 63 – Existing Uses b) Clause 65.01 Approval of an application or plan
7.	Operational Provisions: <ul style="list-style-type: none"> a) Clause 71.02 – Operation of the Planning Policy Framework
8.	Maps: <ul style="list-style-type: none"> a) Map 02 ZN – zones b) Map 02 PAO – public acquisition c) Map 02 LSIO – land subjection to inundation d) Map 02 ESO – environmental significance e) Map 02 EAO – environmental audit f) Map 03 ZN – zones g) Map 03 PAO – public acquisition h) Map 03 LSIO – land subject to inundation i) Map 03 ESO – environmental significance j) Map 03 EAO – environmental audit

2. Current permit

No	Document	Date
9.	Planning Permit No KP881/07	5 December 2008
10.	Endorsed Plans: <ul style="list-style-type: none"> a) Preliminary Rehabilitation Plan (and Attachment) b) Site Management and Environmental Improvement Plan (SMEIP) c) Site Layout and Landscape Concept Plan 	Various

<ul style="list-style-type: none"> d) Landscape Plan e) Site Construction Staging Plan f) Intersection Functional Layout Plan g) Internal Siteworks. Layout Plan and Notes h) Internal Siteworks. Sections and Pavement Compositions i) External Roadworks. Locality Plan, General Notes and Drawing Register j) External Roadworks. Site Plan k) External Roadworks. Layout Plan l) External Roadworks – Various m) Entrance/Signage Detail n) Additional sign detail o) Lighting detail 	
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3. Cases and decisions

No	Document	Date
11.	Kingston Appeal KP542/03 & KP184/04 (ACI) [2005] PPV 62	24 June 2005
12.	Tootal Road, Dingley (Stage 2) (PSA) [2007] PPV 82 (September 2007)	September 2007
13.	Kingston C94 (PSA) [2008] PPV 78 (15 July 2008)	15 July 2008
14.	Kingston Road Clarinda Transfer Station (ACI) [2008] PPV 85 (11 August 2008)	11 August 2008
15.	Waste Transfer & Recycling Facilities Review Final Report (AC) [2009] PPV 95 (25 September 2009)	25 September 2009
16.	Kingston C143 (PSA) [2015] PPV 44 (11 May 2015)	11 May 2015
17.	Melbourne Regional Landfill expansion, Ravenhall (PCI) [2017] PPV 4 (11 January 2017)	11 January 2017
18.	Mount Atkinson Holdings Pty Ltd v Landfill Operations Pty Ltd & Ors [2020] VSC 345	12 June 2020

4. Strategic documents

a) Current

No	Document	Date
19.	AS/NZS 3580.1.1:2007 Methods for sampling and analysis of ambient air, Part 1.1: Guide to siting air monitoring equipment	N/A

20.	State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1	1989
21.	Sandbelt Open Space Project Development Plan	1993
22.	State Environment Protection Policy (Air Quality Management)	2001
23.	'A guide to the sampling and analysis of air emissions and air quality' 2002 (EPA publication 440.1)	2002
24.	'Protocol for Environmental Management: Mining and Extractive Industries' 2007 (EPA, publication 1191)	2007
25.	Guide to Best Practice at Resource Recovery Centres - Sustainability Victoria	2009
26.	Kingston Green Wedge Plan	2012
27.	Recommended buffer distances for industrial residual air emissions (Publication 1518)	2013
28.	Metropolitan Waste and Resource Recovery Implementation Plan	2016
29.	Extractive Resources in Victoria, Demand and Supply Study, 2015 – 2050	2016
30.	Market Development Strategy for Recovered Resources	2016
31.	Plan Melbourne 2017-2050 and Addendum 2019	2017/2019
32.	Victorian Infrastructure Plan 2017	2017
33.	Victorian Recycling Industry Annual Report 2017-18	2017-18
34.	Joint Ministerial Statement – Extractive Resources	2018
35.	Sustainability Victoria - Statewide Waste & Resource Recovery Infrastructure Plan	2018
36.	Helping Victoria Grow – Extractive Resources Strategy	2018
37.	Recycling Industry Strategic Plan	2018
38.	Victorian Infrastructure Plan Projects Pipeline 2019	2019
39.	Sustainability Victoria – Better Practice at Resource Recovery Centres	2019
40.	Parliamentary budget Office – State of glass recycling in Victoria 2019	2019
41.	Assessment of Australian recycling infrastructure – Glass packaging	2019
42.	Sustainability Victoria Recovered Resources Market Bulletin March-May 2020	2020

43.	Summary of 'Recycling First' - an initiative of the Major Transport Infrastructure Authority on behalf of the Victorian Government	2020
44.	Infrastructure Victoria - Advice on recycling and resource recovery infrastructure	2020
45.	Recycling Victoria: A New Economy	2020
46.	State Government Media Release, 'Using Recycled First For Greener Transport Infrastructure', 2 March 2020	2020
47.	Approved concept plans for the 'Chain of Parks' for the Kingston Green Wedge Management Plan comprising: a) drawing 1.0 titled Municipality Aerial Image b) drawing 1.1 titled Municipality Open Space Network & Circulation Plan c) drawing 1.2 titled Chain of Parks Context Plans d) drawing 1.3 titled Land Area Study e) drawing 2.1 titled Concept Plan A f) drawing 2.2 titled Concept Plan B g) drawing 2.3 titled Concept Plan C h) drawing 2.4 titled Concept Plans D & E i) drawing 3.1 titled Ecological Principles j) drawing 3.2 titled Design Principles k) drawing 3.3 titled Sections/Elevations l) drawing 3.4 titled Sections/Elevations m) drawing 3.5 titled Sections/Elevations n) drawing 3.6 titled Sections/Elevations o) drawing 3.7 titled Sections/Elevations	N/A

b) Historical

No	Document	Date
48.	Report – Melbourne Metropolitan Planning Scheme 1954 - Melbourne and Metropolitan Board of Works	1 July 1953
49.	The Future Growth of Melbourne - Melbourne and Metropolitan Board of Works	June 1967
50.	Planning Policies for the Melbourne Metropolitan Region – Melbourne and Metropolitan Board of Works	November 1971
51.	Extracts from Report on General Concept Objections	1974
52.	Extracts from Metropolitan Strategy Implementation	1981
53.	Extracts from Melbourne's Open Space, the Metropolitan Open	August 1988

	Space Plan	
54.	Implementation Strategy for the Chain of Parks	1992
55.	Implementation Strategy for the Chain of Parks: Report to Melbourne Water, Cities of Moorabbin, Oakleigh and Springvale	May 1994
56.	Melbourne 2030 – Planning for Sustainable Growth - Department of Sustainability and Environment	December 2003
57.	Extracts from Linking People and Spaces	June 2005
58.	Advisory Committee and Panel Report – Materials Recycling in Green Wedges	June 2005
59.	South East Non Urban Area – Memorandum of Understanding	1998
60.	Panel Report – Dingley Recycling and Refuse Transfer Station	September 2007
61.	South East Green Wedge Plan: Issues Paper and Background Report extracts	9 October 2008
62.	Metropolitan Waste and Resource Recovery Strategic Plan	March 2009
63.	Advisory Committee Report – Review of Waste Transfer and Recycling Facility Provisions in Planning Schemes	25 September 2009
64.	Creating a Shared Vision for a Sustainable Kingston Green Wedge	October 2010
65.	Kingston Green Wedge Plan: we need your input to determine the future of the Green Wedge in Kingston	March 2011
66.	Extracts from Managing Melbourne: Review of Melbourne Metropolitan Strategic Planning	April 2012
67.	Report of the Ministerial Advisory Committee on Waste and Resource Recovery Governance Reform	May 2013
68.	State-wide Waste and Resource Recovery Infrastructure Plan 2015-44	2015

5. 2008 permit background documents

No	Document	Date
69.	Advisory Committee Report – Permit Application KP881/07	August 2008
70.	Planning Scheme map and controls: a) as at 8 May 2003; and b) immediately prior to Amendment C143	2008
71.	RMIT Executive Summary - LCA (Lifecycle Assessment) for recycled materials which is the basis for calculating carbon savings – prepared for AFG	May 2008

6. 2014 application to Council for extension

No	Document	Date
72.	Application for Secondary Consent (Extension of Time to Use Land) lodged by Contour Consultants	24 October 2014
73.	Application for Review (s149(1)(a))	28 November 2014
74.	Council Officer's Report and Council minutes re response to secondary consent application	15 December 2014
75.	City of Kingston Practice Note 2 response	23 December 2014
76.	Further and Better Particulars of Statement of Grounds (Alex Fraser Pty Ltd)	3 March 2015
77.	Kingston City Council agenda on tour of Kingston Green Wedge	13 March 2015
78.	Alex Fraser Group expert evidence served: c) Town Planning Report of Michael Barlow, Urbis d) Alternative site options report of Shane Robb, Urbis e) Environmental economic report of Dr Joe Pickin of Blue Environment	12 October 2015
79.	Kingston City Council expert evidence served, comprising Town Planning Report of Robert Milner, 10 Consulting Group and addendum report	21 October 2015

7. Amendment C143 documents

No	Document	Date
80.	Panel Report – Amendment C143 Northern Green Wedge	8 May 2015
81.	Council Agenda/Officer's Report	25 May 2015
82.	Approved Amendment C143 documents (Gazettal, Explanatory Report and tracked changes to policy provisions)	15 October 2015

8. 2019 applications to Council for extension**a) Applications to Council**

No	Document	Date
83.	Application to Council for amendment by secondary consent and supporting documentation	3 September 2019
84.	Application to Council for permit amendment and supporting	3 September 2019

	documentation	
85.	Community benefits package proposal (draft section 173 agreement) [Attachment to document at Tab 86]	24 September 2019
86.	Letter from Contour to Council enclosing materials concerning both applications	24 September 2019
87.	Letter from Contour to Council enclosing materials concerning both applications	30 October 2019

b) Submissions received by Council

No	Document	Date
88.	Submissions received by Council in response to advertising of permit amendment application	Various

c) Council consideration of the applications

No	Document	Date
89.	Ordinary Meeting of Council Agenda - Secondary consent application	25 November 2019
90.	Notice of Refusal - Secondary consent application	2 December 2019
91.	Planning Committee Meeting Agenda – Permit amendment application	11 December 2019
92.	Notice of Refusal - Permit amendment application	23 December 2019

d) Miscellaneous

No	Document	Date
93.	Drawing titled 'Transfer Facility: Future Use Masterplan, 215-295 Kingston Road, Clarinda' prepared by Urbis dated 17 July 2019 DWG No: LA-01 (draft) [Attachment to document at Tab 86]	17 July 2019
94.	Lease between Kingston City Council and Recycling Industries Pty Ltd undated prepared by Norton Rose Fulbright [Attachment to document at Tab 86]	Undated
95.	Land Sale Contract between The Trust Company (Australia) Limited and Kingston City Council for property located at 275-315 Kingston Road, Clarinda, prepared by Norton Rose Fulbright (undated) [Attachment to document at Tab 86]	Undated
96.	Agreement under section 173 of the Planning and Environment Act 1987 (Vic) between Kingston City Council and The Trust Company (Australia) Limited as Custodian for the CPIF Clarinda Trust and Recycling Industries Pty Ltd for land located at 275-315 Kingston	Undated

	Road, Clarinda prepared by Norton Rose Fulbright (undated) [Attachment to document at Tab 86]	
97.	Letter from Alex Fraser Group signed by Peter Murphy, Managing Director to neighbours titled 'A letter to the Kingston Community'	Undated

9. VCAT Applications for Review

No	Document	Date
98.	Covering letter to Tribunal with Applications for Review, enclosing: <ul style="list-style-type: none"> • re secondary consent application (section 149(1)(a)): <ul style="list-style-type: none"> ○ Application for Review form ○ Notice of Refusal (see Tab 64) ○ Ordinary Meeting of Council Agenda (see Tab 63) ○ Application to Council for amendment by secondary consent and supporting documentation (see Tab 57) • re permit amendment application (section 77): <ul style="list-style-type: none"> ○ Application for Review form ○ Notice of Refusal (see Tab 66) ○ Planning Committee Meeting Agenda (See Tab 65) ○ Application to Council for permit amendment and supporting documentation (see Tab 58) • Letters from Contour to Council enclosing materials concerning both applications (see Tab 60 and Tab 61) • Planning Permit No KP881/07 (see Tab 8) 	23 December 2019
99.	Initiating Order – P2452/2019 (section 77 application)	22 January 2020
100.	Initiating Order – P2454/2019 (section 149(1)(a) application)	22 January 2020
101.	Letter to Responsible Authority serving Applications for Review	28 January 2020
102.	Council PNPE2 material (section 77 application)	28 January 2020
103.	Statements of Services for both Applications for Review	13 February 2020
104.	Letter to Charter Hall (landowner) serving section 149(1)(a) Application for Review	13 February 2020
105.	Statements of Grounds received concerning section 77 application	Various

10. Advisory Committee submissions and evidence**a) Alex Fraser**

No	Document	Date
106.	Alex Fraser Submissions	22 June 2020
107.	Michael Barlow, Director, Urbis Pty Ltd (Planning)	16 June 2020
108.	Shane Robb, Director, Urbis Pty Ltd (Alternative Site Options)	15 June 2020
108a	Appendices C & D to Shane Robb's evidence	
109.	Justin Ganly, Managing Director, Deep End Services Pty Ltd (Economic Impacts)	15 June 2020
110.	Terry Bellair, Principal, Environmental Science Associates (Air Quality)	17 June 2020
111.	Darren Tardio, Director, Enfield Acoustics Pty Ltd (Acoustics)	17 June 2020
112.	Peter Murphy, Managing Director, Alex Fraser Pty Ltd	19 June 2020

b) Council

No	Document	Date
113.	Council Part A Submissions	15 June 2020
114.	Council Part B Submissions	22 June 2020
115.	Rob Milner, Kinetica (Planning)	15 June 2020
116.	David Cocks, MRA Consulting Group (Waste and Recycling)	15 June 2020
117.	Peter Ramsay, Peter J Ramsay & Associates (Dust Emissions)	17 June 2020

11. Advisory Committee (AC) documents and correspondence

No	Document	Date
118.	Letter from Minister for Planning calling in Applications for Review	16 February 2020
119.	AC Terms of Reference	29 April 2020
120.	AC Directions Letter	6 May 2020
121.	Submissions of Council regarding service on objectors	13 May 2020
122.	Letter from NRF to AC regarding service of VCAT application on objectors	15 May 2020
123.	AC Directions Letter following Directions Hearing #1	20 May 2020

124.	Letter sent to objectors notifying of the AC hearing	22 May 2020
125.	AC Directions Letter concerning Directions Hearing #2	1 June 2020
126.	AC letter to EPA requesting EPA advice	1 June 2020
127.	Submissions by original objectors accepted by the AC following notification: <ul style="list-style-type: none"> a) Agnes & David Fletcher b) Dingley Village Community Association c) John Kolitsis d) Robin Clarey e) Sara Herring f) Heatherton Christian College g) Luke Salman h) Jennifer Hattingh 	1-5 June 2020
128.	Submissions by government agencies received by the AC following notification: <ul style="list-style-type: none"> a) Sustainability Victoria b) Department of Jobs, Precincts and Regions c) Metropolitan Waste and Resource Recovery Group 	June 2020
129.	AC correspondence concerning submissions received	9 June 2020
130.	AC Directions Letter, Distributions List and Timetable following Directions Hearing #2	11 June 2020
131.	EPA letter to AC concerning any amenity complaints and/or compliance and regulatory activities	15 June 2020
132.	NRF letter accompanying S Robb and J Ganly evidence	15 June 2020
133.	NRF letter accompanying M Barlow evidence	16 June 2020
134.	NRF letter accompanying D Tardio and T Bellair evidence	17 June 2020
135.	NRF letter accompanying P Murphy outline of evidence	19 June 2020
136.	AC document list, version 1	22 June 2020
137.	Clarinda Recycling Facility – Site Map and Proximity to Major roadways (Site Visit)	23 June 2020

12. Party Documents Upload**a) Kingston City Council**

No	Document	Upload Date
138.	R Milner – Updated Figure 4	29 June 2020
139.	Submissions of Kingston City Council 30.6.20	29 June 2020
140.	Permit KP02277 – 683-687 Clayton Road – Concrete Batching	30 June 2020
141.	Aerial – Glass Hoppers 280120	1 July 2020
142.	Aerial – Glass Hoppers 191219	1 July 2020
143.	Aerial – Glass Hoppers 241019	1 July 2020
144.	C196 – Lantrak 300620	1 July 2020
145.	Kingston C196king Metro Tunnel Project 150-170 Old Dandenong Road, Clarinda, June 2020 Approval Final	1 July 2020
146.	Landscape Mater Plan Rev O – Option 2 (Victory Road Landfill) SMEC	3 July 2020
147.	Letter – KCC to SV 180815	3 July 2020
148.	Table – Land Uses fronting	3 July 2020
149.	Letter – KCC to SV 160117	3 July 2020
150.	Email – R Millard to J Guttman 020719	3 July 2020
151.	Attached to email of 200719 – Kingston Hub Planning	3 July 2020
152.	Aerial – Clarinda - 290193	7 July 2020
153.	Aerial – Clarinda – 050396	7 July 2020
154.	Aerial – Clarinda – 110198	7 July 2020
155.	Aerial – Clarinda – 070400	7 July 2020
156.	Aerial – Clarinda - 120204	7 July 2020
156a	Reply Submission - Kingston CC 080720 9911072 v 1	9 July 2020

b) Alex Fraser

No	Document	Upload Date
157.	Presentation Slides – M Barlow	2 July 2020
158.	Presentation Slides – S Robb	2 July 2020

159.	Peter Murphy (Alex Fraser MD) – Outline of Evidence (updated 6.7.20)	6 July 2020
160.	Peter Murphy (Alex Fraser MD) Supporting Images	6 July 2020
161.	Presentation Slides – T Bellair	6 July 2020
162.	Briefing note for witnesses	7 July 2020
163.	202004V2 Major Project History Summary tonnes Co2 and Km_V2905(002) (Excel Spreadsheet)	7 July 2020
164.	Alex Fraser – Closing Submissions	7 July 2020
165.	Planning Permit KP881_07 – Alex Fraser marked-up conditions (PDF)	7 July 2020
166.	Planning Permit KP881_07 – Alex Fraser marked-up conditions (Microsoft Word)	7 July 2020
166a	BPG Caulfield Village Pty Ltd v Glen Eira CC (Amended) [2016] VCAT 1965	8 July 2020
166b	AF Recycling Site Comparison	8 July 2020

c) Department of Jobs, Precincts and Regions

No	Document	Upload Date
167.	DJPR Slides HF	26 June 2020
168.	168. DJPR Submission to Clarinda Recycling Facility Advisory Committee (002)	26 June 2020
169.	DJPR Slides - further information.pptx	3 July 2020

d) Department of Environment, Land, Water and Planning

e) Environment Protection Authority Victoria

f) Nina and Brian Earl

No	Document	Upload Date
170.	Nina and Brian Earl - Kingston Residents Inc - Letter of Support	29 June 2020
171.	Nina and Brian Earl - Moriolloc-Beaumaris Conservation League Inc - Letter of Support	29 June 2020
172.	Nina and Brian Earl - Port Phillip Conservation Council Inc - Letter of Support	29 June 2020

173.	Nina and Brian Earl - Friends of the Grange - Letter of Support	29 June 2020
174.	Nina and Brian Earl - Kingston Environmental and Conservation Coalition - Letter of Support	29 June 2020
174a	Email concerning without prejudice conditions	8 July 2020

g) Silvana Anthony

No	Document	Upload Date
175.	Objectors represented by Silvana Anthony	1 July 2020
176.	Silvana Anthony Alex Fraser Panel Meeting June2020	1 July 2020
177.	Silvana Anthony Alex Fraser Panel Meeting Script June2020	2 July 2020
177a	Letter to Clarinda Panel Mr Wimbush 8 July 2020	8 July 2020
177b	Planning Permit KP881_07 Alex Fraser marked-up Silvana Anthony	8 July 2020

h) Friends of Edithvale Seaford Wetlands Inc

No	Document	Upload Date
178.	Friends of Edithvale Seaford Wetlands Inc - Speaking notes	7 July 2020

i) Mayo Ahlip

No	Document	Upload Date
179.	Mayo_clarindarecycling 3 - Speaking notes	1 July 2020

j) Defenders of the South East Green Wedge

No	Document	Upload Date
180.	DSEGW - Appendix 1	1 July 2020
181.	DSEGW - Darton	1 July 2020
182.	DSEGW - Darton	1 July 2020
183.	DSEGW submission 2020-7-2	1 July 2020
184.	DSEWG - 22 June 2020 - Cartwright - Diana Donohue objection to Alex Fraser Pty Ltd lease extension	1 July 2020
185.	DSEGW - 22 June 2020 - Pound - Diana Donohue objection to Alex Fraser Pty Ltd lease extension	1 July 2020

186.	DSEGW - Richard Wynne C143 Media Oct 2015	2 July 2020
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k) Metropolitan Waste and Resource Recovery Group

No	Document	Upload Date
187.	MRPV submission to CRFAC 20200605 Final	26 June 2020
188.	1642 EPA Assessing planning proposals within the buffer of a landfill	26 June 2020
189.	MWRRGLet AlexFraser20191119	26 June 2020
190.	Michael Barlow (Planning) -figure 10 pg38 facility Map	29 June 2020
191.	MWRRG Submisson Alex Fraser AC Final 20200604	29 June 2020
192.	788 3Landfill BPEM	29 June 2020
193.	MWRRG Response final	7 July 2020
194.	MWRRG Closing A-Guide-to-Preparing-Waste-and-Resource-Recovery-Hub-Plan-web2	7 July 2020
195.	MWRRG Closing KCC Email 13 June 2019	7 July 2020
196.	MWRRG Closing KCC letter Hub20190924	7 July 2020
197.	1671 local Council closed landfills self assessment	7 July 2020
197a	53_14Resource recovery	8 July 2020

l) Sustainability Victoria

No	Document	Upload Date
198.	Sustainability Victoria - Oral submission to PPV re Alex Fraser Recycling Facility - 29 June 2020	29 June 2020

m) Sara Herring

n) Dingley Village Community Association

No	Document	Upload Date
199.	Dingley Village Community Association - Speaking Notes	2 July 2020

Appendix D Current planning permit

PLANNING PERMIT

Permit Number: KP881/07
Planning Scheme: KINGSTON
Responsible Authority: CITY OF KINGSTON

ADDRESS OF THE LAND:

No. 293 – 315 Kingston Road, Clarinda

THE PERMIT ALLOWS:

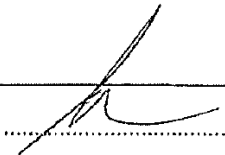
The use and development of the land for MATERIALS RECYCLING in conjunction with a REFUSE TRANSFER STATION for a maximum of 15 years duration (with provision for extension of the permit); the display of business identification signage; a reduction in the car parking requirement for the materials recycling use; the removal of native vegetation; and alteration of access to a road in a Road Zone, in accordance with the attached endorsed plans and subject to the following conditions:

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 1 Before the development and/or use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the Site Layout and Landscape Concept Plan (PML7795 LSO1) and plans submitted with the application but modified to show and/or include:
 - (a) an area for occasional overflow visitor parking;
 - (b) full details including location, size and method of floodlighting of any signage proposed as part of the application;
 - (c) full details of all road pavement treatments through the subject site;
 - (d) a detailed construction staging plan; and
 - (e) a Preliminary Rehabilitation Plan referred to in Condition 3.

Date Issued: 5th December, 2008

Signature for the Responsible Authority



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

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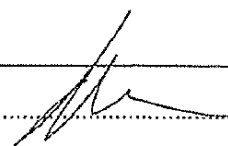
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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

- 2 Before the development and/or use starts, a suitable landscape plan for the whole site must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the Site Layout and Landscape Concept Plan (PML7795 LSO1) submitted with the application but modified to show and/or include:
- (a) a planting schedule which accurately illustrates the amount and location of each of the indicated species to be planted;
 - (b) the use of indigenous species of the region to maximise biodiversity value;
 - (c) the use of *Eucalyptus ovata* to lower lying areas (base of bunds); and
 - (d) details of the proposed maintenance regime (including mulching method and irrigation) for the landscaping.
- 3 Before the use starts, a Preliminary Rehabilitation Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must be prepared by a suitably qualified environmental consultant and must include (but is not limited to):
- (a) description of measures to be taken to ensure that the land is rehabilitated so as to ensure it is suitable for appropriate after-use within 12 months of the permitted development and use operations ceasing;
 - (b) removal of plant, equipment, signage and any agreed buildings or other structures;
 - (c) reshaping of all batters to agreed slopes;
 - (d) placement of a one-metre layer of clean fill including topsoil to a minimum of 20 centimetres on batters and agreed hardstand areas;
 - (e) works to ensure satisfactory stormwater run-off and storage of flood waters;
 - (f) suitable securing and environmental protection of ponds and other water bodies, including restoration of the slimes dam;
 - (g) landscaping;
 - (h) timeframes for all relevant stages of the rehabilitation process;
 - (i) cost estimate for the rehabilitation measures proposed; and
 - (j) methodology for calculating the quantum of the required rehabilitation guarantee assuming that the site is not used for any type of landfill that requires statutory approval from the Environment Protection Authority (EPA).

Date Issued: 5th December, 2008

Signature for the
Responsible Authority



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

Planning and Environment Regulations 2005 Form 4

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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

- 4 Before the use and/or development starts, a bank guarantee within the meaning of the *Banking Act 1959* (Commonwealth) for the amount approved under the Preliminary Rehabilitation Plan must be delivered to the Responsible Authority as security for implementation of the Rehabilitation Plan. Such monies will be returned to the Owner upon satisfactory completion of the works required by the Final Rehabilitation Plan referred to in Condition 54, to the satisfaction of the Responsible Authority.
- 5 The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 6 Before the use or any roadworks start, the following plans must be submitted to and approved by VicRoads:
 - (a) functional layout plans for the unsignalised access arrangement on Kingston Road for the development; and
 - (b) after approval of the functional layout plans, detailed engineering plans for the roadworks along Kingston Road. These plans should detail design matters such as bus stop locations, median widths, DDA compliance, lane widths and drainage.
- 7 Once the development and/or use has started, it must be continued and completed to the satisfaction of the Responsible Authority.

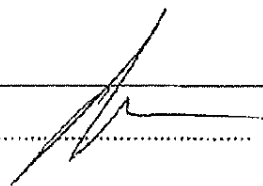
Expiry

- 8 The use must cease and associated signs must be removed 15 years from the date of issue of this permit. The Responsible Authority may extend the permit if a request is made in writing not less than three years before the permit expires. The conditions of the permit may be amended if the permit is extended.
- 9 Subject to any other provision in this permit relating to expiry, this permit will expire if one of the following circumstances applies:
 - (a) both uses are not started within two years of the date of this permit; or
 - (b) the refuse transfer station does not operate; or
 - (c) the two uses permitted under this permit cease to have a genuine, close and continuing functional relationship with each other; or
 - (d) the development is not completed within two years of the commencement of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Date Issued: 5th December, 2008

Signature for the
Responsible Authority



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

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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

Machinery

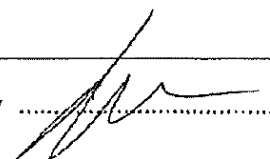
- 10 No plant or equipment used for crushing waste concrete, stone or masonry may be installed or used on the land other than the one concrete crushing and screening machine described in the material lodged with the application.
- 11 No plant or equipment for blending products to produce products used in the construction industry other than as shown on the endorsed plans may be installed on the land without the further written consent of the Responsible Authority.
- 12 No plant or equipment to cut or grind timber may be installed or used on the land until an acoustic report has been submitted and operating protocols have been approved by the Responsible Authority.

Site Management and Environmental Improvement Plan

- 13 Before the use starts, a Site Management and Environmental Improvement Plan (SMEIP) must be lodged with the Responsible Authority for its approval, after consultation with Southern Rural Water and the EPA (where appropriate). Once endorsed by the Responsible Authority, the SMEIP will form part of the permit. The SMEIP must include detailed measures to implement 'Best Practice' and must be revised annually and submitted to the Responsible Authority. The SMEIP must be generally in accordance with the Site Management Plan and Environmental Plan submitted with the application but modified to identify and describe:
 - (e) the proposed method of compliance with the EPA conditions set out below;
 - (f) the design of works and management of water on the site to:
 - (i) provide for responses to any identified rise in groundwater levels in the locality;
 - (ii) ensure water conservation design measures and practices are adopted, including efficient collection and re-use of surface water;
 - (iii) ensure the design of hardstand areas and storage ponds minimises the potential for groundwater contamination;
 - (iv) specify parameters for monitoring of groundwater and water in storage ponds.
 - (g) proposed management measures for the control and monitoring of air quality, addressing emission of noise, dust and other airborne emissions, outlining proposed measures to comply with the conditions of this permit which relate to air quality and monitoring;
 - (h) the monitoring of groundwater and storage ponds; and
 - (i) compliance with the procedures outlined in the Recycling Construction and Demolition Material: Guidance on Complying with the Occupational Health and Safety (Asbestos) Regulations 2003.

Date Issued: 5th December, 2008

Signature for the
Responsible Authority



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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

- 14 The use and development of the land must adhere to the requirements, recommendations, operating practices and procedures set out in the endorsed Site Management and Environmental Improvement Plan.
- 15 Notwithstanding anything to the contrary, the processes, plant and equipment and procedures conducted on the land in association with the materials recycling facility and refuse transfer station must be operated pursuant to best practice.
- 16 No polluted waters, including sullage waters or sediment laden waters from the land, may be discharged from the site, including into Melbourne Water's drains or watercourses.

Conditions required by EPA Victoria

- 17 The proposal must comply with the *Guide To Best Practice At Resource Recovery And Waste Transfer Facilities* (Eco-Recycle Victoria) and also adopt 'Best Practice Measures' in preventing any adverse environmental impacts from the proposed transfer station, both during construction and ongoing operation.
- 18 Litter control fencing or screens must be established and maintained adjacent the unloading area, waste disposal pit area and driveways to trap windblown litter which may be generated as a result of unsecured loads or the unloading of vehicles.
- 19 Management and operation of the transfer station must include collection of litter from outside the land including roads adjacent the facility. Suitable precautions, such as the installation and regular maintenance of a litter entrapment device, should be taken to ensure that litter is prevented from entering the stormwater drainage system.
- 20 Wastes must not be burnt at the premises.
- 21 Odour offensive to the senses of human beings must not be discharged beyond the boundaries of the site.
- 22 There must be no visible dust emissions beyond the boundaries of the site.
- 23 Only clean fill material as defined in EPA Publication No. 448 "*Classification of Wastes*" must be used in the development of the site.
- 24 The waste oil and collection area must be roofed and banded in accordance with EPA Technical Guideline "*Bunding*" Publication No 347.

Dust

- 25 The use must be conducted and operated so that no visible dust emissions are detectable beyond the site's boundaries.
- 26 The pug mill must be equipped with sufficient controls to prevent dust emissions and, without limiting the requirements of this condition:

Date issued: 5th December, 2008

Signature for the
Responsible Authority

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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

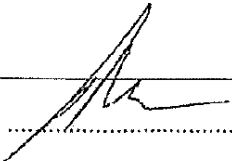
- (j) suitable shrouds must be installed on the pug mill to prevent dust emissions; and
 - (k) a fabric filter dust collector must be fitted to the pug mill and maintained in good working order to prevent visible dust from being emitted, as required by the Environment Protection Authority Victoria (EPA) publication 628 June 1998 *'Environmental Guidelines for the Concrete Batching Industry'*.
- 27 If at any time the dust suppression measures of the Site Management and Environmental Improvement Plan cannot be implemented and significant off-site dust emissions are likely, the activities that would generate dust must not operate for that period.
- 28 All roads, access ways and hard stand areas within the site where it is anticipated that heavy machinery will work must be formed and surfaced with asphalt, crushed rock or other suitable product to the satisfaction of the Responsible Authority. These areas must be wetted or treated to suppress dust emissions.
- 29 All conveyance belts and other automated product transport devices or contraptions on the site must be shielded from the prevailing winds to the satisfaction of the Responsible Authority after consultation with EPA.
- 30 All waste material delivered to the site must be delivered directly to the appropriate stockpile or sorting facility, except that waste delivered in domestic vehicles should be delivered to a location designated on the endorsed plan.
- 31 The main access way to the site must be fitted with a dousing bar and all incoming trucks must pass under the operating wetting bar.

Dust Measurement

- 32 The operator must continuously monitor (in real time) the levels of PM₁₀ emitted from the land in the vicinity of the hardstand areas and concrete crushing machinery while the site is operating. The location of fixed PM₁₀ monitors must be determined after consultation with the EPA and then maintained in good working order in the agreed locations. The monitoring system should include an alarm to warn when dust conditions are unacceptable. The operation of the site must have regard to the information derived from PM₁₀ real-time monitoring.
- 33 The information collected by the measuring equipment must be provided to the Responsible Authority or EPA within two business days of a request for the data.
- 34 The operator must maintain a Davis or equivalent weather station, measuring wind speed and direction and ambient temperature, on the site in a location to the satisfaction of the Responsible Authority. The data from the weather station must be made available to the Responsible Authority and the EPA on request.

Date Issued: 5th December, 2008

Signature for the Responsible Authority



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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

Amenity

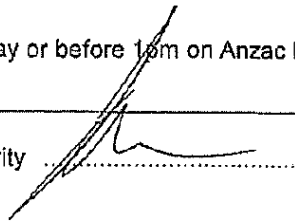
- 35 The amenity of the area must not be detrimentally affected by the development and/or use, through:
- (a) the transport of materials, goods or commodities to or from the land; or
 - (b) the appearance of any building, works or materials; or
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
 - (d) the presence of vermin; or
 - (e) any other way.
- 36 The maximum height of all operating areas and stockpiles of materials stored on site must not exceed, to the satisfaction of the Responsible Authority:
- (a) 32 metres AHD until the plantings mature to effectively screen the stockpiles; and
 - (b) 35 metres AHD thereafter.
- 37 Where outdoor lighting is provided, it must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

Operating Hours

- 38 The following restrictions apply to operations on the site:
- (a) Between 5am and 7am Monday to Friday: No tipping at the top of the stockpiles, no crushing and screening operations, and no sorting at the Waste Sorting Facility.
 - (b) Between 6pm and 8pm Monday to Friday and 1pm and 6pm Saturday: No tipping at the top of the stockpiles.
 - (c) The use must not operate between 8pm and 5am Monday to Friday, 6pm and 7am Saturday or at any time on Sunday except as follows. The use may operate during these times with the prior approval of the Responsible Authority on up to three days in a 12-month period subject to the following restrictions:
 - (i) no tipping at the top of the stockpiles;
 - (ii) no crushing and screening operations;
 - (iii) no sorting at the Waste Sorting Facility; and
 - (iv) no use of front end loaders.
 - (d) The use must not operate on Christmas Day, Good Friday or before 10m on Anzac Day.

Date Issued: 5th December, 2008

Signature for the
Responsible Authority



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

Planning and Environment Regulations 2005 Form 4

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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

Acoustic Requirements

- 39 The noise emissions from the site must comply with the *State Environment Protection Policy (Control of Noise from Commerce Industry and Trade) No N-1*.
- 40 Compliance with SEPP N-1 noise limits must be confirmed by a report by an acoustics specialist when noise generating elements of the use have commenced operating and if equipment and/or operating procedures change.
- 41 The following acoustic measures must be undertaken:
 - (a) The Crushing and Screening Plant and the Waste Sorting Facility enclosures must be treated in accordance with recommendations of a suitably qualified person.
 - (b) All mobile plant on site and heavy vehicles regularly visiting the site must be fitted with smart alarms which adjust the reversing beepers noise levels to take account of low background noise conditions or broadband type reversing beepers. This requirement does not apply to cars, vans and light trucks.
 - (c) All mechanical equipment must be regularly maintained and must use industry standard mufflers.

Site Access and Traffic Management

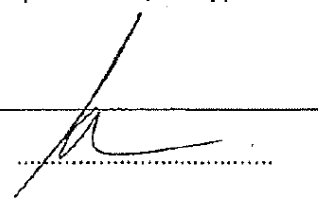
- 42 Five years after the date of this permit, a revised traffic analysis assessing the need for a signalised access to the development must be submitted to the Responsible Authority for its approval. The Responsible Authority may consent to an extension of the time to provide this report.

Conditions required by VicRoads

- 43 Before the commencement of any roadworks authorised by this permit, the developer must:
 - (a) provide a bank guarantee (in the name of the developer/owner), without a termination date, to VicRoads for the estimated cost of the works;
 - (b) provide evidence that the contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works; and
 - (c) provide VicRoads with the name, address, and business and out-of-hours telephone numbers of the principal roadworks contractor.
- 44 Before any roadworks along Kingston Road authorised by this permit start, the applicant must pay VicRoads the pre-estimate certification audit fee.

Date Issued: 5th December, 2008

Signature for the
Responsible Authority



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Planning and Environment Regulations 2005 Form 4

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PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

- 45 The applicant must pay the full cost of all roadworks, drainage, service relocations, public lighting and modifications, and any other costs associated with the development roadworks.
- 46 Before the use starts (excluding site preparation works), the applicant must complete all roadworks along Kingston Road in accordance with approved plans and to the satisfaction of VicRoads.

Internal Roads, Car Parking and Loading Bays

- 47 Before the use starts, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:
 - (a) constructed to the satisfaction of the Responsible Authority;
 - (b) properly formed to levels so that they can be used in accordance with the plans;
 - (c) surfaced with a suitable all-weather material or substance to the satisfaction of the Responsible Authority;
 - (d) drained and maintained to the satisfaction of the Responsible Authority; and
 - (e) suitably marked to indicate each car space, loading bay and all access lanes and, if necessary, the directions in which vehicles are to travel, to the satisfaction of the Responsible Authority.
- 48 Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
- 49 All roads and vehicle access ways within the site are to be surfaced with suitable all-weather materials or substances to the satisfaction of the Responsible Authority and must then be maintained in good condition to the satisfaction of the Responsible Authority.
- 50 A sign(s) to the satisfaction of the Responsible Authority must be provided directing drivers to the area set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority.

Loading and Unloading

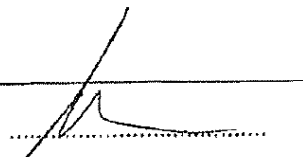
- 51 The loading and unloading of goods to and from vehicles must only be carried out on the land.

Conditions required by Melbourne Water

- 52 No fill or building materials may be dumped on Melbourne Water's land during or after the completion of construction.

Date Issued: 5th December, 2008

Signature for the
Responsible Authority



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

Planning and Environment Regulations 2005 Form 4

PLANNING PERMIT NO. KP881/07
ADDRESS: No. 293 – 315 Kingston Road, Clarinda

- 53 The applicant must arrange and fund any new fencing along the common boundary with Melbourne Water's drainage reserve to Melbourne Water's satisfaction.

Site Rehabilitation

- 54 The Preliminary Rehabilitation Plan referred to in Condition 3 must be reviewed two (2) years before this permit expires to ensure the rehabilitation facilitates the development of the 'after-uses' envisaged by the planning framework applicable at that time. A Final Rehabilitation Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority at least 18 months before this permit expires.
- 55 Within six months of the use ceasing or the date the permit expires (whichever is sooner), the Final Rehabilitation Plan approved under this permit must be implemented and completed to the satisfaction of the Responsible Authority. The Responsible Authority may grant an extension of time to complete the implementation of the Rehabilitation Plan.

NOTES

Pursuant to section 50 RA(4) of the *Environment Protection Act 1970*, any person involved in the generation, management or transport of waste must not do anything that is inconsistent with the relevant Regional Waste Management Plan.

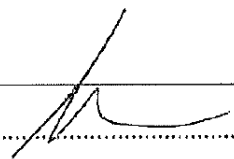
Prior to the commencement of any roadworks in, on, under or over the Kingston Road reservation the applicant must have first applied for and received written consent from VicRoads for those works in accordance with Section 63 of the *Road Management Act 2004*.

The applicant must engage VicRoads pre-qualified contractors to undertake all roadworks along Kingston Road.

Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

Date issued: 5th December, 2008

Signature for the Responsible Authority



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Planning and Environment Regulations 2006 Form 4

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Appendix E Committee recommended planning permit

The Committee has used the existing permit as the base.

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PLANNING PERMIT

Permit Number: **KP881/07A**
 Planning Scheme: KINGSTON
 Responsible Authority: **CITY OF KINGSTON**

ADDRESS OF THE LAND:

No. ~~29375~~ - 315 Kingston Road, Clarinda

THE PERMIT ALLOWS:

The use and development of the land for MATERIALS RECYCLING in conjunction with a REFUSE TRANSFER STATION until 5 December 2038 for a maximum of ~~15 years duration (with provision for extension of the permit)~~;
 the display of business identification signage;
 a reduction in the car parking requirement for the materials recycling use; the removal of native vegetation; and alteration of access to a road in a Road Zone, in accordance with the attached endorsed plans and subject to the following conditions:

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 1 Before the development and/or use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the Site Layout and Landscape Concept Plan (PML7795 LS01) and plans submitted with the application but modified to show and/or include:
 - (a) an area for occasional overflow visitor parking;
 - (b) full details including location, size and method of floodlighting of any signage proposed as part of the application;
 - (c) full details of all road pavement treatments through the subject site;
 - (d) a detailed construction staging plan; and
 - (e) a Preliminary Rehabilitation Plan referred to in Condition 3.
- 1A Within three months of the amended permit being issued, a plan showing the location of buildings and the layout of operations to correspond with conditions as at 23 June 2020 must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

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- 2 Before the development and/or use starts, a suitable landscape plan for the whole site must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the Site Layout and Landscape Concept Plan (PML7795 LSO1) submitted with the application but modified to show and/or include:
 - (a) a planting schedule which accurately illustrates the amount and location of each of the indicated species to be planted;
 - (b) the use of indigenous species of the region to maximise biodiversity value;
 - (c) the use of *Eucalyptus ovata* to lower lying areas (base of bunds); and
 - (d) details of the proposed maintenance regime (including mulching method and irrigation) for the landscaping.

- 3 Before the use starts, a Preliminary Rehabilitation Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must be prepared by a suitably qualified environmental consultant and must include (but is not limited to):
 - (a) description of measures to be taken to ensure that the land is rehabilitated so as to ensure it is suitable for appropriate after-use within 12 months of the permitted development and use operations ceasing;
 - (b) removal of plant, equipment, signage and any agreed buildings or other structures;
 - (c) reshaping of all batters to agreed slopes;
 - (d) placement of a one-metre layer of clean fill including topsoil to a minimum of 20 centimetres on batters and agreed hardstand areas;
 - (e) works to ensure satisfactory stormwater run-off and storage offload waters;
 - (f) suitable securing and environmental protection of ponds and other water bodies, including restoration of the slimes dam;
 - (g) landscaping;
 - (h) timeframes for all relevant stages of the rehabilitation process;
 - (i) cost estimate for the rehabilitation measures proposed; and
 - (j) methodology for calculating the quantum of the required rehabilitation guarantee assuming that the site is not used for any type of landfill that requires statutory approval from the Environment Protection Authority (EPA).

- 3A Within 12 months of the amended permit being issued, an Interim Rehabilitation Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The Interim Rehabilitation Plan must be generally in accordance with the plans marked “Clarinda Recycling Facility Draft Interim Rehabilitation Plan” and “Clarinda Recycling Facility Draft Interim Rehabilitation Plan Northern Elevation” as provided to the Clarinda Recycling Facility Advisory Committee on 7 July 2020 and must include:
- (a) closure of the Victory Road access (other than for maintenance and emergency purposes);
 - (b) initial rehabilitation of the southwestern water bodies;
 - (c) additional landscaping including details of landscaping in accordance with condition 2;
 - (d) rehabilitation of the area between the transfer station and the northern water body; and
 - (e) timeframes for staged implementation of the Interim Rehabilitation Plan.
- 3B The approved Interim Rehabilitation Plan must be implemented to the satisfaction of the Responsible Authority.
- 4 Before the use and/or development starts, a bank guarantee within the meaning of the Banking Act 1959 (Commonwealth) for the amount approved under the Preliminary Rehabilitation Plan must be delivered to the Responsible Authority as security for implementation of the Rehabilitation Plan. Such monies will be returned to the Owner upon satisfactory completion of the works required by the Final Rehabilitation Plan referred to in Condition 54, to the satisfaction of the Responsible Authority.
- 5 The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 6 Before the use or any roadworks start, the following plans must be submitted to and approved by VicRoads:
- (a) functional layout plans for the unsignalised access arrangement on Kingston Road for the development; and
 - (b) after approval of the functional layout plans, detailed engineering plans for the roadworks along Kingston Road. These plans should detail design matters such as bus stop locations, median widths, ODA compliance, lane widths and drainage.
- 7 Once the development and/or use has started, it must be continued and completed to the satisfaction of the Responsible Authority.

Expiry

- 8 The use must cease and associated signs must be removed by 5 December 2038. ~~15 years from the date of issue of this permit. The Responsible Authority may extend the permit if a request is made in writing not less than three years before the permit expires. The conditions of the permit may be amended if the permit is extended.~~
- 9 Subject to any other provision in this permit relating to expiry, this permit will expire if one of the following circumstances applies:
- (a) both uses are not started within two years of the date of this permit; or

- (b) the refuse transfer station does not operate; or
- (c) the two uses permitted under this permit cease to have a genuine, close and continuing functional relationship with each other; or
- (d) the development is not completed within two years of the commencement of the development.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Machinery

- 10 No plant or equipment used for crushing waste concrete, stone or masonry may be installed or used on the land other than the one concrete crushing and screening machine described in the material lodged with the application.
- 11 No plant or equipment for blending products to produce products used in the construction industry other than as shown on the endorsed plans may be installed on the land without the further written consent of the Responsible Authority.
- 12 No plant or equipment to cut or grind timber may be installed or used on the land until an acoustic report has been submitted and operating protocols have been approved by the Responsible Authority.

Site Management and Environmental Improvement Plan

- 13 Before the use starts, a Site Management and Environmental Improvement Plan (SMEIP) must be lodged with the Responsible Authority for its approval, after consultation with Southern Rural Water and the EPA (where appropriate). Once endorsed by the Responsible Authority, the SMEIP will form part of the permit. The SMEIP must include detailed measures to implement 'Best Practice' and must be revised annually and submitted to the Responsible Authority. The SMEIP must be generally in accordance with the Site Management Plan and Environmental Plan submitted with the application but modified to identify and describe:
 - (a) the proposed method of compliance with the EPA conditions set out below;
 - (b) the design of works and management of water on the site to:
 - (i) provide for responses to any identified rise in groundwater levels in the locality;
 - (ii) ensure water conservation design measures and practices are adopted, including efficient collection and re-use of surface water;
 - (iii) ensure the design of hardstand areas and storage ponds minimises the potential for groundwater contamination;
 - (iv) specify parameters for monitoring of groundwater and water in storage ponds.
 - (c) proposed management measures for the control and monitoring of air quality, addressing emission of noise, dust and other airborne emissions, outlining proposed measures to comply with the conditions of this permit which relate to air quality and monitoring;
 - (d) the monitoring of groundwater and storage ponds; and
 - (e) compliance with the procedures outlined in the Recycling Construction and Demolition Material: Guidance on Complying with the Occupational Health and Safety (Asbestos) Regulations 2003.

- 13B Within 12 months of the amended permit be issued, an updated SMEIP must be prepared to the satisfaction of the Responsible Authority. Without limiting the matters required to be addressed under condition 13, the updated SMEIP must:
- (a) assess the methods used on site to ensure compliance with and monitoring of the conditions of this permit, including the appropriateness of the siting of the dust monitors required by condition 32; and
 - (b) incorporate any further measures required to ensure best practice management of dust emissions on site.
- 14 The use and development of the land must adhere to the requirements, recommendations, operating practices and procedures set out in the endorsed ~~SMEIP Site Management and Environmental Improvement Plan~~.
- 15 The SMEIP must be reviewed every three years to the satisfaction of the Responsible Authority.
- 16 Notwithstanding anything to the contrary, the processes, plant and equipment and procedures conducted on the land in association with the materials recycling facility and refuse transfer station must be operated pursuant to best practice.
- 17 No polluted waters, including sullage waters or sediment laden waters from the land, may be discharged from the site, including into Melbourne Water's drains or watercourses.

Conditions required by EPA Victoria General environmental conditions

- 18 The proposal must comply with the *Guide To Best Better Practice at Resource Recovery Centres (2017) And Waste Transfer Facilities (Sustainability Victoria) Eco-Recycle Victoria* and also adopt 'Best Practice Measures' in preventing any adverse environmental impacts from the proposed transfer station, both during construction and ongoing operation.
- 19 ~~Litter control fencing or screens must be established and maintained adjacent the unloading area, waste disposal pit area and driveways to trap windblown litter which may be generated as a result of unsecured loads or the unloading of vehicles. Litter originating from the premises must not be present beyond the boundaries of the premises.~~
- 20 Management and operation of the transfer station must include collection of litter from outside the land including roads adjacent the facility. Suitable precautions, such as the installation and regular maintenance of a litter entrapment device, should be taken to ensure that litter is prevented from entering the stormwater drainage system.
- 21 ~~The permit holder must ensure w~~ Wastes are must not be burnt at the premises.
- 22 ~~Odour offensive to the senses of human beings must not be discharged beyond the boundaries of the site.~~
- 23 ~~There must be no visible dust emissions~~ Nuisance dust and/or nuisance airborne particles must not be discharged or emitted beyond the boundaries of the site.
- 24 Only clean fill material as defined in EPA Publication IWRG600.2 "*Waste Categorisation Classification of Wastes*" must be used in the development of the site.
- 25 The waste oil and collection area must be roofed and bunded in accordance with EPA Publication 1698 "*Liquid storage and handling guidelines*". ~~Technical Guideline "Bunding" Publication No347.~~
- 26 Pollution control devices must be installed to prevent the discharge offsite of waste to the environment and stormwater system.

- 27 A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard.

Dust

- 28 The use must be conducted and operated so that no visible dust emissions are detectable beyond the site's boundaries.
- 29 The pug mill must be equipped with sufficient controls to prevent dust emissions and, without limiting the requirements of this condition:
- (a) suitable shrouds must be installed on the pug mill to prevent dust emissions; and
 - (b) other measures as required ~~a fabric filter dust collector must be fitted to the pug mill and maintained in good working order to prevent visible dust from being emitted, as required~~ by the Environment Protection Authority Victoria (EPA) publication 1806 '*Reducing risk in the premixed concrete industry*' (December 2019), ~~628-June-1998-'Environmental Guidelines for the Concrete Batching Industry'~~.
- 30 If at any time the dust suppression measures of the Site Management and Environmental Improvement Plan cannot be implemented and significant off-site dust emissions are likely, the activities that would generate dust must not operate for that period.
- 31 All roads, access ways and hard stand areas within the site where it is anticipated that heavy machinery will work must be formed and surfaced with asphalt, crushed rock or other suitable product to the satisfaction of the Responsible Authority. These areas must be wetted or treated to suppress dust emissions.
- 32 All conveyance bells and other automated product transport devices or contraptions on the site must be shielded from the prevailing winds to the satisfaction of the Responsible Authority after consultation with EPA.
- 33 All waste material delivered to the site must be delivered directly to the appropriate stockpile or sorting facility, except that waste delivered in domestic vehicles should be delivered to a location designated on the endorsed plan.
- 34 The main access way to the site must be fitted with a dousing bar and all incoming trucks must pass under the operating wetting bar.

Dust Measurement

- 35 The operator must continuously monitor (in real time) the levels of PM₁₀ and PM_{2.5} emitted from the land in the vicinity of the hardstand areas and concrete crushing machinery while the site is operating. The location of fixed PM₁₀ and PM_{2.5} monitors must be determined after consultation with the EPA and then maintained in good working order in the agreed locations. The monitoring system should include an alarm to warn when dust conditions are unacceptable. The operation of the site must have regard to the information derived from PM₁₀ and PM_{2.5} real-time monitoring.
- 36 The information collected by the measuring equipment must be provided:
- (a) quarterly to the Responsible Authority, in the form of gross and net PM₁₀ and PM_{2.5} measurements and published on an open website for public viewing; and
 - (b) to the Responsible Authority or EPA within two business days of a request for the data.
- 37 The operator must maintain a Davis or equivalent weather station, measuring wind speed and direction and ambient temperature, on the site in a location to the satisfaction of the

Responsible Authority. The data from the weather station must be made available to the Responsible Authority and the EPA on request.

Amenity

- 38 The amenity of the area must not be detrimentally affected by the development and/or use, through:
- (a) the transport of materials, goods or commodities to or from the land; or
 - (b) the appearance of any building, works or materials; or
 - (c) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
 - (d) the presence of vermin; or
 - (e) any other way.
- 39 The maximum height of all operating areas and stockpiles of materials stored on site must not exceed, to the satisfaction of the Responsible Authority:
- (a) 32 metres AHD until the plantings mature to effectively screen the stockpiles; and
 - (b) 35 metres AHD thereafter.
- 40 Where outdoor lighting is provided, it must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

Operating Hours

- 41 The following restrictions apply to operations on the site:
- (a) Between 5am and 7am Monday to Friday: No tipping at the top of the stockpiles, no crushing and screening operations, and no sorting at the Waste Sorting Facility.
 - (b) Between 6pm and 8pm Monday to Friday and 1pm and 6pm Saturday: No tipping at the top of the stockpiles.
 - (c) The use must not operate between 8pm and 5am Monday to Friday, 6pm and 7am Saturday or at any time on Sunday except as follows. The use may operate during these times with the prior approval of the Responsible Authority on up to three days in a 12-month period subject to the following restrictions:
 - (i) no tipping at the top of the stockpiles;
 - (ii) no crushing and screening operations;
 - (iii) no sorting at the Waste Sorting Facility; and
 - (iv) no use of front end loaders.
 - (d) The use must not operate on Christmas Day, Good Friday or before 1pm on Anzac Day.

Acoustic Requirements

- 42 The noise emissions from the site must comply with the State Environment Protection Policy (Control of Noise from Commerce Industry and Trade) No N-1.
- 43 Compliance with SEPP N-1 noise limits must be confirmed by a report by an acoustics specialist when noise generating elements of the use have commenced operating and if equipment and/or operating procedures change.
- 44 The following acoustic measures must be undertaken:
- (a) The Crushing and Screening Plant and the Waste Sorting Facility enclosures must be treated in accordance with recommendations of a suitably qualified person.
 - (b) All mobile plant on site and heavy vehicles regularly visiting the site must be fitted with smart alarms which adjust the reversing beepers noise levels to take account of low background noise conditions or broadband type reversing beepers. This requirement does not apply to cars, vans and light trucks.
 - (c) All mechanical equipment must be regularly maintained and must use industry standard mufflers.

Site Access and Traffic Management

- 45 Five years after the date of this permit, a revised traffic analysis assessing the need for a signalised access to the development must be submitted to the Responsible Authority for its approval. The Responsible Authority may consent to an extension of the time to provide this report.

Conditions required by VicRoads

- 46 Before the commencement of any roadworks authorised by this permit, the developer must:
- (a) provide a bank guarantee (in the name of the developer/owner), without a termination date, to VicRoads for the estimated cost of the works;
 - (b) provide evidence that the contractor has a public liability insurance policy for at least \$10 million, effective for the duration of the works; and
 - (c) provide VicRoads with the name, address, and business and out-of-hours telephone numbers of the principal roadworks contractor.
- 47 Before any roadworks along Kingston Road authorised by this permit start, the applicant must pay VicRoads the pre-estimate certification audit fee.
- 48 The applicant must pay the full cost of all roadworks, drainage, service relocations, public lighting and modifications, and any other costs associated with the development roadworks.
- 49 Before the use starts (excluding site preparation works), the applicant must complete all roadworks along Kingston Road in accordance with approved plans and to the satisfaction of VicRoads.

Internal Roads, Car Parking and Loading Bays

- 50 Before the use starts, areas set aside for parking vehicles, loading bays, access lanes and paths as shown on the endorsed plans must be:
- (a) constructed to the satisfaction of the Responsible Authority;

- (b) properly formed to levels so that they can be used in accordance with the plans;
 - (c) surfaced with a suitable all-weather material or substance to the satisfaction of the Responsible Authority;
 - (d) drained and maintained to the satisfaction of the Responsible Authority; and
 - (e) suitably marked to indicate each car space, loading bay and all access lanes and, if necessary, the directions in which vehicles are to travel, to the satisfaction of the Responsible Authority.
- 51 Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
- 52 All roads and vehicle access ways within the site are to be surfaced with suitable all-weather materials or substances to the satisfaction of the Responsible Authority and must then be maintained in good condition to the satisfaction of the Responsible Authority.
- 53 A sign(s) to the satisfaction of the Responsible Authority must be provided directing drivers to the area set aside for car parking and must be located and maintained to the satisfaction of the Responsible Authority.

Loading and Unloading

- 54 The loading and unloading of goods to and from vehicles must only be carried out on the land.

Conditions required by Melbourne Water

- 55 No fill or building materials may be dumped on Melbourne Water's land during or after the completion of construction.
- 56 The applicant must arrange and fund any new fencing along the common boundary with Melbourne Water's drainage reserve to Melbourne Water's satisfaction.

Site Rehabilitation

- 57 The Preliminary Rehabilitation Plan referred to in Condition 3 ([separate to the Interim Rehabilitation Plan referred to in condition 3A](#)) must be reviewed two (2) years before this permit expires to ensure the rehabilitation facilitates the development of the 'after-uses' envisaged by the planning framework applicable at that time. A Final Rehabilitation Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority at least 18 months before this permit expires.
- 58 Within six months of the use ceasing or the date the permit expires (whichever is sooner), the Final Rehabilitation Plan approved under this permit must be implemented and completed to the satisfaction of the Responsible Authority. The Responsible Authority may grant an extension of time to complete the implementation of the Rehabilitation Plan.

Section 173 Agreement

- 59 [Prior to the expiry of this permit, where the use of the land specified under of the permit is prohibited by the planning scheme, the owner of the land and the responsible authority must enter into an agreement pursuant to s173 of the Planning and Environment Act 1987 to the satisfaction of the responsible authority. The agreement must provide that:](#)
- (a) [The owner acknowledges that the owner relies on the Planning Permit to allow its use of the land to continue and does not assert any existing use rights to operate that use from the land \(other than those contemplated by the Planning Permit\).](#)

The agreement must be registered on the title to the land and the costs of preparation, execution and registration of the agreement are to be met by the owner.

NOTES

~~Pursuant to section 50 RA(4) of the *Environment Protection Act 1970*, any person involved in the generation, management or transport of waste must not do anything that is inconsistent with the relevant Regional Waste Management Plan.~~

Prior to the commencement of any roadworks in, on, under or over the Kingston Road reservation the applicant must have first applied for and received written consent from VicRoads for those works in accordance with Section 63 of the *Road Management Act 2004*.

The applicant must engage VicRoads pre-qualified contractors to undertake all roadworks along Kingston Road.

Prior to the commencement of works, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of amendments	Brief description of amendments	Name of responsible authority that approved the amendment
XX Month 2020	<ul style="list-style-type: none"> • Extension of the permit for a further 15 years, to expire 5/12/2038 • Required revised site plan and interim rehabilitation plan • Revised environmental management conditions 	Governor in Council on recommendation of the Minister for Planning