

Bart Gane  
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Department of Transport and Planning

## ADVERTISED PLAN

Sent via: [Lodged via DTP's Online System](#)

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April 27, 2023

Dear Bart,

**Re: RESPONSE TO DTP's FURTHER INFORMATION REQUEST DATED 4/4/23  
APPLICATION TO AMEND PLANNING PERMIT 2010013898-3  
890 TAYLORS ROAD, DANDENONG SOUTH VIC 3175**

We write in response to DTP's letter dated 4 April 2023 requesting further information pursuant to Section 54 of the *Planning and Environment Act 1987*.

We would like to thank the Department for the opportunity to meet on the 19 April 2023 to discuss the proposal and information required to satisfy the Section 54 request.

The proposed soil washing facility (SWF) entails a soil washing and storage facility, which is being developed to recycling Category C soil that would otherwise need to be landfilled. The facility will not recycle tunnel spoil. The output of the SWF is predominantly construction materials such as sand, clay and aggregates that can then be reused in various industries.

The facility will be located on a capped cell of the existing landfill and will only remain in operation prior to the landfill being ready for alternative use. To that end, the facility will not extend or reduce the life of the landfill.

The recycling of waste to generate beneficial reuse products is a key tenement of the Victorian waste management system, which is supported through the layers of policy within the Greater Dandenong Planning Scheme.

The *Statewide Waste and Resource Recovery Infrastructure Plan (Sustainability Victoria, 2018)* (the 'SWRRIP'), a relevant policy document at Clause 19.03-5S explains:

***Increasing the recovery of waste will not only protect our environment, it builds an economy that is circular – one that maximises the productive use and reuse of valuable resources. The Victorian Government is committed to supporting a sustainable and robust local resource recovery industry. We are working to improve the collection, sorting and processing of recyclable materials to maximise their value, for both local and international use<sup>1</sup>***

....

***Recycling and recovery activities play an important role in reducing net GHG emissions. Avoiding extracting virgin materials, in most examples, can heavily offset the emissions associated with resource recovery. The virgin extraction and production of some material streams is heavily GHG emission intensive; greater than that of recycling and reusing materials<sup>2</sup>***

The SWRRIP specifically describes the subject site at 890 Taylors Road as:

***"..critical to managing...contaminated soils in Victoria"***

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<sup>1</sup> Page 1

<sup>2</sup> Page 46

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The *Recycling Victoria A New Economy* (DELWP, February 2020), another relevant policy document at Clause 19.03-5S has a key “goal”:

*“Recycle more resources”.*

This policy explains:

***When materials are sent to landfill, their value is lost to the economy. Recycling materials keeps their value in the economy, prevents the need for new or expanded landfills, and creates jobs.***

*Rapid population growth means Victoria’s waste is expected to increase. By 2046, we will create over 40 per cent more waste than in 2017-18.*

*Even though Victoria already recovers 69 per cent of our waste, we can do better.*

*By shifting to a circular economy, Victoria will recover at least 80 per cent of its waste by 2030.*

*Recycling Victoria will stimulate innovation and the development of new technologies that will realise future recycling opportunities currently not available.*

*We will pursue an **80 per cent landfill diversion target** by prioritising our activities in line with the waste hierarchy, which highlights the importance of waste minimisation and **acknowledges the environmental benefits of recycling over converting waste to energy.***

***When waste is landfilled, we discard more than waste—we’re throwing away money and jobs.*** For example, the Australian recycling sector creates 9.2 jobs for every 10,000 tonnes of waste managed, while landfilling creates only 2.8. One recent study estimates that nationally, we waste more than \$324 million of resources that could be used productively by the manufacturing, construction and agricultural sectors. This is an opportunity to develop new and innovative technologies and businesses, and position Victoria as a leader in the global economy.

***Recycling creates environmental benefits, by preserving precious resources. Increasing the recycling and recovery of organic waste will also help reduce greenhouse gas emissions from the waste sector.***

***It also reduces reliance on new landfills.***

Additionally, Clause 19.03-5S (Waste and resource recovery) of the Greater Dandenong Planning Scheme has the sole objective, namely:

***To reduce waste and maximise resource recovery to reduce reliance on landfills and minimise environmental, amenity and public health impacts.***

It is clear that there is strong policy support within the Greater Dandenong Planning Scheme for the proposed soil washing facility. The delivery of the SWF will result in environmental and economic benefits including lower greenhouse gas emissions than extracting virgin materials. Further, the proposed facility offers a local processing solution in SE Melbourne region which reduce the carbon footprint generated throughout the transport process of sending material other region for recycling.

Notably Amendment VC215 was gazetted on 3 March 2023. This amendment implemented the *Melbourne Industrial and Commercial Land Use Plan (Department of Environment, Land, Water and Planning, 2020)* into the Planning Policy Framework. This policy identifies the site within an area of “State Significant Industrial Land”, also reflecting its designation within a “State-significant industrial precinct” on Map 8 of Plan Melbourne.

Clause 17.03-3S “State significant industrial land” has the sole objective: *To protect industrial land of state significance.* The related strategies include:

- *Protect state significant industrial precincts from incompatible land uses to allow for future growth.*
- *Ensure sufficient availability of strategically located land for major industrial development, particularly for industries and storage facilities that require significant threshold distances from sensitive or incompatible uses.*
- *Protect heavy industrial areas from inappropriate development and maintain adequate buffer distances from sensitive or incompatible uses.*

It is evident that the focus in Clause 17.03-3S is on the protection of State Significant Industrial Land for major industrial development such as proposed in this application.

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The following paragraphs provide a response to the specific items of information requested.

## 1. Amended Environmental Management Plan

We confirm our discussions on the 19 April 2023 that the SWF will not treat tunnel spoil and as such the information required under Item 1 is not applicable to the project.

The facility has not been designed to treat tunnel spoil as is evident from the submitted plans, we are not progressing EPA approvals to receive tunnel spoil nor is planning approval sought for tunnel spoil.

EPA approval for the soil washing plant is a two step process. We have applied for, and EPA has granted, a Development Licence Exemption that allows construction and commissioning of the plant. However, construction cannot commence until the appropriate planning approvals are in place. When we have demonstrated through commissioning monitoring that the plant can meet regulatory requirements, we will then need to apply for an EPA Operating Licence.

The Development Licence Exemption (and future Operating Licence) we have applied for is activity A01 (reportable priority waste management) as detailed in Schedule 1 of the Environment Protection Regulations 2021. This activity specifically excludes “(d) item 80 (L09—Disposing of tunnel boring machine spoil)”.

The application for the facility relates to the treatment of Category C and PFAS-containing soils (Waste categories N120 and M270 under the Environment Protection Regulations 2021). This includes excavated soils from major projects not related to tunnel spoils, including soil removed for access roads, services and similar sources. Our below response to Item 3 of the Section 54 request outlines projects the SWF is expected to service.

As part of the application for an EPA Development Licence Exemption, extensive environmental impact studies have been conducted, and management requirements detailed. We have enclosed a copy of the background report for the Development Licence Exemption process with EPA. This information is provided as background to the planning application to assist with the understanding of project. Many of the technical reports accompanying the Development Licence Exemption also accompany this planning permit application. If any further reports are required, please let us know.

Where there are different regulatory frameworks that apply to a project such as the case here with the need to obtain planning approval and EPA approvals, it is important to understand what is relevant to the planning application and what is addressed through the EPA process. The decision of *All Vet Waste Pty Ltd v Golden Plains SC* [2011] VCAT 758 provides a thorough analysis of these matters. At paragraphs 63-64, the Tribunal indicated:

*All Vet Wastes submissions challenge the extent to which the Council, and now the Tribunal, should be informed about the potential risks to air quality and the means by which the facility will achieve reductions in the Class 3 indicators to the maximum extent achievable. It is asserted that these are matters of an operational nature which will be dealt with by the Works Approval and Licensing processes under the jurisdiction of the EPA. Accordingly, it is argued that the Council, and the Tribunal should limit decision making to land use planning matters.*

*The concerns raised by the Council highlights again the issue of the interlocking nature of the approvals process under the Planning and Environment Act and Environment Protection Act. It follows from what I have set out earlier about the planning system needing to deal only at the broader level that it is not for the Responsible Authority to delve into the detail of the site’s operation....*

Whilst the items raised in Item 1 appear to relate to tunnel spoils, the following is noted:

Bullet Point no.	Text	Response
1	how the proposal conforms with legislative, regulatory requirements and EPA guidance that relate to management and reuse of tunnel spoil, including (but not limited to).....	This bullet point relates specifically to tunnel spoil so would not be applicable to this project.
2	details regarding any proposed environmental auditing and ongoing review of the Environmental Management Plan;	The requirement for auditing and ongoing review will be part of the EPA Operating Licence requirements.

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Bullet Point no.	Text	Response
3	details regarding the geology and groundwater environment of the site and long-term groundwater level and waste separation.	The geology and groundwater environment has been addressed in the Development Licence Exemption application Sections 4.3 and 4.4.
4	details regarding expected spoil quantities, locations, production rates and characteristics, including (but not limited to) a synopsis of expected contamination status of spoil, the potential presence of PFAS impacts and estimated quantities of tunnel spoil with potential PFAS impacts	This bullet point relates specifically to tunnel spoil so would not be applicable to this project.
5	An environmental risk assessment including (but not limited) conceptual site model, water and soil quality criteria, human health and environmental risks, groundwater quality impact assessment, assessment of potential acid sulphate soils and primary risk management and controls;	The environmental risk assessment and conceptual site model has been addressed in the Development Licence Exemption application, however consideration of acid sulphate soils relates primarily to tunnel spoil and is not applicable to the project. We have not applied to receive waste acid sulphate soils (Waste Code N123).
6	details regarding facility design, layout and processing and drying and reuse of spoil storing of spoil, throughput and capacity, protection of amenity, site entry, loading and unloading of holding pens and landfill cells (as relevant);	This bullet point relates specifically to tunnel spoil so would not be applicable to this project. However, the Development Licence Exemption application details how this aspect will be managed for the proposed activity.  We note the SWF has not been designed to treat tunnel spoil as is evident from the plans.
7	details regarding spoil water management, including (but not limited to) spoil water sources and catchment, water storage capacity and design, water treatment, spoil water transfer, surface water run-off outside of catchment and reuse and off-site reuse of treated water;	This bullet point relates specifically to tunnel spoil so would not be applicable to this project.
8	details regarding operations and environmental management including (but not limited to), details of the tunnel spoil, operating hours, health, safety and environmental management systems, risk management framework, operations management plan, incidents, complaints and response, monitoring programs, triggers and contingencies and construction environment management plan;	This bullet point relates specifically to tunnel spoil so would not be applicable to this project. However, the Development Licence Exemption application details how this aspect will be managed for the proposed activity.
9	details regarding proposed sampling, analysis and categorisation process for the tunnel spoil;	This bullet point relates specifically to tunnel spoil so would not be applicable to this project. However, it will be the obligation of the waste generator to provide waste classification reports in compliance with EPA guidelines which will be reviewed prior to accepting waste.
10	details regarding the proposed treatment and reuse of tunnel spoil and off-site disposal and treatment of spoil;	This bullet point relates specifically to tunnel spoil so would not be applicable to this project.
11	details regarding traffic management (internal operations);	Please refer to the Transport Impact Assessment and Turning Movement Plans submitted with the Planning Permit application.

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Bullet Point no.	Text	Response
12	details regarding future facility uses and facility decommissioning;	<p>The SWF will only remain in operation prior to the landfill being ready for alternative use. To that end, the facility will not extend or reduce the life of the landfill.</p> <p>A decommissioning plan has been developed in accordance with the requirements of the Development Licence Exemption application process. This will involve removal of plant and return of the site of the SWF to its original status as a capped landfill cell.</p>
13	details of stakeholder assessment and consultation (as applicable);	<p>Stakeholder assessment and consultation has been undertaken through the Development Licence Exemption application.</p> <p>Further consultation is expected to be undertaken as part of the planning process through notification and referrals.</p>
14	details regarding any cumulative impacts associated with the proposal, having regard to existing and approved uses of the broader site at 890 Taylors Road, Dandenong South; and	Any cumulative impacts have been addressed in the Development Licence Exemption application.
15	greater details of how this use impacts the ultimate transfer of land to open space.	The facility will be located on a capped cell of the existing landfill and will only remain in operation prior to the landfill being ready for alternative use. To that end, the facility will not extend or reduce the life of the landfill nor impact its ultimate transfer for land to open space.

**2. Under the Environmental Protection Act 2018, approval of the actual spoil washing process is required. Please confirm the status of this application. Acknowledging the EPA approved a variation to the existing landfill licence to remove the soil washing site from the licence area.**

No application to receive tunnel spoil has been made to EPA, and the system is not designed to do so. The facility is intended to receive only N120 (Cat C soils) and M270 (PFAS-containing materials) EPA waste categories as soils.

**3. Details of any contractual agreements which have been entered into with SPARK consortium or any government grants that have been issued in relation to this proposal.**

Veolia has been in discussions with SPARK regarding all waste management needs for the NEL project. The SWP forms part of the overall solution for the projects waste needs (excluding tunnel spoil material). Negotiations are currently ongoing and are commercial in confidence.

Over the next 2-3 years there will be over 1 Mtpa of contaminated soil generated from the major infrastructure projects in the metro Melbourne area. These projects will require solutions within the market to recover resources from within the excavated materials for reuse either in the same project or to replace virgin product materials in alternate applications.

Details of contractual arrangements are commercial in confidence, but we can advise a list of the projects the SWF will provide a service for include:

1. Suburban Rail Loop
2. Level crossing removal
3. Region Rail
4. Melbourne Airport Link

The facility will also service the general construction industry where brownfield sites require remediation where soil removal is required - these could be high rise developments, commercial development and the like.

The project proponent (EarthSure) is a grant recipient in the second round of the Circular Economy Infrastructure Fund - Hazardous Waste Stream from Sustainability Victoria.

The Circular Economy Infrastructure Fund aims to assist businesses to increase the capacity and capability of Victoria's resource recovery sector and recover high quality products.

## CLOSURE

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We thank the Department for the opportunity to respond to your queries.

If you have any further queries or if this response does not satisfy your request in any way, please do not hesitate to contact Nick Robins on 0408 420 584 or via email at: [Nick.Robins@ricardo.com](mailto:Nick.Robins@ricardo.com).

Yours sincerely,

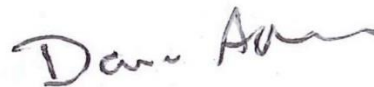
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