

**Rural City of Wangaratta**

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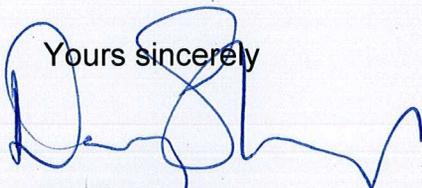


Statutory Policy Review Team  
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**Statutory Policy Review Consultation**

Thankyou for the opportunity to comment on the discussion paper for the Statutory Policy Review. Please accept the attached document as the submission from the Rural City of Wangaratta.

Yours sincerely



Mr Doug Sharp  
CHIEF EXECUTIVE OFFICER.



# SUBMISSION TO EPA STATUTORY POLICY REVIEW DISCUSSION PAPER

## SUBMISSION BY RURAL CITY OF WANGARATTA

### **Background**

The Rural City of Wangaratta has a population of around 29,000 people and is situated in North East Victoria, in the Hume corridor between Benalla and Wodonga. The main centre is Wangaratta with a population of approximately 19,000. Population growth within the Rural City of Wangaratta over the past four years is averaging 1.5% with growth between 2008 and 2009 of 1.7%. (ABS website)

The Rural City of Wangaratta is one of the 10 largest municipalities outside of metropolitan Melbourne that form Regional Cities – Victoria. The other municipalities being Ballarat, Greater Bendigo, Greater Geelong, Horsham, Latrobe, Mildura, Greater Shepparton, Warrnambool, and Wodonga.

The Rural City of Wangaratta (RCOW) is involved in statutory and regulatory implementation in several ways, using the State Environment Protection Policies (SEPPs) and Waste Management Policies (WMPs):

- As manager of a municipal landfill, Council's obligation is to comply with Waste Management Policy (Siting Design and Management of Landfills), the landfill licence (flowing from SEPP and WMP) using in part the Best Practice Environmental Management of Landfills (BPEM). Council's operating landfill services the municipality receiving approximately 18,000 tonnes of waste per year.
- As the Responsible Authority under the Planning and Environment Act for the Wangaratta Planning Scheme, which has State policies which call up the SEPPs
- Council implements environmental health clauses and regulations relating to residential use (eg on-site domestic wastewater management as set out in SEPP Waters of Victoria, and Residential Noise regulations)

The following comments focus on Council's role in these areas, challenges in using statutory measures and role of Environment Protection Agency (EPA), Council and other agencies.

### **General Objectives of Environmental Legislation**

1. The implementation of statutory policy has a focus on enforcement as a means of compliance. As a user of SEPP, WPM and regulations, as an overall principle, this policy review should also aim to make it easier for Council in its work to 'do the right thing' and comply with its obligations.
2. Environmental guidelines and policy seem to develop in isolation and can negate overall environmental objectives. For example, waste to landfill could be significantly decreased by separate treatment and reuse of organics. The Planning Scheme requires a facility be sited in an Industrial Zone, recognising the potential for odour. EPA guidelines ("Environmental Guidelines for Composting and other Organic Recycling Facilities") require large buffer distances. The combination of these requirements applies amenity protection twice and makes it extremely difficult to site a facility to achieve the overall State objective of reducing waste to landfill.
3. The discussion paper recognises the need for allow for technological development when framing statutory policy. Policy and guidelines should not be based on a 'no risk'

approach, but rather on risk management and control. The above organic guidelines state that buffer distances are set to prevent odour impact from upset and extreme conditions. Proper design that anticipates conditions and incorporates suitable technology should be recognised to allow buffer reduction.

### **Landfill Management**

Council is committed to environmental protection and responsible landfill operation. Council's landfill site provides an important local and regional service to receive waste and correctly dispose of it. However financially, there is a balance between the cost of compliance and a level of gate fees that lead users to avoid correct disposal by dumping waste or disposing of it in NSW. This impedes Council's ability to finance compliance with EPA standards. The following issues impede Council in its work to comply with standards:

- Cheaper NSW disposal restrict Victorian landfill prices near the border, reducing financial ability to implement EPA standards. Near the NSW border, it is common for other Councils and businesses to take municipal and commercial waste across the border for cheaper disposal (in part due to lower environmental compliance standards). This also creates transport pollution. Environmental standards need to take account of variation in State standards and the impacts of legislating higher disposal costs in Victoria. Dumping on roadsides and in rivers is also a consequence of public non - acceptance of the cost of environmental protection and causes direct environmental damage. This negates Victorian goals to see disposal of waste comply with Victorian environmental standards.
- Prescriptive application of best standards while still requiring increased auditing. As noted in the discussion paper, the BPEM is not established through a statutory process but developed within EPA. The landfill BPEM "lists required outcomes and provides *suggested* measures to meet legislative objectives" (EPA publication 1338). The BPEM is intended to give the flexibility to propose alternate measures that achieve required standards. This is an appropriate approach but its implementation does not follow this objective. In practice the BPEM has become a document of prescription by the EPA, while still requiring increased auditing and monitoring. If design and construction methods are prescribed to achieve best practice and meet environmental standards, risk is reduced and auditing needs should be reduced, but this is not the case. This is an example of the 'no risk' approach in point 3 above.
- Monitoring and reporting is necessary to demonstrate compliance with targets, so targets should also take into account the practicality of monitoring, which will make monitoring more achievable and reliable. For example there is an absence of reliable, cost effective methods to measure waste greenhouse emissions.

### **Management of Closed Landfills**

History of township development in the municipality means there are small closed landfills at many townships, many being inherited from the 4 previous municipalities pre-dating the formation of the Rural City of Wangaratta. Council finds that:

- Higher standards in relation to rehabilitation of closed landfills are being applied retrospectively through the BPEM;
- By requiring Councils to rehabilitate landfills, the EPA and the state are minimising their future financial risk by 'cost-shifting' higher standards to the Councils and the community;
- The increased financial burden is inhibiting Council's ability to finance current landfill to meet compliance standards

## **Responsible Planning Authority**

In the Planning Scheme and SEPPs, both Council's role should continue to be clearly defined and also the role of other agencies. In particular, agencies need to be defined for referral during the planning permit process. Agencies have specialised expertise Councils cannot provide, but they need to be a referral agency for any requirements to have formal status on the permit and withstand any planning appeal. An example is planning permits for cattle feedlots. EPA and the Department of Primary Industries (DPI) could provide expert advice and requirements, but are not currently recognised in Clause 66 referral authorities for all classes of development.

Some of the SEPPs, such as SEPP (Noise and Air Pollution) have been converted into planning controls with varying level of success. For example the incorporation of buffer distances has only been partly successful as there is insufficient guidance for decision. The SEPP clauses need to be adapted to planning processes. For example a house can be built on a lot of appropriate size within the buffer distance in an adjacent Farming Zone without a planning permit.

This review should have regard to the review by the Planning Advisory Committee, appointed by Minister Guy, which is reviewing the entire State planning framework. This committee should be approached for detailed comment.

## **Implementation of environmental health clauses and regulations**

Councils implement clauses and regulations as designated in SEPPs and regulations. Council officers are called on by the community to respond to issues outside Council's responsibility because regional EPA offices are not resourced to respond fully to complaints eg out of hours response to noise and discharge from industry, complaints of dumping of industrial items etc. The community looks to Council officers to fill this gap. Regional EPA is under-resourced in experienced staff to respond to all direct enquiries and also to support Council in technical advice. A key issue for a policy review is the shortfall in resourcing to implement existing policy and regulation, and recognition that further development of policy and regulation needs extra resources if it is to be successful in its objectives. Councils need clearly specified roles to allocate resources and develop appropriate expertise and should not be expected to work outside these roles to fill gaps for other agencies.

## **Community Education**

Environmental standards and compliance requirements are set by State government through its legislation and statutory policies. These are Statewide requirements. Councils are in a position of implementing these requirements in relation to the entire municipal community, for example in waste collection and disposal, litter and dumping and environmental impacts from residential use. The community does not understand the need for higher standards and the resulting increases in household costs. It should be integral to legislation and the responsibility of legislators to implement comprehensive education programs across the State. The explanation of Statewide policy and standards to the community is left to councils without support and resources. This leads to scattered and incomplete information and education. The community perceives only increased costs and Councils bear the community dissatisfaction. It also means community members may not have the commitment to comply with environmental standards.

## **Consultation**

If the EPA and Department of Sustainability and Environment (DSE) are undertaking a review of environmental regulations and controls, there needs to be a more considered approach to comments made during the required consultative process. An example is the consultation that occurred with the introduction of the BPEM for landfills. The response to

concerns raised by Local Government in relation to the impost on the community of the proposed changes and the justification behind the proposed changes was disappointing. On reflection, it is even more disappointing that the concerns expressed at what might happen have proved to be the reality.

For example, published in the document EPA 1343 – Response to Comments – Draft Landfill Licensing Guideline, there was concern raised about cost implications for smaller, low-volume landfills from the auditor and independent surveyor requirements. The EPA response to this comment was:

*EPA appreciates that harmonisation of audit requirements across all landfills and requiring landfill operators to monitor and report on their compliance will lead to changes in landfill management and costs. EPA acknowledges that costs for rural landfills with lower volumes serving smaller communities will be higher. EPA encourages councils to seek additional funds to meet their new licensing requirements.*

This response places standardisation above a site specific approach for smaller volume landfills. Concerns raised about the cost implications have proved correct. The Rural City of Wangaratta has had to fund a significant increase in the capital cost of its latest cell. The previous cell constructed in 2008 cost Council \$550,000, this latest cell will cost Council \$1,100,000. This increase is on top of other statutory changes such as increased landfill levies and the requirement to engage auditors for all processes associated with the running of a landfill.

The EPA comments show little or no understanding of the impact of its decisions upon the community as a whole as it is the community who will be forced to provide the additional funds the EPA encourages Councils to seek.

This is one example of how comments provided in the 'consultation phase' of policy development appear to be poorly addressed. The question has to be asked whether the consultation process serves any process other than allowing the EPA to say they consulted.

In addition, consultation periods often do not allow for Council's meeting processes. For example the timeframe for this consultation has not allowed Wangaratta Council to formally consider this response at a Council meeting.