

The local residents are very concerned about the Phoenix Biomass Incinerator, and we would like the **Solicitor for Council, Mr Michael Walton, to confirm:**

- 1.** That the P&E Court Judgment rules that **Phoenix** (i.e. "The Applicant" - Phoenix Power Recyclers Pty Ltd) **are responsible for ensuring compliance**, and specifically:
 - a.** are "responsible for ensuring compliance with these conditions" - (Item 1b);
 - b.** are "NOT TO CAUSE ENVIRONMENTAL NUISANCE OR ENVIRONMENTAL HARM" - (Item 21); and
 - c.** "must take all measures, perform all acts and do all things, necessary to ensure that the carrying out of the ERA(s) DOES NOT CAUSE ANY ADVERSE EFFECT ON PUBLIC AMENITY OR ANY NUISANCE." - (EHP Permit Item H2 (ii)).
- 2.** That **Phoenix must do something about it**, including full reporting, "In the event any adverse effect upon public amenity and/or any nuisance arising from the conduct of the ERA(s)" - (EHP Permit Item H3).
- 3.** That it is **the responsibility of the Department of Environment and Heritage Protection (DEHP) to uphold/enforce** the carrying out of the conditions that they imposed.
- 4.** That any and all **complaints of breach of these conditions** must be
 - a.** investigated and dealt with by Phoenix;
 - b.** reported to the DEHP; and
 - c.** policed and followed up by the DEHP in order to ensure a satisfactory outcome each and every time.
- 5.** That the above is essentially what Phoenix's current requirements are for its existing operations.
- 6.** Who would be legally responsible if there were found to be on-going nuisance issues (in terms of, say, health, noise or odour):
 - a.** even after complaints were lodged?
 - b.** even after DEHP were notified?
 - c.** even after "taking all measures, performing all acts and doing all things" possible were done?
- 7.** What would be the legal status for the Phoenix Power Recycling site if it turns out that you simply **can't** practically stop a massive toxic composting heap from smelling bad and polluting the neighbourhood? What would happen then? Would Phoenix just get fined but left to continue operating? Would they get shut down?