

Questions from Roslyn Burgess YRA Co-ordinator

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 Judgement 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?

Yatala Residents' Alliance (YRA)

COMMITTEE'S SUMMARY OF QUESTIONS FOR WEDNESDAY 21st May 2014 COUNCIL'S COMMUNITY MEETING

We are deeply concerned about the effects this decision will have on our community's health and amenity. We respectfully request that we are provided with written answers to the following questions (which we will be putting on-line at www.yatala.info) so that we can put Council's responses online also, for all of our community to see.

1. **COUNCIL'S REASONS** On Wednesday the 28th of November 2012, the Council Planning Committee recommended that the Phoenix development application be refused and a list of 10 reasons was provided in a subsequent Media release (see Attachment). This refusal was unanimously supported by full Council on the 4th of December 2012.

Please explain why **Council did not defend their refusal in Court** on any of the listed reasons, particularly as the possibility of spontaneous combustion was cited as one of the reasons for refusal and since then a fire had occurred at the Rocky Point Biomass Plant and a fire had also occurred at the Phoenix site in December 2012.

2. **DIOXINS** We refer to Table 2(a) "Contaminant release to air" on page 266 of the court approval. Why didn't DEHP and Council's experts at the very least, specify and unconditionally insist on **continuous monitoring of dioxins** which are some of the most toxic and poisonous bioaccumulating substances on earth? An example of our deepest concerns occurred in Europe, where the level of dioxin in milk from cattle grazing near a biomass plant in the Netherlands was so high that the milk was declared to be a hazardous substance by the Dutch government.

We are led to believe that sporadic testing of dioxin levels such as 6 monthly intervals as suggested in the table can underestimate the actual emissions in the range of 30-50 times the actual amount.

We believe the World Health Organization (WHO) states that **no level** of dioxin is safe.

3. **FURTHER EMISSION REDUCTIONS** Knowing that many residences in Yatala are elevated and will be at eye level, directly in line with the top of the 30 metre biomass chimney top, why didn't DEHP and Council experts press for emissions to be minimised as much as possible, and at the very least specify or instruct that Selective Catalytic Reduction (SCR) equipment (known to be effective) be used?

We have noted that some 6 contaminants listed in Table 2 (a) are vastly **more** when compared to a European emissions standard i.e. (HF) Hydrogen Fluoride permissible level is one fiftieth of the proposed Phoenix permit. However as we are not the experts, this has yet to be confirmed.

4. **NOISE** We noted that on page 13 of the court approval documents that maximum permissible noise levels were further reduced from the DEHP's latest permit dated 3/4/2014 and are grateful for this small mercy and hope it is not a typo.

Eg	DEHP	Daytime 52 dB(A)	Evening 37 dB(A)	Night 31 dB(A)
	Court decision	Daytime 50 dB(A)	Evening 37 dB(A)	Night 31 dB(A)

Please confirm.

5. **POWER PLANT CAPACITY** We refer to Page 106 of the court approval document which states commissioning of a **10 Megawatt** power plant. We are very much aware that if the plant is run at 66% of it's capacity, that it will be considerably less noisy and resulting pollutant emissions will also be less, this will not be representative of the real life situation where the plant will be delivering a full 15 Megawatts to the grid and perhaps even more. Is this a typing error? Has the plant actually been commissioned for **10 or 15 Megawatt production**? Regardless, residents would like to be shown a copy of the final commissioned test report in which the actual operating levels will be assessed. Will this be provided?

6. **COMPOSTING – ODOURS & AEROSOLS** We note that unlike the original DEHP approvals for the open air windrow composting operation to continue as is, the court order document advises it will eventually be conducted in an enclosed shed to contain the odour and air emissions, both will be extracted with fans via a bio-filter prior to being exhausted into the atmosphere. **This is definitely a big improvement on what was originally approved as it reduces the odour and *Aspergillus Fumigatus* / *Legionella longbeachae* (spore) issues.**

However, we note that for all practical purposes due to the staging of this development we may not see the benefit for at least 2-3 years or however long it takes to complete the enclosure in Stage 1 and before it is operational, we will not see the full benefit until the enclosure is fully completed some 6-7 years from now.

We have not observed any mention of **quantitative testing for aerosols and aspergillus fumigatus** in the DEHP permit conditions - will this be done and the results made public? Can or will anything be done in the meantime to minimize the risk that we have been exposed to possibly since 1999 under current operating conditions?

7. **GREENWASTE SHREDDING** We note that 250,000 tons of greenwaste will be shredded in open air and we are aware that **this process releases large concentrations of fungal spores** (which also are a health risk causing serious illnesses) into the atmosphere/the air that we breathe. We have not yet managed to find any reference to tests or limits for this pollutant source in any of the DEHP permits issued for this operation. Has this issue **has** been addressed and if not what will be done to control and monitor these emissions?

8. **ASBESTOS** We note that the **crushing and grinding** of construction and demolition waste and commercial and industrial waste will be **conducted in the open air** using only water sprays to reduce dust. In DEHP's own words (attached) this has already proved to be inadequate at a number of sites on the Gold Coast. Considering that a large number of old homes and buildings in Queensland contain **asbestos**, what procedures are in place and what guarantee do we have that asbestos which can be very similar in appearance to fibre cement sheeting will not accidentally be mixed in the truck loads of waste destined for Phoenix?

Disclaimer: YRA is a working group of OPA, due to the limited time that we have had to read the material and are still in the process of assessing further information, none of the above material has been submitted to the OPA, as such we do not claim to represent the OPA committee's view on our concerns. It is up to the OPA and the public to read the material we have pointed to and make their own conclusions. We are not experts in any of the above fields, just concerned residents who will have to live with this decision.

Attachment:

Media release



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Wednesday 28 November 2012

Yatala power plant application refused

An application for a biomass power generation plant and waste transfer facility at Sandy Creek Road, Yatala, was rejected by Council's City Planning Committee today.

Committee Chair, Councillor Cameron Caldwell, said the application, by Phoenix Power Recyclers Pty Ltd, was refused based on the committee's concerns with a number of planning issues.

"The height of the chimney stack was a concern – given its proximity to residential areas, it was considered it did not fit in with local character of the landscape," he said.

"Secondly, the general amenity of the area would be impacted by odour emissions, hours of operation, noise and traffic.

"Another issue was the possibility of spontaneous combustion of the green waste, which would be used to generate power.

"The applicant could not guarantee long-term safeguards to protect residents from such an occurrence. In addition, the proposal does not ensure the minimisation of environmental harm to residents."

Divisional Councillor Donna Gates said although the technical aspects of the application had been approved by the State Government, Council needed to consider the impact of such a project on its ratepayers.

"Under the planning scheme, this area west of the motorway is considered appropriate for a mix of general and low impact business and industry depending on its proximity to residential areas," she said.

"This plant is just too close. The residents who live near the Yatala Enterprise Area deserve to have peace of mind in their own homes.

"We don't know what the health ramifications of this plant would be – and the residents don't deserve the uncertainty of a 24/7 cloud across their horizon, which gives cause for serious health concerns," said Cr Gates.

Cr Caldwell said noise compliance was also an issue.

"The applicant could not offer assurances that the design of the development, prior to construction, would comply with required noise levels," he said.

The committee recommendation will be considered by full Council on **4 December**.

Media Note: A recommendation from a Council Committee is not a formal Council decision. Committees make recommendations while decisions are only made by the full Council. This recommendation will be submitted to the next Council meeting for decision.