

## Comments on Applicant's Response

to Amanjit Gill's request to join the case

Veolia Recycling & Recovery Pty Ltd (Veolia) v Environment Protection Authority (EPA)

Prepared by Amanjit Gill

### Context

I made a submission on 28 May 2025 in support of my request to join the current case as a party. On 29 May 2025, the applicant, Veolia, responded to my submission. To ensure my arguments are understood as I meant them to be, I submit the following comments and corrections to Veolia's response.

### Argument I

Veolia says my first argument is "a critique of the EPA's conduct during the planning permit application and approval process"<sup>1</sup>. This misunderstands my argument. I have only discussed as much of the planning permit process as is necessary to point out that the EPA could have decided on the development licence application sooner if it had reviewed the technical documents properly at the planning stage<sup>2</sup>.

My argument sets out that the EPA's non-decision brings me closer to the adverse scenario I described in the introduction<sup>3</sup>, because it unlocked a pathway to approval through VCAT. If a timely decision had been made, Veolia may have pursued a review with the EPA before applying to VCAT; or, ideally, withdrawn its flawed application.

### Argument II

Veolia's claim that the Section 173 agreement I've referred to is not related to the development licence application<sup>4</sup> is spurious. It is true that the current Section 173 agreement is recorded on the titles for lots 1 and 2, while the waste transfer station is intended for lot 10A. However, the Section 173 agreement was made specifically to assist Veolia's proposed development; this is stated in my submission<sup>5</sup> and confirmed in the agreement itself, which says:

*The Owner wishes to retain ownership of Lot 4 to develop a waste and resource recovery centre on Lot 4 and surrounding land owned by the Owner*<sup>6</sup>.

If the development did not proceed, then the Section 173 agreement would no longer be necessary, allowing for its cancellation and, ultimately, the prevention of a land swap that disadvantages the City of Casey and its ratepayers.

---

<sup>1</sup> Veolia's response at [70].

<sup>2</sup> My submission at [5] of Argument I.

<sup>3</sup> My submission at [4] of Introduction.

<sup>4</sup> Veolia's response at [72].

<sup>5</sup> My submission at [5] of Argument II.

<sup>6</sup> Instrument AX452168Q recorded on titles 11078/842 and 11078/845.

### **Argument III**

Veolia asserts that my third argument is “centred around the grant of the planning permit”, which cannot be “validly challenged or questioned in the proceeding”<sup>7</sup>. Veolia again misunderstands my argument. I do not seek to challenge, question or even discuss the planning permit any more than is necessary to build an argument about the possible outcome of issuing the development licence. I make this plain in my submission<sup>8</sup>.

The approval process for Veolia’s proposed development is a chain of dependencies involving a planning permit, development licence and operating licence. This chain is also a chain of consequences, in that the penalties for negative impacts may be borne at any – or multiple – points along the chain. This means that the exposure of an improperly issued development licence may cause the exposure of improper decisions at the planning stage, too. Thus the issue of the development licence is relevant to costs that might be incurred by the issuer of the planning permit, the City of Casey.

Veolia also questions the invocation of Brookland Greens. I do not wish to claim that a landfill is comparable to a waste transfer station, as Veolia suggests<sup>9</sup>; rather, I cite Brookland Greens because it demonstrates a clear connection between an early decision to eschew cell linings and the later discovery of dangerous gas concentrations. It is this connection between past decisions and future outcomes that provides an entry point for litigation. The faults in Veolia’s application leave it, the EPA and the City of Casey vulnerable to the discovery of such connections in the future.

### **Other remarks**

Veolia says VCAT should refuse my application “on the basis of delay, inefficiencies and the EPA being a contradictor for the same reasons as articulated in relation to LRA’s application”<sup>10</sup>. However, the elaborations it provides in LRA’s case are specific to LRA<sup>11</sup>; they would not apply to me. Indeed, Veolia has not made a substantive argument – or any argument at all – for refusing my joinder application on the basis of delay and inefficiencies.

END

---

<sup>7</sup> Veolia’s response at [74].

<sup>8</sup> My submission at [1] of Argument III.

<sup>9</sup> Veolia’s response at [76].

<sup>10</sup> Veolia’s response at [78].

<sup>11</sup> Veolia’s response at [52-59].