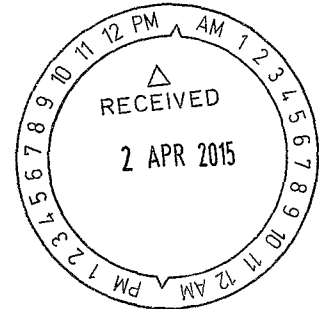


All enquiries to Health Services on 9526 1111  
Our ref: SJ1525-03:P05577/03:TT:rc  
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26 March 2015

Hon. Simon O'Brien MLC Chairman of the Standing Committee  
On Environment and Public Affairs  
c/o LC Committee Office  
GPO Box A11  
PERTH 6837



Dear Sir

**Environment and Public Affairs Committee - 39th Parliament  
Bio Organics - Petition Number 59, Tabled 16 September 2014  
Supplementary Submission**

The Shire of Serpentine-Jarrahdale (the Shire) wrote to the Chairman of the Committee on 5 December 2014 in relation to the above-mentioned Petition and a representative of the Shire attended the recent Hearing in relation to the matter on 23 March 2015.

It will be noted from the Shire's earlier correspondence that the Shire has a range of concerns relating to the Bio-Organics facility and the manner in which it has been regulated by the Department of Environment Regulation (DER) and its predecessors. Neighbours to the facility are very concerned about it, and the Shire believes that those concerns are justified. It is pleasing therefore to see that many aspects of these shared concerns have been voiced at the aforementioned Hearing.

The Shire has accumulated a substantial body of information relating to this matter through work carried out by the Shire itself, and also through the specialist expertise we have been required to engage to address the various issues the matter has given rise to. These experts are addressing legal, planning and environmental concerns (including dust, groundwater, odour and compost) on the Shire's behalf. However, as there are a number of legal proceedings involving the Shire which are as yet unresolved, including a review in the State Administrative Tribunal of the Shire's refusal to grant a planning approval and a planning prosecution against BioOrganics for an unauthorised land-use, it is considered to be inappropriate at this time for the Shire to provide documentation to the Committee in relation to this Inquiry, as to do so has the potential to complicate or prejudice the other proceedings.

Critically however, the Hearing did bring into the public arena a variety of issues that the Shire has been attempting to deal with for a number of years. In the Shire's view, these issues should not be taken lightly and require careful consideration given the implications for the Shire and its residents.

The Shire's concerns fall into 2 broad categories.

The first relates to the operation, regulation and environmental impact of the facility. The Shire has for some time been responding to alleged non-compliances from both a planning and environmental perspective at this site. Based on the information available, the Shire has formed the view that BioOrganics has acted in breach of both their environmental and planning approvals (albeit those approvals have now lapsed or have been revoked). The evidence available to the Shire also suggests that there are significant aspects to the operation that have not been authorised or adequately supervised under any legislation (e.g. the use of millions of litres of controlled liquid waste within the process).

The Shire's second broad concern, which may ultimately prove to be of the greatest significance, is the social implications of the matter. The events of the past years have led to an environment of concern, animosity, mistrust and anger within the local community. The neighbours are angry at the operators of the BioOrganics facility, and the feeling is reciprocated. Regrettably, these feelings within the community reverberate and are also directed from time to time towards both the Shire and the DER.

I believe the Shire has done what it can to respond to the numerous complaints, allegations and threats that have been made over the last few years. In more recent times the DER has taken decisive action, but in the Shire's view the prior inadequacy of regulatory control over BioOrganics in relation to its environmental obligations has contributed to the extent of the current problem. Evidence tendered at the recent Hearing suggests there are gaps in the information held by the DER (and its predecessor entities) and as a result, its knowledge of the BioOrganics operations, processes, products and discharges was seriously lacking.

The Shire has suspected for some time that this might have been the case. The DER joined with the Shire in investigating odour complaints in 2013, but other attempts by the Shire to involve the DER in relation to the investigations being undertaken were largely ignored. One might have had the expectation that the DER would work hand-in-glove with the Shire to attempt to address the variety of concerns that have been raised, but even after their investigations started in earnest in the last year or so it has been very difficult to obtain information or assistance from the DER. The Shire has been forced into a process of making Freedom of Information (FOI) requests to source relevant data and detail from the DER.

There may be explanations for the DER's actions, but Shire is of the view that, were a more cooperative approach employed between the two organisations, this matter might now be much closer to resolution. Better collaboration between the regulators would hopefully have also yielded significant improvements in relationships with the local community and provided for a greater sense of comfort and tolerance of the matter in the knowledge that the issues were being addressed by relevant Local and State Government authorities.

Notwithstanding the concerns highlighted above, the information that is now being provided by the DER is useful to the Shire and relevant to the various actions we are party to. As this information has, until recently, been lacking the Shire has been required to source its own expertise as a result (at considerable expense). What is pleasing to note however, is that there is considerable alignment between the work being undertaken by the DER and that of the Shire's experts. This suggests that the various points of view being put forward by the

Shire (and indeed by community and the DER) are not without basis and now appear to be supported by significant technical data.

Whilst the Shire is aware that there is still a considerable way to go to reach a conclusion to this matter, we trust that this Inquiry together with the information held by both the DER and the Shire, will mean that the process of resolution is facilitated. We also take some comfort that, as this information is released, our community will become better informed and more involved in the process. There will no doubt be a 'we told you so' response through this, but I believe that an environment of community consultation and involvement is a far better outcome and will be of assistance in relation to addressing any ongoing concerns.

The Shire looks forward to having this matter resolved and will assist the Inquiry process wherever possible.

Yours sincerely,

**Richard Gorbunow**  
**Chief Executive Officer**