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Waste-to-energy plant loses \$140K compensation bid

By Cam Lucadou-Wells

The proponent of a controversial waste-to-energy plant has lost its bid to slug Greater Dandenong Council with more than \$140,000 in legal costs and planning fees.

On 16 February, VCAT senior member Jeanette Rickards found it "would not be fair in the circumstances" to make a costs order for Great Southern Waste Technologies.

GSWT had sought \$131,527 legal costs against the council after being granted a permit for the plant at 70 Ordish Road, Dandenong South.

In late 2019, the council had approved the permit and then rescinded it. In September, GSWT won an appeal at VCAT - despite the council's opposition.

GSWT also sought the reimbursement of \$11,803 of planning application and daily hearing fees.

Ms Rickards dismissed GSWT's claim that the council had a weak or untenable case because it rescinded its original decision.

"Although GSWT may not have liked this outcome, it was perfectly within the council's right to rescind its decision.

"An award of costs is not a punishment."

GSWT submitted that the council belatedly applied for an adjournment to consider the EPA approval for the plant - handed down a week before the VCAT hearing in July.

But despite being given an extra three weeks, the council didn't provide additional information, GSWT argued.

"Council's conscious and deliberate decision to proceed to the hearing without preparing a case visited costs consequences upon GSWT and the Tribunal," GSWT submitted.

"This was especially evident on the first day of the hearing, which was wholly wasted

due to Council's failed, belated, adjournment application."

The council argued each side should bear its own legal costs and that its case was not without merit.

Greater Dandenong also launched and then withdrew an appeal against the EPA approval - just days out from a 1 February VCAT hearing.

Councillors were advised that the council was unlikely to win the appeal, and faced a potential legal bill of up to \$700,000 including GSWT's costs.

In an out-of-court settlement, the council agreed to bear some of GSWT's legal costs, according to GSWT.

Then-spokesperson for GSWT, Bill Keating, said construction was at least 12 months away until the plant's detailed design was finalised.

A viable, ongoing supply of waste also



needed to be secured prior to works, Mr Keating said.

The plant is expected to burn 100,000 tonnes a year of municipal household solid waste, commercial and industrial waste to produce 7.9 MW of electricity to the grid.