

# Representations from People Against Incineration (PAIN)

Comments on the Nottinghamshire and Nottingham Waste  
Core Strategy Proposed Submission Document

April 2012

## **Part A – Personal details**

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**If you are replying on behalf of an organisation or group, how was the response approved and how many people does it represent (where applicable)?**

People Against Incineration (PAIN) is a Nottinghamshire-based community group with hundreds of members and thousands of supporters. PAIN played an active role in the public inquiry into Veolia's proposals for a waste incinerator at the former Rufford Colliery.

PAIN maintains a keen interest in promoting sustainable waste management in Nottinghamshire, and we remain committed to continuing to make positive contributions towards the development of a sound Waste Core Strategy for Nottingham and Nottinghamshire.

This consultation response should be read in conjunction with earlier submissions from both PAIN and Mansfield Against Incineration (MAIN), e.g. MAIN's consultation submission for the first informal consultation which ran between October and December 2006.

Shlomo Downen has been authorised to handle all matters pertaining to the Nottinghamshire and Nottingham Waste Core Strategy consultation process by PAIN's Executive Committee.

**Do you wish to be notified of any of the following? (please tick as appropriate)**

The submission of the Core Strategy for independent examination	✓
The publication of the recommendations of the inspector	✓
The adoption of the Core Strategy	✓

**If your representation(s) is seeking a change, do you consider it necessary to participate at the oral part of the examination?**

Yes, I wish to participate at the oral examination

**If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:**

PAIN has a significant longstanding interest in Nottinghamshire waste planning matters and valuable experience and expertise to assist the Inspector. PAIN raises fundamental issues with regard to the soundness and legality of the proposed Waste Core Strategy and has made various substantial submissions on this and related matters. An oral hearing will help ensure that the issues that we raise, some of which are quite complex, are properly addressed, and our participation would allow PAIN to expand upon and clarify points made in writing if necessary to help ensure that the resulting plan is both lawful and sound.

**Signed:** Shlomo Downen

**Date:** 30<sup>th</sup> April 2012

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## Section 2 – Key principles and policy background

### Paragraph 2.5

“...there are no formal targets for other wastes...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

1. A paragraph should be added to the ‘National’ sub-section that adequately explains the statutory packaging recycling targets.

#### » Justification

2. The quoted assumption does not take account of the national policy on packaging recycling targets, and therefore needs to be updated.
3. Paragraph 2.171 of the March 2012 Budget stated that: “The Government will legislate later in 2012 for increased statutory packaging recycling targets from 2013 to 2017. Targets will increase annually by 3 per cent for aluminium, 5 per cent for plastic and 1 per cent for steel. Glass recycling targets will be split by end use”.

### Paragraph 2.10

“...This [the East Midlands Regional Plan] includes specific estimates on the minimum level of new waste management capacity, by type, that is likely to be needed within each waste planning authority area.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

4. Paragraph 2.10 should be updated to read: “...This included specific estimates regarding the minimum level of new waste management capacity, by type, that had been thought at the time as likely to be needed within each waste planning authority area. Subsequent to these estimates having been adopted, circumstances have changed significantly and there is important new information to take into account, and as such it is necessary to revise the annual rates of waste to be managed.”

#### » Justification

5. It is not justified to state that the EMRP estimates reflect new waste management capacity that “is likely to be needed”.
6. It is widely recognised that subsequent to the publication of the EMRP, annual monitoring has demonstrated the need to revisit the EMRP estimates.
7. Subsequent to the adoption of the Regional Spatial Strategy (EMRP) circumstances have changed significantly, and new information needs to be taken into account in relation to anticipated annual rates of waste to be managed and the pattern of waste management facilities, as per Paragraph 14 of PPS10.
8. In Paragraph 16 of his Decision Letter for the Rufford Inquiry (PINS ref 2102006) the Secretary of State agrees with Paragraphs 1203 and 1205 of the Inspector’s Report.

9. Paragraph 1203 states that: “The fall in MSW may be due, at least in part, to the effects of the recession. To some extent, it may also reflect the success of policies designed to reduce waste arisings. Whatever the cause, annual monitoring suggests that the amount of MSW requiring management across Nottinghamshire is likely to be considerably less than had been suggested when the ERF application was made...”
10. Paragraph 1205 states that: “Actual MSW arisings, across the city and county in 2009/10, appear to be more than 140,000 tpa below the (EMRP) expected figure of 710,000 tpa. To my mind this is a significant change and one that is unlikely to have been caused by recessionary effects alone, bearing in mind that household waste per head peaked in 2002/3 and has dropped every year since 2004/5. An upturn in the economy might be expected to slow the observed trend, but not necessarily reverse it”.
11. This discrepancy was already the subject of previous PAIN submissions, where we called attention to the relevance of the Rufford Decision, e.g. on the 28<sup>th</sup> May 2011. Indeed, PAIN made this point as early as our November 2010 submission, e.g. at Paragraph 3.1.5.
12. Additionally, in an e-mail message posted on 26<sup>th</sup> July 2011, PAIN called the Nottinghamshire County Council's Planning Policy Team's attention to Paragraph 14 of PPS10's section entitled "Implementing the regional spatial strategy", which reads as follows: “Where circumstances have changed significantly, or there is important new information to be taken into account, the presumption should be that the RSS should be revised before local development documents are next reviewed. Where this is not practicable, revisions to annual rates of waste to be managed, or to the pattern of waste management facilities, should take place in the context of advice from the regional planning body, information from the regional planning body's and the waste planning authority's monitoring reports, comments from other stakeholders and advice from the Government Office.” [Emphasis PAIN's]
13. Therefore the assertion in Para 2.10 of the Proposed Submission Document is neither justified nor consistent with national policy, and should be updated.

***Inset: 'Waste - who does what?' (Page 15, following Paragraph 2.17)***

“Local councils (district and unitary councils) are only responsible for collecting municipal waste. All other waste is collected and managed by private sector companies. This is agreed and paid for by individual businesses, shopkeepers, building contractors etc. outside of the control of the local authority...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

**» Necessary changes**

14. These sentences should be replaced with: “Local authorities (district and unitary councils) are only responsible for collecting municipal waste. Other waste is either collected by local authorities as trade waste or collected and managed by private sector companies...”

» **Justification**

15. Some local authorities collect trade waste, so it cannot be justified to imply that only private companies collect trade waste. Left uncorrected, the statement could result in double-counting.

“The Environment Agency is separately responsible for ensuring that there is no pollution risk from waste sites.”

16.  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

17. This sentence should be replaced with: “The Environment Agency is an environmental regulator with responsibility for regulating waste management activities covered by the environmental permitting regime. Most waste management activities require an environmental permit from the Environment Agency, and these permits can impose limits on allowable emissions.”

» **Justification**

18. The Environment Agency (EA) is not responsible for “ensuring that there is no pollution risk from waste sites”.
19. Firstly, the EA grants environmental permits that allow for pollution, albeit within agreed limits. As such, it cannot be justified to say that the EA is responsible for ensuring that there is “no pollution risk”. Indeed, the EA is capable of granting permits in some circumstances where the possibility exists for the agreed limits to be exceeded.
20. Secondly, the EA regulates waste management activities rather than all that goes on at waste sites. To quote Paragraph 20 of the Fresh Growers Appeal Decision (PINS ref 213083): “Of significance to my consideration of this issue is the fact that composted material remains ‘waste material’ until it meets the requirements of the BSI Quality Protocol PAS 100 for compost, with on-site testing to confirm that the compost is ‘non-waste’ material. Once the PAS 100 standard is met, it would not be necessary for the operator to obtain an environmental permit for the handling and storage of this material on land adjacent to the Fresh Growers site...”
21. Thirdly, there are waste management activities that are not regulated by the EA under the environmental permitting regime. See Annex A of England's Waste Infrastructure: Report on Facilities Covered by Environmental Permitting – available from <http://publications.environment-agency.gov.uk/PDF/GEHO1011BTXV-E-E.pdf>

## Section 4 - Waste management context

### Paragraph 4.2

“The most recent estimates suggest that Nottinghamshire and Nottingham produce just over 2.5 million tonnes of waste a year. This is significantly below the previous average of around 4 million tonnes a year. Some of this fall is thought likely to be the result of the recession which has affected consumer spending, manufacturing, and construction especially, but it may also be partly due to growing waste awareness and resource efficiency amongst waste producers.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

22. The second sentence should be replaced with: “This is significantly below our previous estimated projection of around 4 million tonnes a year.”
23. The third sentence should be replaced with: “This discrepancy is caused by reliance on out-of-date waste projections that assumed higher waste arisings than subsequently occurred.”
24. Further sentences should be added, as follows: “Recent arisings figures could be lower due to the recession which has affected consumer spending, manufacturing, and construction especially, but there has been a general downward trend in waste arisings that pre-dates the recession. This general trend is due in part to growing waste awareness and to increased resource efficiency amongst waste producers and to the success of the landfill tax and other policy and legislative drivers. Defra’s June 2011 Economics of Waste and Waste Policy report states that the national downward trend in arisings since 2003 points to some potential decoupling of waste from economic growth, and calls into question the value of using expenditure as the driving factor in forecasting waste arisings”.

#### » Justification

25. The matter of inflated waste arisings projections has been the subject of numerous and detailed PAIN submissions, within the context of the Waste Core Strategy consultation and the Rufford inquiry (PINS ref 2102006).
26. The East Midlands Regional Assembly Waste Data Monitoring Report (February 2007) recognised, at Paragraph 6.2, that: “...since 2003, there has been a marked departure from the steady historical upward trend”. This is around half a decade prior to the first recent recession, and nearly a decade before the current recession.
27. While it is certainly true to say that waste arisings have declined, and have been less than had been forecast by Nottinghamshire County Council and the EMRP’s adopted projection, there is no evidence to show that waste arisings in Nottingham and Nottinghamshire (excluding waste from collieries and power stations) ever reached 4 million tonnes a year.

28. The paragraph needs to be re-worded to better distinguish between the discrepancy associated with the projection and the actual fall in waste arisings.

#### *Paragraph 4.5*

“...Approximately, 300,000 tonnes was landfilled within Nottinghamshire during 2009 but there is very little information on how much of this waste originated here or how much of our waste is landfilled outside the county.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

##### **» Necessary changes**

29. Further efforts are needed to more accurately account both for cross-border movements of waste and for reductions in waste landfilled in order to arrive at justifiable figures. Such efforts should include closer scrutiny of data sources, and better coordination with neighbouring Waste Disposal Authorities, e.g. Derbyshire.

##### **» Justification**

30. Whilst it is possible that 300,000 tonnes of C&I waste was indeed landfilled in Nottinghamshire in 2009, by 2010 this fell to only 200,000 tonnes, presumably due to better access to the Erin Void landfill site (just over the border in Derbyshire) and to the increase in the landfill tax rate.
31. It is worth noting that waste flows repeated between Nottinghamshire and Derbyshire are most likely due to the road network crossing the M1, and that some of Nottinghamshire’s waste appears to have been taken into Derbyshire via waste transfer stations before returning to Nottinghamshire.

#### *Paragraph 4.16*

“The existing incinerator at Eastcroft, in Nottingham, takes up to 160,000 tonnes of municipal waste a year but has permission for a third line to take an additional 100,000 tonnes of either municipal or commercial and industrial waste. There are no other energy recovery facilities for municipal waste within the Waste Core Strategy area. Proposals have been put forward for facilities in Rainworth, Nottinghamshire, Derby and at Shephed in Leicestershire but these sites were refused planning permission and are currently subject to legal proceedings. A 150,000 tonne facility is currently under construction near Lincoln and there is an operational energy from waste incinerator in Sheffield which can take up to 225,000 tonnes per year.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

##### **» Necessary changes**

32. The first sentence should be replaced by the following sentences: “The existing incinerator at Eastcroft, in Nottingham, currently takes up to 160,000 tonnes of municipal and C&I waste a year. As the result of refurbishment the Eastcroft facility can now handle more waste than this, and WasteNotts have therefore applied to increase the permitted incineration capacity of the two existing lines to 200,000 tonnes (i.e.

100,000 tonnes per line). WasteNotts has also received planning permission for a third 100,000 tonne line and has applied for a permit to accept up to 300,000 tonnes of waste a year. WasteNotts have also stated that Eastcroft could expand further with a fourth line, but have yet to apply for planning permission or an environmental permit.”

33. The following sentence should also be added: “The 120,000 tonne per annum Kirk Sandall (Doncaster) incinerator has received planning permission, and is not subject to legal proceedings.”

» **Justification**

34. The first sentence should acknowledge that Eastcroft can already handle up to 200,000 tonnes per annum, and that the Environment Agency is expected to allow for this.
35. The Eastcroft incinerator is already permitted to accept waste other than (Local Authority Collected) Municipal waste, and can burn waste including Commercial and Industrial waste. Our understanding is that the permission for the third line places no restriction on the source of waste, and this capacity could comprise municipal and/or business (Commercial and Industrial) waste.
36. If granted, the environmental permit would give the Eastcroft facility a maximum annual permitted capacity of 300,000 tpa upon completion of development of the third line (which has technically begun construction).
37. In their Issues and Options consultation response, WRG (now known as FCC) said that Eastcroft "could expand further with a 4th line", and if approved this could be expected to increase Eastcroft’s capacity to 400,000 tpa. This prospect should be reflected in the Submission Document, although not in a way that endorses an increase in incineration capacity.

**Paragraph 4.17**

“Disposal capacity has fallen significantly over the last ten years with only four non-hazardous landfill sites remaining. At the end of 2010 there was sufficient capacity for around 4.7 million m<sup>3</sup>, or 4 million tonnes, of waste but not all of this capacity is likely to be available...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

38. The second sentence should begin: “At the end of 2010 there was sufficient capacity for around 4.7 million m<sup>3</sup>, or approximately 4 million – 6.3 million tonnes...”
39. Additionally, mention should be made of the use of inert material for landscaping, and an estimate of the quantities of material involved should be included.

» **Justification**

40. The calculation used to convert landfill void space into tonnes of capacity depends on the density assumptions of the material that is to be landfilled, and therefore any

estimate should make explicit these underlying assumptions, and/or a range should be provided that makes clear the uncertainties regarding landfill density.

41. These assumptions should be supported with justification, and should take account of PAIN's earlier submissions, including at paragraph 3.1.6.4 of our November 2010 consultation response, where we noted that: "To support better strategic planning, PAIN advocates for the use of higher landfill density assumptions. These should be based on local studies demonstrating actual in-situ densities, and in lieu of such local studies, a minimum in-situ density of 1.1 – 1.34 per cubic metre should be used, in accordance with the Staffordshire and Stoke-On-Trent Waste Local Plan Inspector's Report on Objections".
42. Details of the anticipated quantities of inert waste used for landscaping should also be included, such as the 100,000 tonnes to be used for landscaping at the Park Hall Golf Course in Mansfield Woodhouse.
43. We also note that in the Rufford Incinerator decision the Planning Inspector stated (at Paragraph 1220) that: "Landfill capacity within Nottinghamshire has been falling, but evidence to show that void space available to the waste disposal authority is dangerously close to running out, is not persuasive. Annual monitoring data, for the county, paint a confusing picture and estimates of the remaining permitted capacity range from some 13 years down to significantly less than 10 years. Also, the rate at which new space will become available within Nottinghamshire is not clear. Nevertheless, Veolia's contract allows them to use a landfill site just outside the county boundary where, notwithstanding the needs of the neighbouring authority, there is very substantial capacity remaining. Therefore, if it is found that there is a need for the ERF, a shortage of landfill capacity does not add urgency to meeting that need".
44. This statement accorded with the evidence given at the inquiry by Nottinghamshire County Council's Mick Allen, and is supported by the Secretary of State.

#### **Paragraph 4.18**

"...Trade waste is not accepted at the City or County's HWRC sites..."

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

45. The quoted sentence should be replaced with: "Trade waste is not currently accepted at the City or County's HWRC sites but the Government is encouraging local authorities to accept business (SME) waste at HWRCs and other bring bank recycling facilities."
46. Alternatively, it could be replaced with: "Trade waste is not currently accepted at the City or County's HWRC sites, but the Waste Authorities intend for business (SME) waste at HWRCs and bring bank recycling facilities to be accepted at an affordable cost to the business user where practicable."

## » Justification

47. In our submission to the Waste Core Strategy Preferred Approach Consultation PAIN stated that: “Re Para 4.26: Based on Paras 75 and 157 of the Waste Review, we suggest better use is made of HWRCs for C&I recycling and as part of a reuse network. A smaller number of reuse parks (more accurate than 'resource recovery parks') could be 'supplied' by material brought to HWRCs” (Representation ID: 20572).
48. The June 2011 Review of Waste Policy states at Paragraph 157 that: “We want to help smaller businesses to recycle by using existing infrastructure more effectively, which will impact positively on the cost and convenience of services. In particular, we want to encourage local authorities to consider whether Household Waste Recycling Centres (HWRC), and other bring bank recycling facilities, could be adapted to accept business waste and recycling at an affordable cost to the business user. Accepting business waste and recycling at HWRCs may also have a subsidiary benefit to local authorities and household residents; a number of sites are currently under threat of closure due to financial pressures, but the revenues generated from accepting business waste could help provide the funds needed to keep the sites open. Through WRAP, we will provide guidance to authorities on how they can resolve practical issues associated with adapting HWRCs and ensure charging is fair, easy to understand and transparent to business.”
49. Defra’s March 2012 report *Red Tape Challenge – Environment Theme proposals* states on pages 2 and 3 that: “You repeatedly highlighted the problem of fly-tipping and said that small businesses should be able to use household waste disposal sites...We want to help local authorities open up their sites to small businesses. We are working to help local authorities improve access to small and medium enterprises (SMEs) to both their Civic Amenity sites and their kerbside collections. We are looking to remove some of the identified barriers to this by, for example, improving advice on charging structures; removing the Landfill Allowance Trading Scheme regulations; addressing infrastructure gaps, storage constraints and planning and permitting issues; and reducing reporting requirements. Last year we launched a Local Authority and Business Recycling and Waste Services Commitment which commits local authority signatories to adopt the 12 best practice principles designed to improve SME access to services. So far seven local authorities have signed up to the commitment, and more are planning to do so, including some who have never offered business recycling and waste services.”

### Paragraph 4.20

“There are no energy recovery facilities for commercial and industrial waste within the plan area although the permitted extension to the Eastcroft Incinerator, in Nottingham, could take up to 100,000 tonnes a year in future. The only other potential capacity is the Sheffield incinerator which is licensed to take some commercial and industrial waste.”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

50. This paragraph should be replaced with: “There are currently no energy recovery facilities dedicated to processing mixed commercial and industrial waste within the plan area. However, the Eastcroft Incinerator in Nottingham can currently accept mixed commercial and industrial waste. It is anticipated that as Nottingham and Nottinghamshire reduce residual municipal waste arisings a greater proportion of the existing Eastcroft capacity will be available for C&I waste. Furthermore, Eastcroft’s overall capacity for waste is expected to increase and this could allow for even more C&I waste to be incinerated at Eastcroft (see Paragraph 4.16, above). There is also existing capacity at the Sheffield incinerator which is licensed to take some commercial and industrial waste. Furthermore, there are also proposals for the introduction of waste wood incinerators both within and around the strategy area, as well as the prospect of using capacity at other existing and emerging incinerators, including gasification facilities designed to process Refuse Derived Fuels (RDF).”

### » Justification

51. Eastcroft is currently permitted to burn C&I waste even without the extension, and it would be misleading to overlook the growing capacity for burning waste wood and mixed commercial and industrial waste (directly, or in the form of RDF).

52. Note: References to possible waste incineration capacity should be worded carefully so that statements cannot be misinterpreted as endorsing increased waste incineration.

### *Paragraph 4.21*

“Nottinghamshire and Nottingham’s commercial and industrial waste that is not recycled or sent elsewhere for energy recovery, is therefore landfilled. Commercial and industrial waste accounts for around two thirds of the waste that is disposed of in our remaining non-hazardous landfill sites...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

53. The statement that: “Commercial and industrial waste accounts for around two thirds of the waste that is disposed of in our remaining non-hazardous landfill sites...” should be replaced with: “Commercial and industrial waste accounts for around half of the waste that is disposed of in our remaining non-hazardous landfill sites...”, and the figures for C&I waste arising should be adjusted accordingly, i.e. reduced to roughly the same as MSW.

54. The statement that “Nottinghamshire and Nottingham’s commercial and industrial waste that is not recycled or sent elsewhere for energy recovery, is therefore landfilled” should be evidenced or removed.

### » Justification

55. According to official statistics, at a nation level, roughly the same quantities of C&I waste is landfilled as MSW, and no robust evidence is provided to demonstrate that this national trend is not replicated in Nottinghamshire and Nottingham.
56. According to Defra, in the 2010 calendar year English councils landfilled 11.5m tonnes of MSW. Once the waste data from Scotland, Wales and Northern Ireland is added to the English figures the result amounts to approximately half the 25.7m tonnes of waste landfilled according to HMRC standard rate landfill tax statistics. As half of the waste landfilled at the standard rate in the UK was MSW, then it stands to reason that the other half was C&I.
57. According to the Environment Agency's waste trend statistics, Nottinghamshire's non-inert HIC (Household, Industrial and Commercial) sent to landfill in 2010 was 356,000 tonnes. Yet again MSW landfilled by the two Councils was around half of this figure, meaning that the other half was composed of C&I.
58. A similar result should be produced through using the EA's "National Waste Interrogator".

### *Table 1 (page 29)*

"Table 1 Summary of Existing Waste Treatment Capacity ('000 tonnes per annum)...Source: Environment Agency data for 2009 and County and City Council planning records."
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↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

59. Produce an accompaniment to Table 1 that lists all of the sites and their treatment capacities by waste type and stream and how they correlate to the summary, and to explain the categories used and methodologies employed, e.g. to apportion waste to each category.
60. Update Table 1 to be based on the latest available data. Where facilities can handle more than one waste stream (e.g. municipal and C&I) this should be made clear, e.g. to show the ability of the Eastcroft incinerator capacity to be used for C&I waste as well as municipal waste.
61. Data from adjacent Waste Authorities should be provided.

### » Justification

62. Justification must be provided to support the figures used in Table 1, particularly as the sources given ("EA data for 2009 and County and City Council planning records") are not sufficiently specific to enable independent verification.
63. No direct correlation has been made between the figures in the "Existing Waste Management Sites in Nottinghamshire and Nottingham" background document and the Table 1 summary, and it is not clear whether or not the background document can be relied upon to aid understanding of Table 1.

64. The background document does not state which estimates are based on EA data and which are based on planning records, nor is the currency of the data made clear. The background document uses different categories to those used in the Table 1 summary. Similarly, no methodology is provided to handle situations where these two data sources conflict.
65. The capacity given in the background document for the Mansfield MRF is 80,000 tonnes, but the Veolia website and Nottinghamshire and Nottingham October 2006 Issues and Options document (Page 18) give a figure of 85,000 tpa. The planning consent allows for 85,000 tonnes of dry recyclable waste to be processed as well 5,000 tonnes of street cleansing waste, and the environmental permit (Ref. MP3298ES / 100283) is for 90,000 tonnes. No explanation is provided to clarify this, or any other, inconsistency.
66. Eastcroft can accept C&I (see above), and therefore it is not justified to imply that it cannot in either Table 1 or the aforementioned background document. This casts doubt on whether other attributions to municipal and C&I waste are similarly incorrect, as does the fact that no methodology is provided to attribute HIC capacity (i.e. capacity that can be used for either C&I or municipal waste).
67. It is unclear how Nottingham's MBT (residual waste MRF) capacity and how the County's C&I biomass capacity are handled within Table 1.
68. Up-to-date information from neighbouring Waste Authorities should also be supplied to enable a better understanding of the waste management treatment options available to businesses located in the Nottinghamshire and Nottingham Plan area, and to help appreciate the cross-boundary movement of all types of waste.
69. Such an approach would be consistent with Paragraph 263 of the Government's June 2011 Waste Policy Review: "...there is the need for councils to work together and look at waste management needs across different waste streams and across administrative boundaries. The Localism Bill will introduce a duty to cooperate for local authorities which will help ensure that opportunities to explore such trans-boundary options are not missed. There is no requirement for individual authorities to be self sufficient in terms of waste infrastructure and transporting waste to existing infrastructure to deliver the best environmental solution should not be considered a barrier".
70. The EA's 2010 National Waste Interrogator provides the following (provided overleaf) for a portion of Nottinghamshire and Nottingham's waste treatment capacity (excluding incineration and co-incineration, dedicated biomass, power station ash and C&D waste):

<b>Treatment</b>	<b>Nottingham City</b>	<b>Nottinghamshire</b>	<b>Combined Total</b>
<i>Anaerobic Digestion</i>			0
<i>Biological Treatment</i>		48,542	48,542
<i>Chemical Treatment</i>			0
<i>Composting</i>		39,462	39,462
<i>Haz Waste Transfer / Treatment</i>	7,965	57,422	65,387
<i>Inert Waste Transfer / Treatment</i>		54,088	54,088
<i>Material Recycling Facility</i>	547	86,262	86,809
<i>Mechanical Biological Treatment</i>			0
<i>Non-Haz Waste Transfer / Treatment</i>		87,201	87,201
<i>Physical Treatment</i>	12,077	320,902	332,979
<i>Physical-Chemical Treatment</i>		18,634	18,634
<i>WEEE treatment facility</i>			0
<b>Totals</b>	<b>20,590</b>	<b>712,513</b>	<b>733,103</b>

71. The EA National Waste Interrogator records the following waste inputs for 2010 (excluding incineration):

Sum of 2010 Input (tonnes)		Nottingham City	Nottinghamshire	Grand Total
Landfill	Inert LF		228,900	228,900
	Non Hazardous LF		404,017	404,017
	Restricted LF		581,104	581,104
MRS	Car Breaker	1,300	11,295	12,595
	Metal Recycling	249,470	74,201	323,671
	Vehicle Depollution Facility	2,890	68	2,958
On/In Land	Deposit of waste to land (recovery)		23,404	23,404
Transfer	CA Site	7,013	97,573	104,586
	Clinical Waste Transfer	746	480	1,226
	Haz Waste Transfer	88,472	18,186	106,658
	Inert Waste Transfer	189	15,425	15,614
	Non-Haz Waste Transfer	48,398	156,016	204,414
Treatment	Biological Treatment		48,542	48,542
	Composting		39,462	39,462
	Haz Waste Transfer / Treatment	7,965	57,422	65,387
	Inert Waste Transfer / Treatment		54,088	54,088
	Material Recycling Facility	547	86,261	86,808
	Non-Haz Waste Transfer / Treatment		87,201	87,201
	Physical Treatment	12,077	320,902	332,979
	Physical-Chemical Treatment		18,634	18,634
<b>Grand Total</b>		<b>419,067</b>	<b>2,323,181</b>	<b>2,742,248</b>

72. The EA Waste Infrastructure Data Tables report the following data for permitted capacities (arranged by WIP category):

Sum of Permitted Annual Tonnage		Nottingham	Nottinghamshire	Grand Total
Composting	Open Windrow	75,000	49,999	124,999
Hazardous waste treatment	Hazardous waste treatment including oil	24,500		24,500
	Oil treatment	24,999	236,249	261,248
Incineration	Clinical	6,500		6,500
	Municipal	260,000		260,000
Landfill	Inert		509,999	509,999
	Non Hazardous		1,529,000	1,529,000
	Non Hazardous (PFA)		2,060,000	2,060,000
MRF	MRF	25,000	5,000	30,000
Other Biological Treatment	Tankered Effluent Treatment at Sewage Works		150,000	150,000
Other EfW	Gasification		75,000	75,000
Specialist treatment	Clinical Waste		8,008	8,008
	Container Recovery		25,000	25,000
	Inert and/or Construction waste treatment		357,877	357,877
	Non hazardous waste treatment		100,000	100,000
	Tyre treatment		49,999	49,999
	WEEE		75,000	75,000
Transfer	Clinical waste transfer	10,716	5,000	15,716
	Clinical Waste Transfer with Treatment	25,000		25,000
	Hazardous waste transfer	50,000	308,847	358,847
	Hazardous waste transfer with treatment	74,999	25,000	99,999
	HIC waste transfer	222,058	738,965	961,023
	HIC waste transfer with treatment	24,999	343,452	368,451
	Household Waste Amenity Site	25,000	476,998	501,998
	Inert / non biodegradable waste transfer	30,000	25,000	55,000
	Inert / non biodegradable waste transfer with treatment		115,000	115,000
<b>Grand Total</b>		<b>878,771</b>	<b>7,269,393</b>	<b>8,148,164</b>

73. Note: The Mansfield MRF is listed as “Inert / non biodegradable waste transfer with treatment” in the Waste Infrastructure Data Tables.

74. Where ranges were provided in the Waste Infrastructure Data Tables the upper bound of the range was used, and where it was indicated that the figure was a maximum/minimum then the figure given was used as if it were the permitted annual tonnage.

75. Information from the National Waste Interrogator and EA Waste Infrastructure Data Tables cannot be re-used without a license from the Environment Agency and are not guaranteed to be accurate.

76. The data from the EA Waste Infrastructure Data Tables report above does not include either metal recycling or end of life vehicle treatment.

77. It should also be noted that the quantity of waste that was actually landfilled was well below the maximum permitted capacity, and that there is the prospect of double counting of waste that goes through transfer stations and is subsequently recycled, landfilled or incinerated.

78. Nottingham City’s December 2010 Municipal Waste Management Strategy refers, on page 20, to the fact that: “Nottingham also utilises a Materials Recovery Facility (MRF) to

sort its commingled recyclables and a residual waste MRF that sorts other fractions of the City's household and non household waste (e.g. skip wastes, Household Waste Recycling Centre residual waste etc.). Both of these facilities are located on the Colwick Industrial Estate and are owned and operated by Wastecycle with waste supplied under contract with the City Council". The "residual waste MRF" capacity is not included under the Mechanical and Biological Treatment capacity figures included at Paragraph 70, above.

### **Paragraph 4.26**

"The East Midlands Regional Plan, published in March 2009, sets out best and worst case estimates of future waste arisings for each Waste Planning Authority until 2025. For Nottinghamshire and Nottingham this suggests anywhere between 5 and 7 million tonnes of waste per year depending on the level of future waste growth. Table 2 below shows the best case estimate whilst Table 4, overleaf, shows the overall amount of capacity that the Regional Plan expects us to provide (see paragraph 4.29)."

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

79. This paragraph is inaccurate, and should be corrected, with anticipated waste levels revised down to a maximum of 560 ktpa for municipal, 900 ktpa for C&I waste, and 940 ktpa for C&D, i.e. no more than 1.5 million tonnes of HIC per year and 2.4 million overall (excluding power station ash).

#### **» Justification**

80. The EMRP did not set out best and worst case estimates; instead, the Plan refers to a number of potential scenarios, and includes a range of estimates based on historic waste data and technical reports. This data pre-dates a range of commercial and legislative drivers.

81. The EMRP does not "expect" that the capacity outlined in Tables 2 and 4 would be provided in circumstances where annual monitoring suggests that EMRP estimates have proven not to be accurate, as is the case.

82. This matter was addressed by the Planning Inspector and the Secretary of State when considering the Rufford incinerator proposal, as is reflected in PAIN's representations on Paragraph 2.10 of the Proposed Submission Document (above).

83. As PAIN stated in our Closing Statement for the Rufford Inquiry: "As Mr. Kondakor explained in his oral evidence, one of the reports (PA62) [Development Of A Regional Waste Strategy For The East Midlands Final Technical Report Prepared for the East Midlands Regional Technical Advisory Body by Land Use Consultants and SLR Consulting Ltd January 2003] that informed the Regional Spatial Strategy (CD7) [also known as the EMRP] and Regional Waste Strategy (CD41) outlined four different waste growth scenarios for the East Midlands, including a no-growth scenario. With reference to the latest East Midlands waste data (SOCG8) he noted that the no-growth scenario was very

close to the current waste arisings data for the Region, whilst the scenario reflected in the Regional Spatial Strategy and the Regional Waste Strategy has proved demonstrably inaccurate. The East Midlands Regional Assembly recognised the need to revisit these scenarios in light of more accurate waste data becoming available showing a departure from the anticipated upward trend: “The PPS10 companion guide (CD27) emphasises the need for 'monitoring and regular review' to ensure that waste data used is robust and up-to-date. This requirement is particularly pertinent to the case of MSW arisings, for which, since 2003, there has been a marked departure from the steady historical upward trend. As depicted In Figure 6-1, this is true for both the East Midlands, and England as a whole. If MSW arisings data for future years continues to exhibit this feature, it is arguable that arisings forecasts should be re-evaluated to reflect the downturn” [CD96 Para 6.2]. Mr. Kondakor noted in his oral evidence that waste arisings have continued to exhibit the feature of departing from the historical upward trend”.

84. The January 2003 Land Use Consultants and SLR Consulting Ltd report relies on waste data from the 1990’s, and predates both the £8 per annum landfill tax escalator and the 2007 National Waste Strategy.

### *Paragraph 4.28 and Table 3*

“A more recent estimate of future waste arisings was produced in 2010 as part of work carried out on behalf of all of the East Midlands Waste Planning Authorities. This resulted in a single lower estimate of up to 5 million tonnes a year and was broadly in line with the best-case estimate in the East Midlands Regional Plan (Tables 2 & 3)...Table 3 Revised Estimate of Waste Arisings (‘000 tonnes per annum)...Source: RPS Study 2010”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

85. Estimates contained within Table 3 need to be replaced with (or supplemented by) more accurate and current estimates, which take account of national policy and actual trends. As a worst case scenario this should reflect a no-growth situation, with waste arisings held at around the 2009 level (i.e. 560 ktpa municipal waste, 900ktpa C&I and 940ktpa C&D waste for 2015, 2020 and 2025 across the plan area).
86. Update other paragraphs, e.g. 4.28 – 4.35, to reflect these changes as appropriate.

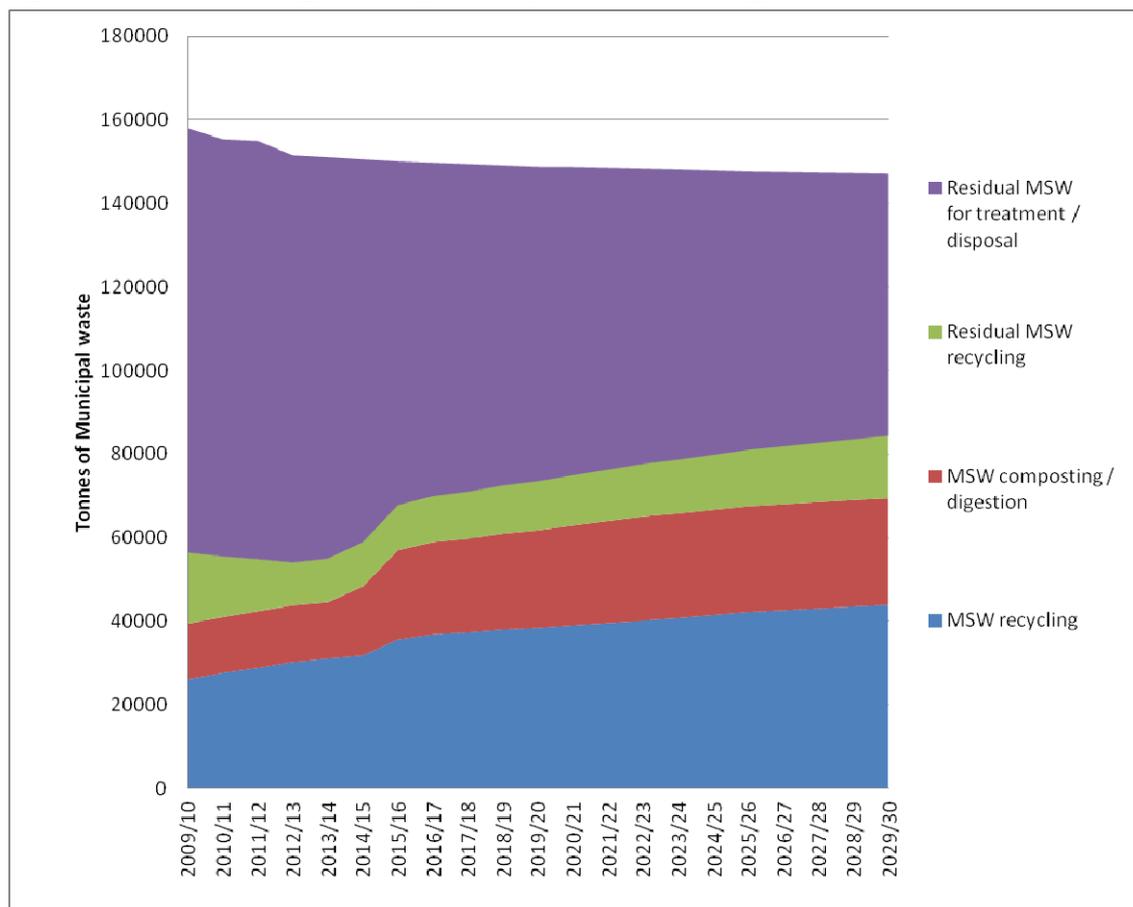
#### **» Justification**

87. Whilst we recognise the need to revise the figures (see our comments made in relation to Proposed Submission Document Paragraph 2.10, above), PAIN does not agree that it would be justified or sound to rely upon the estimates contained in Table 3 as the basis for the Waste Core Strategy. These estimates have already been proved wrong by subsequent waste arisings data.
88. In our representation submitted as part of the Waste Core Strategy Preferred Approach consultation PAIN made it clear that: “Estimates of future waste arisings should take into

account local circumstances and, as per PPS10 Companion Guide para 4.13, relevant commercial and legislative drivers”.

89. This is consistent with the argument that PAIN advanced in Paragraph 3.2.30 – 3.2.34 in our November 2010 submission to the consultation on the Waste Core Strategy Further Issues and Options document.
90. Not only does the March 2010 RPS study fail to take account of relevant commercial and legislative drivers influencing waste arisings at the time, additional relevant drivers have subsequently emerged that are not reflected in the estimates contained in Table 3.
91. For example, the estimates do not take account of the abolition of LATS, the 2011 Waste Review and its emphasis on moving towards a zero waste economy and associated actions, the new packaging targets, Courtauld Commitments 1 and 2, or the Roadmap to a Resource Efficient Europe.
92. The estimates contained within the March 2010 RPS study were based on Defra’s estimated historic waste growth rate of 0.5% per annum, as recorded in the 2007 Waste Strategy.
93. There is no evidence provided to justify the use of the 2007 national 0.5% per annum growth rate estimate (of average historic waste arisings between 2000 and 2005) to determine Nottingham and Nottinghamshire’s waste growth estimates for the purpose of strategic waste planning, and indeed we feel that such an approach would be flawed.
94. We further note that, contrary to the EMRP, Table 3 inexplicably assumes municipal waste growth beyond 2015, and includes a figure for MSW in 2015 that is higher than could be justified if actual figures and trends are taken into account.
95. For example, according to WasteDataFlow, for the year from 1<sup>st</sup> July 2010 – 30<sup>th</sup> June 2011 Nottingham City Council reported just under 153 ktpa and Nottinghamshire County Council reported just over 404 ktpa, making a total of approximately 557 ktpa MSW.
96. Therefore, to reach the Table 3 MSW figure of 637 ktpa by 2015, waste would have to grow by a double-dip-recession-busting 14.5% in fewer than five years (equivalent to approximately 3% per annum year-on-year increase sustained for all of five years). Hardly a fulfilment of the Government’s zero waste ambitions.
97. As is illustrated by Figure 14 of the Nottingham City Municipal Waste Strategy, reproduced overleaf, total MSW arisings (Local Authority Collected Municipal Waste) for Nottingham City is anticipated to fall to 150 ktpa in 2015, less than 149 ktpa in 2020, less than 148 in 2025, and 147 ktpa in 2029/30.

98. Figure 14 of the Nottingham City Municipal Waste Strategy is as follows:



99. A more reasonable worst case scenario than that assumed for Tables 3 and 4 would be to assume that instead of continuing to fall year-on year, waste arisings would “flatline”, i.e. would remain stable at the 2009 level of around 560 ktpa for MSW, 900 ktpa for C&I and 940 ktpa C&D in Nottingham City and Nottinghamshire. In reality, waste arisings have continued to fall beyond 2009.

100. A rationale for assuming roughly 2.4 million tonnes of total arisings (excluding power station ash) in 2009 is set out in PAIN’s November 2010 consultation submission, and in particular in relation to our comments on Figure 2 on Page 18 of the consultation document and the associated Question 4, at Paragraph 3.1.4, and generally throughout Paragraph 3.1 of our representation.

101. To be deemed sound, and to adhere to relevant national and local policies, the Nottinghamshire and Nottingham Waste Core Strategy should take account of local, regional, national and European ambitions to reduce waste arisings.

102. In their Action Plan for the City’s Municipal Waste Management Strategy, Nottingham City Council commit to utilising its influence to seek to deliver the following household waste arisings targets: “To reduce the amount of household waste arisings to 400 kg/person/year by 2020; and to reduce the amount of household waste arisings to 390 kg/person/year by 2025”.

103. Meeting and exceeding these targets is consistent with the vision expressed in the Roadmap to a Resource Efficient Europe that by 2020 “waste generated per capita is in

absolute decline” and the statement in the Section 6 Vision inset of the Proposed Submission Document that by 2031 “Together we will be producing less waste”.

104. There are additional reasons to support the view that waste could continue to fall, including the widespread practice of light-weighting, whereby manufacturers are increasingly reducing the weight of their products, such that even if in the future more products are purchased, the weight of these products would continue to reduce.
105. The proposed Waste Core Strategy document fails to provide a robust or convincing rationale to explain the anticipated increase in C&I arisings for Nottingham and Nottinghamshire from around 900,000 tonnes in 2009 (Paragraph 4.5) to 1,472,000 tonnes by 2015 and beyond, as expressed in Table 3. As with MSW, we can anticipate a best case scenario of the downward trend continuing to show reductions in C&I waste arisings, and a worst case scenario where waste remains steady at around the 2009 level.

#### *Paragraph 4.29 and Table 4*

“...The Waste Core Strategy is therefore required to show how it will provide sufficient capacity to meet projected recycling, recovery & disposal needs...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

106. The document should make clear that there is no requirement to provide the level of capacity that would be sufficient to meet the outdated projections contained within the EMRP. Instead, the document should clearly indicate the anticipated capacity based on an up-to-date objective assessment of need, and how this could best be met in accordance with the waste hierarchy.
107. Update other paragraphs, e.g. 4.29 – 4.35, to reflect these changes as appropriate.

#### » **Justification**

108. There have been significant changes and new information subsequent to the publication of the EMRP (see above our comments made in relation to Paragraphs 2.10 and 4.26, Table 1, and Paragraph 4.28, above).
109. For the capacity requirement estimates in Table 4 to be relevant there would need to be a ludicrously high increase in overall waste arisings and in residual waste arisings, and these have not been justified and would not be consistent with national policy.
110. Although we do not wish to belabour the point, to quote Page 28 of the Nottingham City Municipal Waste Management Strategy: “The impact of the measures outlined in this strategy will dramatically reduce the amount of both household and municipal (including trade and non household wastes) left over for residual waste treatment and disposal. This is illustrated by the purple section of Figure 14” (reproduced above).

### Paragraph 4.32

“...the equivalent of more than 20 million m<sup>3</sup> of voidspace...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

111. Density assumptions should be made explicit.

#### » Justification

112. 1 million tonnes of non-hazardous waste per year would not necessarily equate to more than 20 million m<sup>3</sup> of voidspace over the life of the Waste Core Strategy, as this depends on both the landfill density assumptions and assumptions regarding the in-situ settling of waste material (see comments made in relation to Paragraph 4.17, above).

### Paragraph 4.35

“Achieving this will require the provision of additional recycling capacity for municipal and commercial and industrial waste especially and the possibility of additional energy recovery capacity to divert waste from landfill. An indication of the likely additional waste management infrastructure required is given in Chapter 7.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

113. Clarify that the word “this” means a policy target to increase recycling or composting of all waste to 70% by 2025.

114. The phrase “recycling capacity” should be followed by “(including anaerobic digestion and composting)”.

115. The phrase “and the possibility of additional energy recovery capacity” should be removed altogether.

116. If the term “energy recovery” is not removed from Paragraph 4.35, then the Submission Document should clarify whether or not anaerobic digestion (AD) and mechanical and biological treatment (MBT), etc. are included as types of “energy recovery” in this context, e.g. by referring to the Glossary. This issue also relates to Chapter 7, including WCS2.

#### » Justification

117. For the avoidance of doubt and to enable appropriate monitoring, all terms should be made clear, especially the term “energy recovery”, notwithstanding the definition included in the Glossary.

118. If anaerobic digestion is not considered to be within the scope of “energy recovery” in this context, then it would not be justified to say that “Achieving this would require...the possibility of additional energy recovery capacity to divert waste from landfill”, as no evidence-based justification of reliance on new incineration capacity is provided.

## Section 5 - Issues and Challenges for the future

### Paragraph 5.4

“The Waste Core Strategy needs to provide sufficient capacity to manage an estimated 5 million tonnes (sic) of waste by 2030/31...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

119. Replace “an estimated 5 million tonnes of waste by 2030/31” with “a maximum of around 1.5 million tonnes of waste by 2030/31 (excluding C&D waste and power station ash)”; or: “a maximum of around 2.4 million tonnes of waste by 2030/31 (including MSW, C&I and C&D waste, but excluding power station ash)”.

#### » Justification

120. The 5 million tonne figure has not been justified. In this submission and in our previous submissions PAIN has supplied evidence to support the notion that an estimate of a maximum of 1.5 million tonnes of HIC and 2.4 million overall (excluding power station ash) by 2030/31 is justified, and that anything greater would be unreasonable.

121. Planning for over-capacity is neither effective nor consistent with national policy.

### Paragraph 5.5

“Although our long term aim is to avoid landfill there will still be a need for some residual waste disposal. With less than 8 years of non-hazardous and inert disposal capacity remaining, the Waste Core Strategy must guide the provision of further capacity where needed.”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

122. “With less than 8 years of non-hazardous and inert disposal capacity remaining” should be “With roughly 15 years of non-hazardous and inert disposal capacity remaining”.

#### » Justification

123. To quote the Planning Inspector’s report for the Rufford inquiry: “Landfill capacity within Nottinghamshire has been falling, but evidence to show that void space available to the waste disposal authority is dangerously close to running out, is not persuasive....PPS10 encourages the diversion of both MSW and C&I waste streams, from landfill, but I am not persuaded that there is a shortage of landfill capacity here which adds urgency to this...”.

124. According to the EA's East Midlands Waste Input & Capacity Trends 2000-2010 spreadsheet, 404,000 tonnes of non-inert material was sent to non-inert landfill in

Nottinghamshire during 2010, leaving remaining non-inert landfill capacity of around 4,694,000 m<sup>3</sup>.

125. This capacity equates to around 12 years at a density of 1 tonne per m<sup>3</sup> assuming a constant rate of landfilling. However, the remaining capacity of the Erin Void, just over the border in Derbyshire, means that Nottingham City and Nottinghamshire have easy access to around 30 years of landfill capacity, including some 12,003,000 m<sup>3</sup> for non-inert landfill.

### *Paragraph 5.6*

“More than 85,000 new houses are planned across Nottinghamshire over the next 20 years...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

126. Provide detail of the 85,000 figure, accompanied by a detailed assessment of the number of new houses that are actually expected to be delivered, historic data about delivery of housing over the past decade, and the number of existing houses to be demolished during the plan period.

#### » **Justification**

127. Without detailed information it is impossible to assess the likelihood that this number of new houses will be delivered, and therefore the figure has not been justified.

## Section 6 - Vision and strategic objectives

### *Vision inset*

“...Together we will be producing less waste...striving to exceed national recycling targets...We will be supported by an ambitious and innovative waste industry...Disposal will be the last resort once all other options have been exhausted.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

128. Replace “Together we will be producing less waste” with “Together we will be producing substantially less waste than we produced in 2009”.
129. Remove the word “striving”.
130. Add the phrase “socially responsible” before the term “waste industry”.
131. Add explicit reference to “source segregation of food waste for composting and/or anaerobic digestion”.
132. Add an explicit reference to “treating residual waste via MBT-landfill where appropriate”.
133. Add an explicit reference to “avoiding incineration over-capacity”.
134. Replace: “Disposal will be the last resort once all other options have been exhausted” with: “Disposal will be the last resort once all other options have been exhausted, unless a deviation from the waste hierarchy is justified based on life-cycle thinking on the overall impacts of the generation and management of such waste”.
135. Consideration should be given to the inclusion of explicit support for the recycling of absorbent hygiene waste, including disposable nappies, incontinence and feminine hygiene products.

#### » **Justification**

136. These changes are needed to sharpen our aspirations, enable appropriate monitoring and help ensure that waste is managed sustainably.
137. Anaerobic digestion of food waste is promoted within both Waste Strategy 2007 and the Government Review of Waste Policies 2011.
138. The Waste Review sets out a hierarchy of managing food waste that places anaerobic digestion as the preferred method followed by composting, and advocates for waste to be source segregated to facilitate treatment.
139. Weekly collection of source segregated food waste would also be consistent with the Waste Review’s advocacy of weekly collection of “smelly waste”.
140. To quote from Paragraphs 196 and 204 of the Waste Review: “Our evidence base shows that of the main options for the treatment of food waste, anaerobic digestion offers the greatest environmental benefit...To be treated by anaerobic digestion, it is best if food waste is collected separately at source...It is important to treat food waste as high up the hierarchy as possible”.

141. The EA advised that there should be separate collection of food waste in Nottinghamshire: "...It is possible that mixed municipal waste, which is the waste stream that the [Rufford incineration] facility will be designed to burn, may contain some food waste that has not been segregated at source. It is for Nottinghamshire County Council, as the waste disposal authority, working with Veolia as its contractor, to provide facilities for the segregation and composting of food waste to enable as much of this waste as possible to be recycled in this way" (Decision Document for PPC Application BP3035MG. Environment Agency, June 2009. Page 119).
142. The revised Waste Framework Directive states that: "(35) It is important, in accordance with the waste hierarchy, and for the purpose of reduction of greenhouse gas emissions originating from waste disposal on landfills, to facilitate the separate collection and proper treatment of bio-waste in order to produce environmentally safe compost and other bio-waste based materials..."
143. Article 22 of the revised Waste Framework Directive states that: "Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage: (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste; (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection; (c) the use of environmentally safe materials produced from bio-waste..."
144. The primary reason to avoid incineration over-capacity is to encourage waste to be reduced, re-used, recycled, composted and aerobically digested.
145. Paragraph 22 of the Waste Review states: "Our aim is to get the most energy out of genuinely residual waste, not to get the most waste into energy recovery".
146. We note the following from The Waste (England and Wales) Regulations 2011, Schedule 1: Waste prevention programmes and waste management plans, Part 1: Objectives, Paragraph 2, Sub-paragraph 2a: "When applying the waste hierarchy in sub-paragraph (1), the appropriate authority must ensure that it (a) encourages the options that deliver the best overall environmental outcome, which may require specific waste streams to depart from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste".
147. The Waste (England and Wales) Regulations 2011 transposed the revised Waste Framework Directive, which states at Article 4(2): "When applying the waste hierarchy referred to in paragraph 1, Member States shall take measures to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste..."
148. The Science Advisory Council Waste sub-group (SAC-Waste) have stated that: "...Although landfilling tends to be regarded as inherently bad and to be avoided, there is evidence that in some instances...landfill may be the least environmentally, economically or technically unsuitable option. Landfill can also be a way of storing materials that have a potential future value, and other countries already recognise the

value of landfill mining. Landfill mining is already being undertaken in Israel and Sweden, and investigated in the UK. Defra could consider landfilling waste segregated by type or composition or planning landfills to be excavatable in future” (SAC-Waste Final Report. 14 June 2011. Paragraph 3.5.1).

149. The Economics of Waste and Waste Policy (Defra, June 2011) states that: “MBT-landfill provides the best emissions performance in terms of the treatment/disposal of residual waste. It essentially involves landfilling somewhat stabilised wastes with some material recovery. The magnitude of the environmental impact depends on the extent to which the waste is stabilised” (Page 14).
150. The Economics of Waste and Waste Policy also states that: “The emissions from waste combustion of non-biogenic material (via any technology including mass-burn incineration) are also not comprehensively reflected in the price of disposal. Unless the installation in question is in the ETS (municipal solid waste incinerators are excluded) a negative externality persists – such installations are creating GHG emissions without paying the relevant price” (Page 25).
151. Dr Paul Leinster, Chief Executive of the Environment Agency, stated that: “The objective for me would be that you should not have an incinerator which then destroys waste minimisation programmes or interrupts re-use and recycling...” (Evidence given to the House of Commons Environment, Food and Rural Affairs Committee. Third Report of Session 2009-10, Volume II. Third Report of Session 2009–10. Ev13, Q53).
152. In answer to the question: “...During the 25 years [of the Nottinghamshire Waste PFI contract]...the way that we dispose of our waste will change radically. I do not think in 25 years’ time there will be enough waste to feed this [proposed Nottinghamshire] incinerator. Is that a concern of yours?” Dr Leinster replied: “Absolutely. What we should not be doing is having incinerators which then mean minimisation, re-use, recycling get impacted and that has to be over the 25 year period. I do have concerns over locking technologies in on a 25 year basis when technologies are moving as fast as they do” (*ibid.* Ev14, Q58).
153. The Roadmap to a Resource Efficient Europe (European Commission, 20 September 2011) states that: “If waste is to become a resource to be fed back into the economy as a raw material, then much higher priority needs to be given to re-use and recycling... Milestone: By 2020, waste is managed as a resource. Waste generated per capita is in absolute decline. Recycling and re-use of waste are economically attractive options for public and private actors due to widespread separate collection and the development of functional markets for secondary raw materials. More materials, including materials having a significant impact on the environment and critical raw materials, are recycled. Waste legislation is fully implemented...Energy recovery is limited to non recyclable materials, landfilling is virtually eliminated and high quality recycling is ensured” (Section 3.2 – Turning waste into a resource).
154. A European Commission spokesman has stated that: “The big challenge is to reduce the amount of waste that is sent for incineration which could be recycled instead. In the

UK there is a decrease in the proportion of waste that is going to landfill, which is good, but this is still a high proportion of the total waste...To solve this, the UK should look to reuse and recycling and not to over capacity of incineration – Countries like Denmark and Switzerland are burning much more than they should and that’s not good. There is an opportunity for the UK to take positively; I hope they will move in the right direction” (UK edges up European recycling league table. LetsRecycle, 1 March 2012).

155. The July 2002 Audit Commission Inspection Report for Nottingham stated that: “The challenge exercise for recycling and the Council’s ability to maximise recycling is limited by the emphasis that has been placed on incineration and the need to maintain guaranteed minimum tonnages of waste to support the operation of the incinerator” (Paragraph 115).
156. LG Improvement and Development (formerly known as I&DeA) advise that: “There is a danger that investing in large, inflexible EfW incineration facilities as a technical fix to divert waste from landfill can undermine efforts to prioritise minimisation and recycling” (Is energy from waste a sustainable option? May 2010).
157. In relation to the recycling of absorbent hygiene waste, firms such as Knowaste provide comprehensive services to local authorities and businesses in the UK, and such recycling services should be encouraged to accompany weekly collections of such “smelly waste” where appropriate, in line with the Government’s promotion of such collections as part of their June 2011 Waste Review.

### *Strategic Objectives (Paragraph 6.3)*

“**SO1 Strengthen our economy** – promote a diverse local economy that minimises waste production and maximises the re-use, recycling and recovery of waste...Encourage investment in new and innovative waste management technologies...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

158. Replace: “promote a diverse local economy that minimises waste production and maximises the re-use, recycling and recovery of waste...” with: “promote a sustainable local economy that minimises waste production and maximises the re-use and recycling of waste...”
159. Replace: “Encourage investment in new and innovative waste management technologies...” with “Encourage investment in new and innovative waste management technologies where these deliver the best environmental outcome...”

#### » **Justification**

160. Government policy promotes sustainability, zero waste, and aims “to get the most energy out of genuinely residual waste, not to get the most waste into energy recovery”.
161. Encouraging the options that deliver the best overall environmental outcome is promoted in both the Waste (England and Wales) Regulations 2011, and the revised Waste Framework Directive, as mentioned in our response to the Vision inset, above.

**“SO2 Care for our environment – ...Protect after our heritage assets and their settings, including archaeological remains and protect the character of our townscapes.”**

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

162. Remove the word “after” so that the final sentence of SO2 reads: “Protect our heritage assets and their settings, including archaeological remains, and protect the character of our townscapes.”

» **Justification**

163. For clarity and for ease of monitoring.

**“SO3 Community well-being – ...Make sure that local people have the chance to be involved in decisions about new waste management facilities by providing more information, encouraging wider involvement and targeting key groups or individuals where appropriate.”**

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

164. Add the phrase “from the earliest stages” so that the second sentence reads: “Make sure that local people have the chance to be involved from the earliest stages in decisions about new waste management facilities by providing more information, encouraging wider involvement and targeting key groups or individuals where appropriate.”

» **Justification**

165. To accord with the spirit of localism, as expressed in the Localism Act and the National Planning Policy Framework.

**“SO4 Energy and climate – encourage the efficient use of our natural resources by promoting waste as a resource to be re-used, reduce the need to transport waste, minimise energy use and encourage use of combined heat and power where this can help to offset fossil fuel use.”**

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

166. Remove: “encourage use of combined heat and power where this can help to offset fossil fuel use” and replace with: “discourage the incineration of waste that does not directly contribute towards Good Quality CHP (i.e. combined heat and power that is CHPQA certified), and prevent the incineration of waste wherever incineration could hamper efforts to decarbonise the energy supply.”

### » Justification

167. As stated in the June 2011 Review of Waste Policy: “Without heat offtake, the lower efficiencies achievable from electricity only generation could waste valuable opportunities to help decarbonise the heat sector” (Paragraph 237); and “We are aiming to get the most energy out of the residual waste, rather than to get the most waste into energy recovery” (Paragraph 211).
168. This is further supported by the House of Commons Environment, Food and Rural Affairs Committee (EFRACOM) Report on Waste Strategy 2007. Third Report of Session 2009-10, Volume I (published January 2010), which states: “Waste should only be used for energy recovery if it is not possible to re-use, recycle or compost it. To achieve maximum energy efficiency levels, planning consent for energy from waste plants must require heat to be captured and used...” (Page 3).
169. We also note the statement made by the Minister of State (Renewable Energy), Energy and Climate Change, Charles Hendry MP: “Incineration should be considered for electricity generation only after all other options, such as recycling and reuse, have been looked at” (HC Deb, 18 July 2011, c684).
170. NPPF Paragraph 94 states: "Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change..." with Footnote 16 stating: "in line with the objectives and provisions of the Climate Change Act 2008".
171. Any new incineration facilities (including gasification, pyrolysis, advanced thermal treatment, etc.) should be required to produce less carbon than the Committee on Climate Change’s recommended 50g CO<sub>2</sub>e/kWh by 2030, and less carbon annually than the marginal electricity mix estimates produced by the Interdepartmental Analysts’ Group’s policy appraisal and evaluation guidance.

**“SO5 Sustainable transport ...Locate sites close to sources of waste and/or end-markets to reduce transport distances...”**

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

172. Add the word “suitable” so that the second sentence of SO5 reads: “...Locate sites close to suitable sources of waste and/or end-markets to reduce transport distances...”

### » Justification

173. For clarity, and to ensure that transport distances are reduced, by avoiding locating waste facilities near to source of irrelevant types of waste arisings.

**“SO6 Meet our future needs – aim to be self-sufficient by providing enough sites to manage the equivalent of our own waste arisings over the plan period – making sure that there is a mix of site types, sizes and locations to help us manage waste locally wherever possible...and moving away from landfill...”**

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

174. Add the phrase “whilst avoiding incineration over-capacity” to the end of the first sentence, to read: “aim to be self-sufficient by providing enough sites to manage the equivalent of our own waste arisings over the plan period – making sure that there is a mix of site types, sizes and locations to help us manage waste locally wherever possible, whilst avoiding incineration over-capacity...”
175. The phrase “and moving away from landfill” should be replaced with: “and moving away from sending untreated waste to landfill”.
176. Add “Encourage waste that is landfilled to be segregated by type or composition and/or planning landfills to be excavatable in future where appropriate”.

### » Justification

177. To ensure waste is managed in accordance with the waste hierarchy, incineration over-capacity should be avoided. See additional comments on Vision inset, above, and in PAIN’s previous submissions.
178. In instances where landfill provides the most sustainable option, we should not move away from it. See, for example, justification regarding MBT-Landfill in our comments on the Vision inset, above.
179. The Science Advisory Council Waste sub-group (SAC-Waste) have stated that: “...Although landfilling tends to be regarded as inherently bad and to be avoided, there is evidence that in some instances...landfill may be the least environmentally, economically or technically unsuitable option. Landfill can also be a way of storing materials that have a potential future value, and other countries already recognise the value of landfill mining. Landfill mining is already being undertaken in Israel and Sweden, and investigated in the UK. Defra could consider landfilling waste segregated by type or composition or planning landfills to be excavatable in future” (SAC-Waste Final Report. 14 June 2011. Paragraph 3.5.1).
180. SAC-Waste also recommend that “Defra should consider the scope for future ‘mining’ of landfill sites for scarce materials, and for beneficial use of landfilling (possibly in segregated form) for storage materials which will become more scarce in future” (*ibid.* Paragraph 3.5.2).

## Section 7 - Waste Core Strategy Policy

### Paragraph 7.4

“...There is also now a legal requirement for all development costing more than £300,000 to be accompanied by a waste audit known as a Site Waste Management Plan...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

181. Clearly state that subsequent to the production of the Proposed Submission Document the Government announced their intention to scrap this requirement.

#### » Justification

182. As part of Defra's March 2012 Red Tape Challenge – Environment Theme proposals (Page 4, and Table 1 on page 19) the intention to scrap The Site Waste Management Plans Regulations 2008 was announced.

183. It might be worthwhile introducing a policy in line with Policy RWS 1.1, 1.2 and 1.3 of the Regional Waste Strategy.

### Paragraph 7.8

“...there is no requirement to go beyond the existing recycling targets...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

184. Replace: “...there is no requirement to go beyond the existing recycling targets...” with: “...there is no requirement to put in place local recycling targets that are higher than existing regional and national recycling targets...”

#### » Justification

185. As we are legally obliged to follow the waste hierarchy in priority order (with deviations where this is justified by life-cycle thinking), this could be described as a legal requirement to recycle more than current (national or regional) recycling targets, and therefore the statement that “...there is no requirement to go beyond the existing recycling targets” is neither justified nor legally compliant.

186. As the revised Waste Framework Directive puts it: “(6) The first objective of any waste policy should be to minimise the negative effects of the generation and management of waste on human health and the environment. Waste policy should also aim at reducing the use of resources, and favour the practical application of the waste hierarchy” and “(29) Member States should support the use of recyclates, such as recovered paper, in line with the waste hierarchy and with the aim of a recycling society, and should not support the landfilling or incineration of such recyclates whenever possible.”

187. Both PPS10 and the Waste (England and Wales) Regulations 2011 emphasize the need to generally follow the Waste Hierarchy as set out in the revised Waste Framework Directive.
188. Policy RWS 5 of the Regional Waste Strategy, which local authorities are asked to implement by the first paragraph of EMRP Policy 38, states that: "All local authorities in the East Midlands, working with Regional and local partners will: ...b) Seek to exceed statutory, nonstatutory and best value performance targets for the re-use, recycling or composting of municipal solid wastes..."

### *Paragraph 7.10*

"Where it is not possible to recycle waste, the next most sustainable option is to recover energy from it. This can also provide a local source of heat or power for other nearby development, helping to meet the Government's aims of decentralising energy supplies and providing alternative forms of renewable or low carbon energy to offset the need for fossil fuels...national policy and guidance is clear that the planning system should not make any preference in terms of the type of energy recovery technology used as these are treated equally within the waste hierarchy as long as they meet defined levels of energy efficiency."

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

189. Replace the first sentence with: "Where it is not possible to recycle waste, the next most sustainable option is sometimes to recover energy from it."
190. Add the phrase "In some circumstances" to the beginning of the second sentence, to read: "In some circumstances this can also provide a local source of heat or power for other nearby development..."
191. If correct, a source should be provided to support the assertion that: "...national policy and guidance is clear that the planning system should not make any preference in terms of the type of energy recovery technology used as these are treated equally within the waste hierarchy as long as they meet defined levels of energy efficiency", accompanied by an explanation regarding reconciling this statement with the non-technology-neutral proposed Policy WCS8 - New and emerging technologies ("Waste management facilities making use of new or emerging technologies will be supported where this will lead to the more efficient and sustainable management of waste").

#### » **Justification**

192. There are instances where MBT-Landfill may be more sustainable than energy recovery. See aforementioned comments regarding MBT-Landfill for detailed justification.
193. Whether or not a facility could provide heat and/or power for other nearby development depends on many factors.

194. The same can be said about whether or not energy is renewable and/or low carbon, and the extent to which it does or does not offset the need for fossil fuels.

### **Paragraph 7.11**

“National and regional studies suggest that much of the waste that is currently sent to landfill could be recovered for energy. We therefore think the Waste Core Strategy should support the development of appropriate energy recovery facilities where these help to reduce the amount of waste going to landfill. This needs to be balanced carefully so that the scale of any proposed energy recovery facilities does not preclude future increases in recycling. We also want to see a reduction in the amount of waste going to landfill so that this becomes a last resort.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

195. Replace: “could be recovered for energy” with: “could be recycled, composted, or recovered for energy”.
196. Replace: “We therefore think the Waste Core Strategy should support the development of appropriate energy recovery facilities where these help to reduce the amount of waste going to landfill” with: “We therefore think the Waste Core Strategy should support waste treatment facilities for recycling and composting. It also may be appropriate to support facilities for other forms of waste treatment to reduce the amount of waste going to landfill where the facility would offer the best overall environmental outcome”.
197. Replace: “does not preclude future increases in recycling” with: “will definitely not impact negatively on the potential for and achievement of reduction, re-use, recycling, composting and anaerobic digestion”.
198. Replace: “We also want to see a reduction in the amount of waste going to landfill so that this becomes a last resort” with: “We want to see a reduction in the amount of untreated (as distinct from bio-stabilised) bio-degradable waste and unsorted waste going to landfill”.

#### **» Justification**

199. The North West of England C&I Waste Survey 2009, produced for the Environment Agency by Urban Mines in March 2010 [available from: <http://publications.environment-agency.gov.uk/PDF/GENW0410BSJM-E-E.pdf>] states that: “...the recorded data suggests that up to 97.5% of the C&I waste landfilled in the [North West] region could be recycled if the correct facilities and services were available” (Page 43).
200. Just because discarded material could be used for energy recovery does not mean that this material should be used for energy recovery, especially when the material could be better reduced (i.e. subject to waste minimisation efforts), re-used, recycled, composted or anaerobically digested.

201. Materials that cannot be recycled should be the focus of waste minimisation efforts, and thus would not need waste treatment facilities in the future.
202. There are instances where MBT-Landfill may provide a better overall environmental outcome than energy recovery. See aforementioned comments regarding MBT-Landfill in the Section 6 Vision inset for a detailed justification.
203. We call attention once again to Paragraph 22 of the Waste Review, which states: “Our aim is to get the most energy out of genuinely residual waste, not to get the most waste into energy recovery”.
204. There are instances where an approach may hamper but not “preclude” future increases in the quality and/or quantity of recycling, and there are instances where an approach may prejudice reduction and/or reuse, as distinct from prejudicing recycling, so the wording of this Paragraph needs to be clear in order to ensure that the sustainability objectives are met.

### *Paragraph 7.12*

“...if higher recycling rates are not achieved then this would mean greater demand for either energy recovery or landfill.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

205. Replace: “either energy recovery or landfill.” with: “waste minimisation, re-use, MBT, energy recovery, and/or landfill”.

#### » **Justification**

206. Recycling rates are a fraction of overall “residual” waste arisings, so demand can be reduced through increased waste minimisation and re-use.
207. Even if recycling targets are not met, the demand for energy recovery and landfill locally could also be reduced through MBT which could reduce the volume of the waste to be landfilled and/or result in the waste being converted into SRF/RDF and being exported outside of the county or used as a fuel at non-waste facilities.
208. For the avoidance of doubt, whilst PAIN recognises this as a possibility, we do not support MBT being used to produce RDF/SRF.

### *Table 5*

“Table 5 indicative additional treatment capacity requirements to meet aspirational targets in Policy WCS2 (‘000 tonnes per annum)”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

209. Make it clear that there is a requirement for more anaerobic digestion capacity (and possibly MBT capacity for bio-stabilisation prior to landfill), but that there is no additional treatment capacity requirement for other forms of “Energy Recovery”.

## » Justification

210. There is no demonstrable need for additional incineration capacity, especially in light of the existing 260 ktpa capacity that has been permitted and consented for Eastcroft (not to mention the feedstock shortfalls reported by Veolia in relation to their existing Sheffield incineration facility, or indeed any of the proposed incineration and biomass/waste wood facilities being considered for nearby locations in and around the Strategy Area).
211. Assuming stabilisation of HIC waste at a maximum of 1,460 ktpa (our worst case scenario), Eastcroft's 260 ktpa permitted capacity could accommodate a 17.8% rate of incineration. The 260 ktpa capacity equates to 20% of 1,300 ktpa (20% being the proposed maximum "Energy Recovery" target outlined within the Proposed Submission Document at Page 66, Table 7, WCS2 target).
212. If HIC in Nottingham and Nottinghamshire falls below 1,300 ktpa, in line with the move towards a zero waste economy, and the capacity of Eastcroft is upgraded to 260 ktpa, in line with existing consents and permits, then to remain within the 20% maximum "Energy Recovery" target waste would have to be imported into Nottingham and Nottinghamshire to avoid an incinerator feedstock shortfall.
213. Eastcroft already has 260 ktpa of consented and permitted incineration capacity, and therefore no new incineration capacity can be justified to deal with Nottingham and Nottinghamshire's waste. The Waste Core Strategy should therefore anticipate that there is already likely to be sufficient consented and permitted incineration capacity to burn up to between 17.8% - 20%+ of arisings within the Strategy Area.
214. Furthermore, not only would MBT-Landfill provide a better option than incineration for any genuinely residual waste that requires treatment, but if necessary a small quantity of waste could theoretically be incinerated outside the Strategy Area. However, the aim should be to avoid the need to treat genuinely residual waste by ensuring that waste is reduced, re-used, recycled, composted or anaerobically digested.
215. If one is to best follow the advice of the Waste Review 2011 and adhere to the waste hierarchy then one would want to separately collect food waste and treat it via anaerobic digestion, as outlined above.
216. Around 30% of the current 557 ktpa MSW arisings can be expected to be food waste (i.e. 160-170 ktpa), but the quantity of food waste can be expected to reduce over time. Separate collection and education should help reduce this figure, leaving around 90 ktpa of food waste that would require anaerobic digestion, preferably within Nottingham and Nottinghamshire. There would also presumably need to be capacity for C&I food waste, but this stream should be targeted for waste minimisation efforts such as food bank schemes (e.g. along the lines of the Nottingham City "Fairshare" proposal). As mentioned within the Proposed Submission Document, there is also the potential for synergies between AD for C&I/MSW waste and the treatment of agricultural and/or sewage material.

## Table 6

“Table 6 indicative additional disposal capacity requirements to meet aspirational targets in Policy WCS2 (‘000m3)”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

217. An explanation for how these figures were derived is required.

### » Justification

218. The derivation of these numbers, apart from a link with WCS2, has not been provided. It has not been stated whether these figures equate to an annual capacity or a capacity over the whole Strategy Period.

219. See above (and previous PAIN submissions) regarding assumptions associated with landfill density and in-situ density.

220. MBT-Landfill would result in lower volumes (and higher densities) of material to be sent to landfill. As such, landfill capacity requirements depend on the degree and type of pre-treatment.

221. Also, it should be noted that the additional disposal capacity requirements do not necessarily have to be provided within the Strategy Area of Nottingham and Nottinghamshire. PAIN already refers to the relevant portion of the 2011 Waste Review with respect to the explicit statement (at Paragraph 263) that: “...There is no requirement for individual authorities to be self sufficient in terms of waste infrastructure and transporting waste to existing infrastructure to deliver the best environmental solution should not be considered a barrier...”

## Policy WCS2(b)

“new or extended energy recovery facilities will be permitted only where it can be shown that this would divert waste that would otherwise need to be disposed of and the heat and/or power generated can be used locally or fed into the national grid;”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

222. Replace: “new or extended energy recovery facilities” with: “new or extended energy recovery facilities, other than anaerobic digestion and MBT-landfill (as distinct from MBT-RDF/SRF),”.

223. Replace: “and the heat and/or power generated can be used locally or fed into the national grid;” with: “and evidence is provided to demonstrate that the heat and power generated will be used locally in a Good Quality CHP scheme, and that there would be appropriate source segregation and pre-treatment for any waste sent to the facility so that as far as practicable recyclable and compostable material is not incinerated;”

224. Replace: “this would divert waste that would otherwise need to be disposed of” with “this capacity would only be used to treat waste that would otherwise need to be disposed of”.
225. Clarification is needed to explain how it would be determined whether or not waste “would otherwise need to be disposed of” throughout the duration of the planning consent.

» **Justification**

226. Both MBT-landfill and anaerobic digestion offer potentially acceptable deviations from the waste hierarchy, and therefore may be appropriate for waste that would otherwise be incinerated or composted, i.e. for material that would not otherwise need to be disposed of.
227. We, once again, call attention to the House of Commons Environment, Food and Rural Affairs Committee (EFRACOM) Report on Waste Strategy 2007. Third Report of Session 2009-10, Volume I (published January 2010), which states: “To achieve maximum energy efficiency levels, planning consent for energy from waste plants must require heat to be captured and used...” (Page 3).
228. Requiring that a facility “would divert waste that would otherwise be disposed of” would arguably still allow for a facility that relies upon waste that would *not* otherwise need to be disposed of on the grounds that some (but not all) of the waste to be treated would otherwise need to be disposed of.
229. Requiring pre-treatment and source segregation of waste would help ensure that waste is managed in accordance with the waste hierarchy. Mechanical pre-treatment to remove recyclable materials prior to incineration is increasingly included in incineration schemes, and recent planning appeals have imposed pre-treatment conditions on all C&I waste.
230. For example the "Pre-Sorted Residual Waste Acceptance Scheme" is required by condition 8 of the planning permission for the Severnside Energy Recovery Centre (Ref. 2140199), and Veolia’s proposed incineration facilities for Shropshire, Hertfordshire and Leeds all include on-site pre-sorting.

**Policy WCS3**

“The development of large-scale waste treatment facilities will be supported in or close to the built up areas of Nottingham and Mansfield/Ashfield. Smaller/medium sized waste treatment facilities will be supported in the above areas and in, or close to, the built up areas of Newark, Retford and Worksop.”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

231. Replace: “The development of large-scale waste treatment facilities will be supported in or close to the built up areas of Nottingham and Mansfield/Ashfield.” with: “The development of appropriate large-scale waste treatment facilities will be

supported in or close to the built up areas of Nottingham and Mansfield/Ashfield in cases where the need for the facility is robustly demonstrated.”

232. Replace: “Smaller/medium sized waste treatment facilities will be supported in the above areas and in, or close to, the built up areas of Newark, Retford and Worksop.” with: “Appropriate smaller/medium sized waste treatment facilities will be supported in the above areas and in, or close to, the built up areas of Newark, Retford and Worksop in cases where the need for the facility is robustly demonstrated.”

» **Justification**

233. The policy should not be used to support facilities that are inappropriate, over-sized, or that are not needed.

**Policy WCS6**

“This could include former colliery land in need of restoration...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

234. Remove: “This could include former colliery land in need of restoration...”

» **Justification**

235. Former colliery land with a restoration condition is formally classed as “greenfield land” and not as derelict or “previously developed land”, and should be restored and not used for waste management.
236. The fully restored site should be used as the baseline for evaluating any impacts on a former colliery with a restoration condition.

**Policy WCS7**

“The extension, or redevelopment or improvement of existing waste management facilities will be supported where this would increase capacity or improve existing waste management methods, and/or reduce existing environmental impacts.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

237. Replace with: “The extension, redevelopment and/or improvement of an existing waste management facility is generally preferred over the construction and operation of a new facility. However, each planning application will need to be determined on its merits in the light of all material considerations.”

» **Justification**

238. The policy, as proposed by the Councils, failed to properly address the issues raised by the supporting text (Paragraph 7.41), and could result in unsustainable facilities being granted planning permission.

## Policy WCS8

“Waste management facilities making use of new or emerging technologies will be supported where this will lead to the more efficient and sustainable management of waste.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

239. The meaning of this policy need to be clarified.

### » Justification

240. The proposed policy, as it is written, is unclear, and gives rise to a number of questions, including the following:

241. Would a “new and emerging technology” be supported even if it were highly inappropriate in some significant respects, so long as it would “lead to the more efficient and sustainable management of waste”?

242. What would count as a “new and emerging technology”? For example, would a conventional waste incinerator with an “innovative feature” that increases efficiency by 0.001% be considered “a new and emerging technology”?

243. Would this policy apply only to facilities that would be part of a Government-run new technologies demonstrator programme?

244. Would a technology that is established in other countries but has never been used before in England be considered “a new and emerging technology”?

245. Would a technology that is established in England for one purpose but is being used for a different purpose be considered “a new and emerging technology”?

246. What would constitute “more efficient and sustainable management of waste”, i.e. “more” than what?

247. How would “efficiency” be measured? Thermal efficiency with parasitic load? Thermal efficiency without parasitic load? R1 factor? Kilograms of carbon dioxide equivalent emitted per megawatt hour of energy produced?

248. How would sustainability be measured? Carbon emissions compared to MBT-Landfill?

249. Considering that unproven facilities might not meet their anticipated levels of efficiency and sustainability, and indeed might not work at all, what requirements would be placed on developers to justify their claims regarding anticipated efficiency and sustainability, and what level of confidence would the decision maker need to have that the facility would operate as sustainably and efficiently as anticipated?

250. How is this policy consistent with the statement that the Council had to be technology-neutral except for anaerobic digestion? (See PAIN comments on Paragraph 7.10, above).

## Policy WCS11

“Additional waste management capacity, sufficient to manage at least the equivalent amount of waste produced within Nottinghamshire and Nottingham, will be permitted. Waste management proposals which are likely to treat or dispose of waste from areas outside Nottinghamshire and Nottingham will need to demonstrate that:

- a) they will make significant contribution to meeting the waste management needs of Nottinghamshire and Nottingham; or
- b) there are wider social, economic or environmental sustainability benefits that clearly support the proposal.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

251. Replace: “Additional waste management capacity, sufficient to manage at least the equivalent amount of waste produced within Nottinghamshire and Nottingham, will be permitted” with: “It is intended that the amount of waste managed in Nottinghamshire and Nottingham will be broadly equivalent to the amount of waste produced in Nottinghamshire and Nottingham. However, this aspiration should not be used to justify the construction of facilities that could result, at any point covered by the proposed planning permission, in incineration overcapacity.”
252. Replace: “Waste management proposals which are likely to treat or dispose of waste from areas outside Nottinghamshire and Nottingham...” with: “Waste management proposals that would be allowed (as part of the planning consent) to treat or dispose of waste from areas outside Nottinghamshire and Nottingham...”.
253. Consideration should also be given to adding another criterion, to precede proposed criteria a and b, as follows: “they will be unlikely to take waste from outside of Nottinghamshire and Nottingham throughout the duration of their planning consent; or...”

### » Justification

254. The original draft wording was too permissive, and lacked qualification. For example, the notion that all “additional waste management capacity...will be permitted” would imply that, if there were a general lack of management capacity, all waste management facilities would be granted planning permission even where the proposal would be patently inappropriate, and even where the proposed facility would not provide the type of capacity for which there was an under-provision.
255. The desire to be self-sufficient should not be extended to support overcapacity of incineration. Further justification of PAIN’s position in this regard is provided in our comments on the Chapter 6 Vision inset, above, and in PAIN’s previous submissions.
256. The phrase “...proposals which are likely to treat or dispose of waste...” is ambiguous, i.e. it is unclear on what basis the “likelihood” or otherwise would be determined, and therefore the proposed wording is ineffective.

257. Furthermore, the policy does not clearly set out whether the burden of proof rests with the applicant to demonstrate that their proposal would not be likely to treat or dispose of waste from areas outside Nottinghamshire and Nottingham, or if the onus rests with the Planning Authority and consultees to demonstrate that a proposal would be likely to treat or dispose of waste from areas outside Nottinghamshire and Nottingham. This lack of clarity undermines the deliverability of this proposed policy, and could, as an unintended consequence, give rise to the situation whether applicants provide less information in order to make it more difficult for the Planning Authority to demonstrate that this policy should be engaged.

### *Paragraph 7.51*

“Consideration will also be given to whether proposals are likely to result in an unacceptable cumulative impact in combination with other waste existing development.”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

258. Replace with: “Consideration will also be given to whether proposals are likely to result in an unacceptable cumulative impact in combination with other development.”

#### » **Justification**

259. The original proposed wording did not make sense.

### *Paragraph 7.52*

“Disruption to green infrastructure assets should be avoided...”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

260. Add the following: “Green infrastructure assets are areas which, by virtue of their location, their use or their management, serve one or more functions of social, economic or environmental public benefit. Assets can be defined sites, or equally can be landscapes or other broader environmental features.”

#### » **Justification**

261. The original proposed wording does not provide a clear definition of green infrastructure assets, and would therefore be ineffective.

262. The reason to use the proposed definition derives from its use in other strategies, such as the Green Infrastructure Strategy for Hinckley & Bosworth, and the Green Infrastructure Strategy for Shrewsbury & Atcham.

## Policy WCS12

“New or extended waste treatment or disposal facilities will be supported where it can be demonstrated that there would be no unacceptable impact on overall environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact. All waste proposals should seek to maximise opportunities to enhance the local environment through the provision of landscape, habitat or community facilities.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

263. The proposed permissive policy should be amended to be framed as either a general or a restrictive policy that is less ambiguous, for example:

264. “New or extended waste treatment or disposal facilities will not be permitted where applicants fail to robustly demonstrate that there would be no unacceptable impact on either overall environmental quality or on the quality of life of those living or working nearby, or that the proposal would not result in an unacceptable cumulative impact. All waste proposals should seek to maximise opportunities to enhance the local environment through the provision of appropriate landscape, habitat or community facilities, and planning permission will not be granted where applicants have failed to robustly demonstrate that such opportunities have been maximised.”; or:

265. “New or extended waste treatment or disposal facilities will generally be supported where it is demonstrated that there would be no unacceptable impact either on overall environmental quality or on the quality of life of those living or working nearby, and where it is demonstrated that the proposal would not result in an unacceptable cumulative impact and would not go against the Waste Strategy’s strategic objectives. However, each planning application will need to be determined on its merits in the light of all material considerations. All waste proposals should seek to maximise opportunities to enhance the local environment through the provision of appropriate landscape, habitat or community facilities, and planning permission will not normally be granted where applicants have failed to demonstrate that such opportunities have been maximised.”

### » Justification

266. The original proposed wording did not sufficiently explain how the policy might work in practice, and the wording was open to misinterpretation.

267. The revisions proposed in this submission would more effectively meet the strategic objectives of the Waste Core Strategy. The former example (Paragraph 264) is preferred by PAIN and would provide the greatest degree of certainty, whereas the latter example (Paragraph 265) would allow for greater flexibility.

## Paragraph 7.55

“Locally, the key impacts on waste facilities are likely to be the increased risk of flooding and storm damage...The detailed impacts will be controlled through our saved policies”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

268. Add the following to the end of the first sentence: “as well as reduced efficiency for waste combustion facilities.”
269. The impact of the National Planning Policy Framework (NPPF) should be considered in relation to saved policies.

### » Justification

270. Increases in ambient air temperature are associated with reduced efficiency in the conversion of waste to energy.
271. The NPPF makes explicit reference to saved policies, e.g. Paragraph 215, and therefore the Waste Core Strategy will need to ensure that the saved policies referred to at Paragraph 7.55 and elsewhere are entirely consistent with the NPPF, and will not be given reduced weight due to inconsistency with the NPPF.

## Policy WCS13

“All new or extended waste management facilities should be located, designed and operated so as to minimise any potential impacts on, and increase adaptability to, climate change.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

272. Add the following: “Planning permission will not be granted for new or extended waste management facilities where applicants fail to robustly demonstrate both that they have taken climate change into account in terms of location, design and operation of their proposed facility and that their proposal would not give rise to unacceptable climate change impacts. Planning permission will not be granted for waste combustion facilities [e.g. incineration, combined heat and power (CHP), advanced thermal treatment (ATT), gasification and pyrolysis] where applicants fail to robustly demonstrate that their proposal will support efforts to decarbonise the energy supply through the duration of the planning consent in line with the anticipated significant reduction in the carbon intensity of the electricity mix.”

### » Justification

273. To be measurable, and therefore deliverable, and to accord with Paragraphs 94 and 95, and with Footnote 16, of the National Planning Policy Framework.
274. In relation to waste combustion facilities, it may be useful to make explicit reference to the Inter-Departmental Analysts’ Group (IAG) marginal electricity mix estimates (“The

Marginal and Average Electricity Emissions Factors”) that supplement the HM Treasury Green Book, available from the Department for Energy and Climate Change (DECC).

### **Paragraph 7.58**

“...the primary controls over pollution are implemented through the separate environmental permitting regime...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

275. Add the following at the end of this sentence: “however when considering proposals for a facility that would release Persistent Organic Pollutants (POPs), such as an incinerator, the Planning Authority has responsibility for ensuring that priority consideration is given to alternative processes, techniques or practices that would avoid the formation and release of these substances.”

#### **» Justification**

276. As per Paragraphs 1035, 1036, 1239 and 1240 of the Rufford decision, which read as follows: “Mass burn incineration, pyrolysis and gasification all produce Persistent Organic Pollutants (POPs), and this gives rise to obligations under the Stockholm Convention and related agreements and legislation. In particular, Article 6(3) of European Regulation 850/2004 requires that, when considering proposals for a facility that would release POPs, priority consideration should be given to alternative processes, techniques or practices that would avoid the formation and release of these substances. The evidence suggests that modern incinerators are net producers of the POPs known as dioxins...The Saltend challenge showed that it is not the EA’s duty to give preference to alternatives to incineration. The EA argued that this obligation fell upon planners...” And: “Uncontested evidence suggests that the proposed [Rufford] ERF would be a net producer of persistent organic pollutants (POPs) and that it is therefore necessary, under European law, to give priority consideration to alternative processes that would not generate and release these substances. This would appear to a matter for the planning regime, rather than the pollution control authority...[and] this argument lends weight to the suggestion that the application should be refused so that more waste, which would otherwise be incinerated, could be recycled, composted or fed to an anaerobic digester.”

277. Article 6 (3) of Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on Persistent Organic Pollutants and Amending Directive 79/117/EEC states: “Member States shall, when considering proposals to construct new facilities or significantly to modify existing facilities using processes that release chemicals listed in Annex III, without prejudice to Council Directive 1996/61/EC, give priority consideration to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of substances listed in Annex III”.

### **Policy WCS14**

“All new or extended waste management facilities should incorporate high standards of design and landscaping, including sustainable construction measures.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

278. The phrase “sustainable construction measures” should be defined.

#### **» Justification**

279. To be measurable, and therefore deliverable, i.e. effective.

### **Plan 4: Key Diagram**

“Disposal Shortfall Area.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### **» Necessary changes**

280. Remove reference to a “disposal shortfall area”.

#### **» Justification**

281. No robust evidence is provided to support the “disposal shortfall area” boundary and designation.

## Section 8 – Monitoring and Implementation

### Paragraph 8.1

“Regular monitoring is essential to ensure that our policies are effective, being applied consistently and having the intended effect...”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

282. The Strategy should explicitly state that annual monitoring reports will be produced and made available to the public, and that these reports should include an assessment of the relevant indicators, and that reviews should take place at least every five years, or more frequently if necessary.

#### » Justification

283. The Strategy should abide by the guidelines in PPS10 and the associated Companion Guide, in particular the following guidance from PPS10, Paragraph 4: “...indicators should be monitored and reported on in regional planning bodies’ and waste planning authorities’ annual monitoring reports. Such monitoring should be the basis on which regional planning bodies and waste planning authorities periodically review and roll forward their waste planning strategies. Reviews should reflect any changes to the national waste strategy and occur at least every five years, or sooner if there are signs of under-provision of waste management capacity or over-provision of disposal options where these would undermine movement up the waste hierarchy”.

### Table 7- Monitoring and Implementation Framework for the Waste Core Strategy

“WCS1 Waste Prevention”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

284. Quantities of Municipal, and C&I waste arisings should be monitored.

285. Add: “Local Authority Collected Municipal Waste” as an indicator.

#### » Justification

286. Successful waste prevention should result in a reduction in waste arisings.

“WCS2 Sustainable waste management”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

287. “Energy recovery” and “Disposal” need to be better defined.

» **Justification**

288. “Energy recovery” and “Disposal” need to be better defined, so that these can be measured, monitored and managed. For example, it is not clear whether AD and/or MBT would count towards “Energy recovery”, especially if the MBT results in the production of RDF that is subsequently incinerated or co-incinerated.

289. Further clarification is required to ensure that metrics are as intended, for example: Will incinerator ash and residues sent to landfill count towards the tonnes of waste disposed? If 10% of waste arising is sent to MBT resulting in the halving of its volume and then subsequently landfilled – would this result in ~10%, ~5% or ~0% being considered to have been disposed of by landfill?

“WCS7 Extensions to waste management facilities...No actual local assessment if extensions are generally suitable.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

290. The meaning of “No actual local assessment if extensions are generally suitable” should be clarified.

» **Justification**

291. The meaning of this statement is not currently clear. What would a local assessment be expected to assess, and how would general suitability be determined, especially without an assessment?

“WCS11 Self-sufficiency...Any large scale proposal will help fulfil this policy (assuming it mainly takes local waste).”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

292. Remove the sentence: “Any large scale proposal will help fulfil this policy (assuming it mainly takes local waste)”.

» **Justification**

293. Self-sufficiency would not result from local facilities that would give rise to “waste outputs” that would need to be exported outside the Strategy Area, e.g. RDF, incinerator bottom ash, air pollution control residue, etc.

“WCS13 Climate change...New proposals are resilient to climate change.”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

» **Necessary changes**

294. Add indicator relating to reducing harmful climate change impacts.

**» Justification**

295. Whilst climate change impacts on waste facilities must be considered, consideration should also be given to the impact of waste management on climate change.

296. This could be monitored through keeping track of planning refusals on climate change impact grounds.

## Glossary

### Disposal

“the final stage in the waste hierarchy where waste that has no useful or economic purpose is discarded. This could either be buried below ground within a landfill site or in an above ground land-raising scheme”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

297. The definition of disposal should acknowledge both the potential for landfill mining, landfill gas capture, and the fact that incinerators that do not qualify as recovery are classed as disposal.

#### » Justification

298. Value can be extracted from landfilled waste through landfill mining for future recycling (see PAIN comments on the Vision Inset, above) and capturing gas to produce energy.

299. Furthermore, in some instances waste is landfilled that should have been recycled. Up to up to 97.5% of the C&I waste landfilled in the North West region could be recycled (see PAIN response to Paragraph 7.11, above). It is therefore incorrect to describe waste landfilled as necessarily having “no useful or economic purpose”

300. As explained in Paragraph 2.3 of the Proposed Submission Document, only facilities that exceed the R1 threshold “qualify as recovery rather than disposal operations”.

### Energy recovery

“the broad term used to cover the group of different technologies that can be used to recover energy from waste e.g. anaerobic digestion, gasification, pyrolysis, mechanical biological treatment and incineration.”

☞  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » Necessary changes

301. The definition of energy recovery needs to be amended to make it clear and consistent with the way that the term is used in the rest of the document.

#### » Justification

302. “Energy recovery” is a term that can be used loosely to mean anything from simply a euphemism for mass burn incineration to all technologies that produce energy including landfill gas capture and technologies that produce a fuel from waste for subsequent use.

303. The definition given within the Glossary is unclear, e.g. Does the term include all treatments that are either mechanical and/or biological irrespective of whether energy is recovered (e.g. MBT-Landfill)? Does the term include all Refuse Derived Fuel processing facilities even where no energy is recovered on-site? Does the term include

landfill where the gas is captured and burned? Is the term intended to include co-incineration?

304. The definition also seems to be inconsistent with the term's usage elsewhere in the document.
305. Policy WCS2(b) uses the term "Energy Recovery Facility" (which is not itself defined) and this seems to include waste incineration (including gasification and pyrolysis) but not anaerobic digestion, and may or may not include various forms of MBT or RDF processing.
306. Similarly, it is unclear whether or not anaerobic digestion, MBT-Landfill, RDF processing, etc are included within the "20% max energy recovery" target in WCS2.

### *Greenfield site*

"land that has not previously been developed including agricultural land, woodland, forestry, allotments, parks or other land that has not had a permanent structure placed on it. This can also include land where any previous use has blended into the landscape so that it now seems part of the natural surroundings."

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

307. The definition of a greenfield site should make explicit reference to the greenfield status of former collieries with restoration conditions.

#### » **Justification**

308. To ensure the definition is consistent with the National Planning Policy Framework.

### *Mechanical biological treatment*

"...This can also include energy recovery in the form of incineration, gasification or pyrolysis..."

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

#### » **Necessary changes**

309. Remove reference to "incineration, gasification or pyrolysis".

#### » **Justification**

310. In our understanding MBT does not include incineration, gasification or pyrolysis.

## Appendix 2 – Indicative size of waste treatment and disposal facilities

*Table 8 – Indicative size of waste treatment facilities*

“Medium”

↳  Not legally compliant;  Not justified;  Not effective;  Not consistent with national policy

### » Necessary changes

311. To convert the “medium” indicative capacity to a range to fall between the “large” and “small” capacities.

### » Justification

312. For the avoidance of doubt.