

**DA09/0186 & DA09/0836
DEPOT ROAD FILLING & SPORTSFIELDS
COMMENTS ON ISSUES RAISED BY ADJOINING LAND OWNERS**

The comments provided below are made in relation to the issues set out in the land owners' letter to Council dated 3 September 2013. The comments are made based on the findings and observations contains in my Compliance Audit Report (attached).

<i>Issue</i>	<i>Comment</i>
<i>"breaches of the DA 09/0186: "</i>	
<p>1. <i>Fill should not have been placed within 10 mtrs of boundary of the Council Site. It was not supposed to affect the gently sloped existing grassed batters all around the site, that would act as sediment filters. The fill has been placed right up to the boundary and also at virtually 45 degrees.</i></p>	<p>It appears that the 10m comes from the checklist that was included as Appendix 3 of the Statement of Environmental Effects submitted for DA09/0186.</p> <p>The consent does not include a condition of approval specifying the 10m distance. It does, however, have a condition requiring that the <i>'development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos RC08008/01 – RC08008/07'</i>.</p> <p>The approved plans (see RC08008/03) show the lateral extent of fill some distance inside the property boundaries (extent of clay cap is not shown on this plan).</p> <p>I note, however, that the plans approved for the sportsfields DA (DA09/0836) show more detail of the extent of filling, and indicate filling closer to property boundaries, with a batter slope of 1:4.</p>
<p>2. <i>Deliberate dumping of Acid Sulphate Soil above ground water level by Council in more than one location. No information has been given on pre-treatment of this soil, and why it needed to be covered with lime/ bicarb on-site, which also spilled in considerable amounts along other fill dumping locations on the site.</i></p>	<p>Council acknowledged that some acid sulfate soil material was brought to the site in late 2011. It was treated promptly and subsequent verification sampling demonstrated that it was appropriately neutralised, in accordance with the requirements of the ASS Manual.</p>
<p>3. <i>The shake-down grid was removed for a significant amount of time and stored in the southern half of the site, until reinstalled when asbestos clearing was in process.</i></p>	<p>Council advised that the shake down grid was installed when the frequency of truck movements increased. It was considered that the grid was not needed for the lower frequency of movements before that.</p> <p>When truck movements were decreased, the grid was taken out of service as internal roads were modified and the area under the grid filled. It was reinstalled after that.</p> <p>There is no condition that requires the grid. The condition requires Council to manage the risk of tracking material out onto Depot Road. Council staff are of the view that this risk was adequately managed, based on the number of truck movements.</p>
<p>4. <i>No rain meter was installed to help with anticipating erosion control measures.</i></p>	<p>Installation of a rain meter is not a requirement of the consent.</p>

Issue	Comment
<p>5. <i>Non-existing or failing erosion control measures, resulting in run-off with high sediment content and possible pollutants entering surrounding wetlands (in our view triggering SEPP 14 regulations) and one of our farm dams. Some of these erosion control measures have now been improved, but most still in same failing condition.</i></p>	<p>Council advises that, during the early stages of filling, erosion control was managed in accordance with Council's <i>Standard Operating Procedure – Erosion & Sediment Control 46</i> (SOP).</p> <p>The SOP adequately addresses the requirements for erosion and sediment control.</p> <p>There are no inspection reports or the like to indicate the ongoing assessment/ management of the controls that were installed.</p> <p>As filling progressed, a specific Erosion and Sediment Control Plan (ESCP) was developed (July 2011) and implemented. While Council staff advise that regular inspections/ maintenance was undertaken, there is little in the way of documentation.</p>
<p>6. <i>The stormwater run-off requires a pH between 6.5-8.5 as per the Notice of Determination DA 09/0186. This would not be consistent with the more acid environment of the adjoining wetlands, acid frog habitat and survival of tadpoles of these frogs. In any case stormwater pH has not been tested in any location as far as we know.</i></p>	<p>The specified pH range is an industry standard, providing 'neutral' conditions.</p> <p>I assume that, in setting this condition, Council was mindful of the receiving environment and satisfied that it was appropriate in the circumstances.</p> <p>It appears that, apart from some testing in the adjoining farm dam, there has been no testing of stormwater leaving the site.</p>
<p>7. <i>Water quality monitoring has not taken place in the farm dams on our property since 6 Sept 2010, despite an email from Peter De Wilde to Adam Faulkner asking him to resume water monitoring from the 8 Sept 2010 onwards, explaining the withdrawal of consent on the 6th Sept 2010 for Council to test the dam water was a mistake. The results of bore water and dam water monitoring over a 5 yr period will have to be submitted to the DECC at the end of 2013. The dam water results would be particularly interesting as the fill was placed exactly in this period of time(Sept 2010 –present)</i></p>	<p>I understand that testing has resumed.</p>
<p>8. <i>Council's weekly Site Inspection, if there was any, has failed to detect a significant area (5 x 60 mtrs) of exposed asbestos on the site, exposing Council staff, neighbouring properties and people visiting the site to asbestos. This would likely have been exposed for a considerable amount of time, as it was detected by Peter De Wilde on a random visit to have a look at the proposed site for the Telstra Monopole. During this time the shake-down grid was not in it's normal position at the entrance. It was stored in the Southern half of the site, out of use. Trucks and bulldozer could have been driving over asbestos-contaminated fill and spread this over Depot Rd etc.</i></p>	<p>Council acknowledge that asbestos was discovered on site. The source of the material is not known, and Council have considered that it may have been from an old shed or the like uncovered in early filling works or that it may have been illegally dumped by a third party.</p> <p>The asbestos was dealt with in accordance with industry requirements, with appropriate testing and certification provided afterward.</p>

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<p>9. No contact has been made with us about a legal point of discharge of stormwater onto our property, and use of our farm dam, as was suggested in the SEE related to DA 09/0186. No letters of notice of the DA's being on public display have been received by us. Angela actually spoke to Denise Galle about 2 yrs ago who mentioned the approval for the DA09/0836 had not been given yet. She gave the impression the DA had not even been on Public display. Why did she not then inform Angela about the DA?</p>	<p>Council advise that the majority of stormwater from the site is captured in the perimeter drain and discharged in the south-west corner of the property.</p> <p>A small area drains under the site entrance toward the north-east corner, towards the neighbours' property.</p> <p>Council will need to satisfy themselves that appropriate legal arrangements are in place (if required).</p>
<p>10. No proper stormwater management plan has been shown to us. We can only guess what it will be like. This plan should have been drawn up when the DA was handed in for approval, Jan 2010. The Catchment plan we were eventually sent was not dated, does not make sense and suggests that we would be better off after the Sportsfields were established than before. It suggests that prior to development, water from the far South East corner would drain all the way North to our property, jumping Depot Road which is in the way. There have never been any signs of water entering our property anywhere from the Council Site in the past. We still invite anyone to come and have a look now to assure themselves personally of this fact, or to come and show us now where and how this has happened in the past. It is also true that prior to the Council's use of the site as a waste site, the permeable nature of the medium grained sand and lack of slope on this sandplain, would not be consistent with any overland flow as can be seen all over the adjoining parts of the Kings Forest Estate. The plan is now to actively channel and pipeline stormwater onto our property which needs our agreement and possible easement if this would mean overland flow (see Council's D5 and D7). The onus is on Council to prove their blunt statement (quote: Patrick Knight in teleconference, and Stewart Brawley's reply emails) that water/run-off has always entered our property.</p>	<p>A Stormwater Management Plan was prepared and submitted with the Construction Certificate for the bulk earthworks.</p> <p>It is suggested that a Council engineer explain the design detail of the SWP with the adjoining owners.</p>
<p>11. Dust control has been non-existent from Xmas 2011 until 2 months ago, when a water truck started wetting Depot Rd again. However this was only done in the morning and had little effect after the morning hours.</p>	<p>The approvals are conditioned to require that the works be carried out so as not o impact on the neighbourhood, including control of dust.</p> <p>Council advise that water carts have been used to control dust during period of site activity.</p> <p>There is, however, a lack of formal inspection documentation to provide evidence of this.</p>
<p>12. Speed limit of 40 kph has not been adhered to causing more dust and danger.</p>	<p>A Vehicle Management Plan was prepared and speed signs installed.</p>

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<p>13. An SEE should take into account the impact on surrounding land, for which you would need to do an environmental survey, to establish the nature of the surrounding land first. So far no survey has been supplied to us by Council, and the question whether Council knows of anyone ever having done an environmental survey, in particular on our land, remains unanswered.</p>	<p>It is not clear from this what the adjoining owners mean by 'environmental survey'</p> <p>A Statement of Environmental Effects was prepared for both applications, addressing the requirements of the Act. In approving these applications, Council planning staff considered that the Statements were adequate.</p> <p>I note that Condition 20 of DA09/0836 required the submission of an Ecological Monitoring Report, to be approved prior to the issue of the Construction Certificate.</p> <p>The CC for bulk earthworks was issued without such a report having been submitted. Council advise that the intention is for it to be submitted with the application for buildings/ improvements.</p>
<p>14. A form was attached to the Notice of Determination DA 09/0186 that was supposed to be used to confirm the safe nature of the fill and signed by site supervisors and then be approved by General Manager or delegate before fill could be moved to the site. We don't believe this form has been used and a recent request for an updated list of fill sources has so far not been honoured. Peter De Wilde was reassured by Andrea Hamann during an onsite meeting that any further fill would be sourced exclusively from Arkinstall Park from that day, 03 July 2013 onwards. The first truck to arrive I believe the next week while asbestos clearing was still in process came from a different site(the location of which is known to us) and we were told no fill from Arkinstall Park was going to be used at all! Hence the request for an updated list of sources. So far no response.</p>	<p>The form referred to was Appendix E to the Statement of Environmental Effects for DA09/0186.</p> <p>It does not appear to have been used.</p> <p>Council advises that the fill material was sourced from various Council infrastructure projects, and that individual environmental assessments were undertaken for each of those projects (including an assessment of contamination risk).</p> <p>I have noted, however, documentation regarding fill sources to be approved by the General manager or his delegate does not appear to have been provided.</p>
<p>15. Andrea also suggested that a sediment/infiltration basin on the Council site might be a possibility. However she was soon after cut off from any further contact with us.</p>	<p>Council staff advised that sediment basins were not possible, as they would require excavation into the clay cap constructed over the landfill.</p>
<p>16. In the Notice of Determination 09/0186 erosion control is mentioned. The site is bare without vegetation apart from approximately 10-15 %. The bare area would roughly be 7 hectares and has been bare for 2 yrs now. What is the plan for the next 12 months or so in relation to wind erosion control? (See the Erosion and Sediment Control Plan July 2011 for details of what area at any one time can be left bare)</p>	<p>The ESCP developed for the site indicates filling in stages, with progressive rehabilitation. It does not specifically address treatment of areas that would be left unattended for extended periods as the filling progresses.</p> <p>Council's Code of Practice for erosion control calls for wind barrier fencing to be installed on larger construction sites. Council considered that such barrier was not required at this site, managing dust risk by use of water carts.</p>
<p>"Questions that remain unanswered:"</p>	
<p>1. Notification of neighbours: (see email Stewart Brawley 26 July 2013). Stewart writes: It is "not practical" or "very reasonable" to expect Council to contact all adjoining landholders when a DA is received. In this instance we would argue that this is a major Council Project, (rather</p>	<p>I understand that Council has acknowledged that the standard DA notification procedure failed in this case.</p>

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<p><i>than for example an extension of the neighbours garden shed) and there are only two adjoining landholders, Leda and ourselves. Therefore we would deem it very reasonable and very practical to contact those two landowners, in particular where there is a point of storm water discharge onto a neighbouring property concerned.</i></p>	
<p>2. <i>When are you going to officially ask us about the legal point of discharge of your stormwater?</i></p>	Council to advise
<p>3. <i>We have contacted Council's Compliance Officer, who would get back to us about several issues mentioned before, but never did. Does Council have a complaints procedure in place? And are we allowed to use it? Apparently not, as we have been allocated one single point of contact.</i></p>	Council to advise
<p>4. <i>We have asked in previous emails what information about the DA 09/0186 and DA 09/0836 was available at the time these were on public display for comments/objections. No answer has been given. This is a crucial point. If we make an objection to a DA when these are on public display, we are asked to specify what we specifically object to and back this up with evidence if at all possible. How can you object to a DA if no details are available? For instance the Erosion and Sediment Control Plan attached to DA 09/0186 which went on public display in Jan 2010, is dated July 2011! How does this work? The DA form(s) that were sent to us recently (2013) dated Dec 2009 have not even been filled out completely. The vagueness of the info so far sent to us in relation to the DA's would have made objections at the time of public display virtually impossible.</i></p>	<p>Council to advise what information was notified with each DA.</p> <p>I note that some documentation referred to was developed after the DA approvals, in support of the Construction Certificate application for bulk earthworks.</p>
<p>5. <i>On the plans for the site there is an "unnamed road reserve" running 10 mtrs wide along the Northern boundary of the site. We have asked several times what this means. If it exists, it exists and please tell us what it means, and who it is for. If it does not exist, don't put it on your plans, tell Google it doesn't exist, because even Google Maps have placed it on their maps, and have done so only recently , approximately 1-2 yrs ago. Why? Is it a "proposed" Right of Way on Council's title, that was "not registered". If that is the case, does it exist yes or no? Can it be blocked by Council as has been done? Please advise in writing.</i></p>	<p>This is shown as 'unnamed road reserve' on plans in the set RC10006.</p> <p>It is shown on Deposited Plan 397082 as "Site of Proposed Right of Way 50 links wide".</p> <p>There is no road reserve shown on cadastral plans, so it is not clear whether it the right of way was ever formally created.</p>
<p>6. <i>Is fertiliser going to be used on the site for establishment of the turf? And will there be ongoing use of fertilisers and where does the runoff go? The wetlands vegetation is already showing the signs of high nutrient levels. Algae blooms can have quite an effect on the wetlands. Could we ask Greg Jones?</i></p>	Council could advise of the intentions within the Construction Certificate application for finishing works.
<p>7. <i>Are herbicides going to be used at the site, which ones and where does the run-off go?</i></p>	As above

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<p>8. How is road run-off going to be treated before being discharged. "9 mins in a swale" is mentioned as sufficient treatment for road run-off and sportsfield run-off. No calculations provided by Council have made any sense to us yet. If it takes 9 mins for water to run from the far end of a 150 mtr long swale to the discharge point, how long is the water that enters the swale at 50 mtrs from the discharge point in the swale for? (The correct answer = 3 mins)</p>	<p>This should be addressed in a Construction Certificate application for the buildings/ roads/ finishing works.</p>
<p>9. Why does LEDA have to have sediment basins on their own Non-Environmentally Protected land before stormwater can be discharged into an adjacent section/ neighbour or wetlands, like is the case just South of the Council site, while this does not seem to apply to Council's own project? (See D7 and LEDA's documentation)</p>	<p>See above – not able to excavate sediment basins into the clay cap. Stormwater treatment was proposed/ achieved by was of the vegetated perimeter drain.</p>
<p>10. When is vegetation going to be established, to stop wind erosion?</p>	<p>Council to advise</p>
<p>11. The Koala Connection program is planning to establish an East-West Koala Corridor on our land, however at the same time a Telstra Monopole has been planned only 50 meters away from this corridor. Does Council know what this means for Koala migration and breeding? Could this area be avoided by Koala's because of the radiation and or noise? And close off a Koala-route rather than establish or improve it?</p>	<p>Council to advise</p>
<p>12. Why does LEDA have to apply an Ecological buffer and an Agricultural buffer, while this does not seem to apply to Council's own project?</p>	<p>I am not aware of LEDA's requirements.</p>
<p>13. How can we be sure there is no further asbestos or other contaminant on the Council's site or Depot Road? Like mentioned before, the asbestos-contaminated fill was bulldozed over at least 50 meters by 6 meters, but likely a larger area. Whether the asbestos was the result of illegal dumping or was dumped by Council by mistake cannot be proven. However, illegal dumping would not cover an area this big. We are talking truckloads. Pictures showing this layer had been bulldozed are available. Our question to Council whether or not Council will do further soil sampling or checks remains unanswered. This is going to be our children's Sportsfields! Also, our family breaths in dust from Depot Rd and Council site every day and drink tank water collected from the roof of our house. One look at Depot Rd will show how much dust lands on the adjoining vegetation. Truck movements have been ongoing for over 2 years now, with minimal (during a few months at end of 2011) to non-existent (rest of the time until 2 months ago) dust control. The question remains whether there is any more asbestos on the site. This would be likely as the asbestos was found in a bulldozed layer on the outer edge of the fill. This layer would likely extend southwards where recently further fill was dumped, and therefore now buried. If a DA for</p>	<p>Council has provided a report from HSC Consulting and Training regarding the asbestos removal and treatment. The report states: "Following an acceptable visual inspection of the removal zone, the primary removal area; the work zone was, as far as reasonably practicable, clear of residual asbestos containing cement debris".</p>

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<p>construction for a Telstra Monopole would be approved in this location, this layer would likely be disturbed again. We see it as the Council's responsibility to make Telstra aware of this possible impact on it's employees, the environment and cost implications.</p>	
<p>14. A Monopole should not be allowed close to a School site or a Playground/ Sportsfield. This is a policy point of for example our neighbouring Gold Coast City Council, which is line with let's say Europe in general where "electrosmog" is the new worry. Animals can apparently sense the radiation and will likely stay away from areas of higher EME, humans can't. Some small animals can die if staying too close to these poles. Did Council ask for further clarification from Telstra about radiation levels, numbers of antennas etc?(see our objection letter)</p>	<p>I have examined the compliance with DA approvals for filling and sportsfields. I have no expertise to comment on monopole issues.</p>
<p>15. When is Greg Jones, Council's Ecologist going to do his environmental survey of the surrounding land as was promised to me on 3rd of July 2013, after the asbestos would have been cleared from the site? We have not had any correspondence regarding this.</p>	<p>Council to advise</p>
<p>16. Who decided that the fill would have to be at the planned height, (which seems excessive to us) and has consideration been given to the hydrological effects on the underlying fill and leachate-rates and ground water levels in the surrounding land including ours?</p>	<p>Council's design engineers to advise</p>
<p>17. What are Council's plans right now in relation to all of the above? When is the water in the dams going to be tested? Will you discharge water onto our property, yes or no?</p>	<p>Council to advise</p>
<p>18. How do Fire Services and Essential Energy and ourselves access the south west corner of our land? The access point for the fire services pointed out to me by Matt Inwood, is in the middle of proposed wallum froglet compensation habitat to be created in a 50 mtr ecological buffer. Would it be more sensible to go over the Council's site? A simple ramp in the north east corner and one in the north west corner would suffice.</p>	<p>Council to consider and advise</p>
<p>19. Regarding the Telstra Monopole Application. We were encouraged by Council to come up with alternative sites from LEDA- we did, but for what? It would appear that Council including the Mayor and Acting General Manager were keen to get LEDA to offer alternative sites on their land, and "preferably in writing", which they did. No response from Council has so far been received. Is it possible that the income from the lease is too important for the Council?</p>	<p>See above</p>