

BCRG COMMUNITY FORUM 1/2014

12 February, 2014

6:00pm for 6:30 – 8:30 pm

Brooklyn Community Centre, Cypress Avenue, Brooklyn



Meeting Purpose:

- To provide an update on progress towards resolution of dust, noise and odour issues

Chair: Jen Lilburn

Agenda Items and Actions from meeting

1. Welcome, Jen Lilburn

Apologies including Richard Marks, Manager - Metro, EPA.

Confirm previous draft meeting notes.

Confirm 2014 meeting dates: May 14, Aug 13, Nov 12.

Outcomes from last BCRG meeting (targets), updated BCRG booklet.

Action 120214_1: Targets to be circulated to everyone as soon as possible.

2. YOTN Update, Bruce Light

3. BRAG Update, Bert Boere

4. One Steel, (Bruce Howden, Operations Manager – Brooklyn Branch)

Action 120214_2: Bruce to send Material Safety Data Sheet for inclusion in meeting notes.

5. Update on audit of stockpiles, (Simon Vittorio, Brimbank City Council)

Action 120214_3: – Simon to continue provide updates on the stockpile audit at future BCRG meetings.

6. Brooklyn Evolution Strategy Update, (Susan Fitton, Brimbank City Council)

Action 120214_4: - Ray Martin, BCC to provide updates via email and BCRG when there are significant milestones reached for the special charge scheme.

7. Living Brooklyn Update, (Tashia Dixon, Brimbank City Council)

8. Panel

- Malcolm Ramsay, Hobsons Bay CC
- Foti Beratis, Maribyrnong CC
- Simon Vittorio, Brimbank CC
- Chris Bydder, EPA
- Bruce Howden, Onesteel

Action 120214_5: - Invite stockpile owners to present at BCRG.

Action 120214_6: - Jen to follow up with Tashia and Sue to see how businesses can be assisted during this time of change.

Action 120214_7: - Jen to refer to BCRG notes for presentation from a Brimbank CC staff member regarding the 'as of right' law.

Notes from this meeting will be posted on the Brooklyn Industrial Precinct website and will be available to the general public. Meeting participants should advise Andrea Mason or Jen Lilburn if they would like their name removed from this public document.

Item 1. Welcome, Jen Lilburn

Jen Lilburn (Convenor) welcomed everyone to the forum especially those from the Brooklyn Residents Action Group and Yarraville On The Nose, industry representatives, and Council representatives including Jane Nathan and Ashley Hansen (Brimbank CC), and Ian Butterworth (Maribyrnong CC).

Apologies received included Wade Noonan MP and Richard Marks (EPA) (only the first meeting he has missed in last 3 years!). Peter Kerr (EPA) was welcomed in Richard's place. (see Attendee list at the end of these notes). An updated report from the EPA can be seen in **Appendix A**.

The draft meeting notes from the previous meeting on the 13th November 2013 were confirmed as accurate.

The proposed remaining 2014 meeting dates were confirmed: May 14, Aug 13, and Nov 12 (to fit in with parliamentary dates).

Jen has developed a list of targets for 2014 for BCRG and associated industries and agencies based on last year's discussions and which includes dust reports, stockpile management and odour issues. These targets will be used to report against at the end of the year.

Action 120214_1: *Targets to be circulated to everyone as soon as possible.*

Jen had copies of the new BCRG booklet [BCRG-Background and Achievements Report](#).

Item 2. Bruce Light, Yarraville on the Nose (YOTN)

Bruce acknowledged that we are entering the 7th year of BCRG and thanked everyone including industry for their goodwill and continued achievements.

Item 3. Bert Boere, Brooklyn Residents Action Group (BRAG)

Bert provided an update on the Federation Trail works which has now all been cleared, mulched and the crushed brick has been put on the walking path. The next few months will involve maintenance works before a public planting day on June 29, 2014.

Item 4. Bruce Howden, Onesteel, Operations Manager – Brooklyn Branch – Dust management Program

Bruce's presentation can be seen in full in [Attachment 1](#).

Bruce gave an overview of the operation of Onesteel at their Brooklyn plant including the non-ferrous and specialised metal recovery plus the scrap metal collection and preparation prior to sending offsite to the mill.

The dust minimisation program included using an independent consultant to identify the sources of the dust which are trucks as they exit the site and heavy machinery movement on site e.g. excavators. Increased dust monitoring, auditing of control measures and staff training are also part of the solution.

Bruce highlighted the current mitigation controls including the concrete drive to their boundary, wheel wash, rumble strips, solid road base materials and water truck. He also outlined the proposed controls including increased water truck regularity, improved wheel wash maintenance processes, reduced number of trucks transferring ferrous material, additional suppressant on roads and improved maintenance of the road base.

Question: How long ago did Onesteel start operating at Brooklyn and did you have an awareness of the dust issue or undertake an environmental impact study?

Response (Matthew Whelan, Onesteel): The site was established as a scrap yard in 1998 and Onesteel has operated there for last 7 years. Onesteel has responded to the dust issue in the past 2-3 years in response to EPA direction and now is part of our ongoing improvement plans. No environmental impact study had been done earlier but dust management procedures are now part of any new submissions to council.

Question: What is the nature of the dust?

Response (Bruce Howden, Onesteel): The dust is mostly road dust. Magnets are used to take any steel components from the dust and trucks must enter and exit via the wheel wash to minimise dust.

Question: Are there any environmental impacts from the suppressants used?

Response (Bruce Howden, Onesteel): The suppressant used is commonly used on roads in Victoria. There is a Material Safety Data Sheet for this material which can be shared. Onesteel is actively working to reduce environmental impacts.

Action 120214_2: Bruce to send Material Safety Data Sheet for inclusion in meeting notes. [click here](#)

Question: Is the site open or sealed?

Response (Bruce Howden, Onesteel): The front section is sealed but the back section is unsealed.

Question: Is the land at the front entrance Crown Land and who is responsible for its management?

Response (Bruce Howden, Onesteel): The area at the front is road reserve. Onesteel regularly sprays this with water to minimise dust.

Response (Chris Bydder, EPA): That is the Old Geelong Rd road reserve.

Jen outlined the process used to choose presenters for BCRG. Generally industries volunteer to present when they have an issue or achievements they wish to share. Sometimes, the EPA makes recommendations based on their work with industry in the area.

Item 5. Simon Vittorio, Strategic Coordinator Planning Compliance, Brimbank City Council - Update on audit of stockpiles

Simon's presentation can be seen in full in [Attachment 2](#).

Simon gave an overview of the current strategy for Brimbank City Council to address the issue of dust from stockpiles in Brooklyn, the development of a team within council in August 2013 to look at this issue and the subsequent auditing processes, monitoring and compliance. Team members include Simon Vittorio, Susan Fitton plus planning and engineering staff.

The audit involved onground inspections, planning permit reviews and other historical data. Five sites were found to contain stockpiles, only three of these were governed by planning permits to control the height and these varied between 4m and 8 m.

Simon explained the complexity of the issue due to differing permit conditions between sites, lack of historical information in relation to establishing the original working levels at each site, the lack of height markers and seasonal changes of materials e.g. the working level in the permit may have already been 6m above the road level which means the stockpile can be 10m above the road level without breaching the conditions.

Question: If everyone else is expected to work from ground level why are these industries allowed to have stockpiles that are over 9m high?

Response (Simon Vittorio, Brimbank CC): Brimbank CC is restricted by the conditions of the existing permits which have set the working level above ground level.

The approach takes into consideration community health, the protection of Kororoit Creek and the ongoing viability of industry in Brooklyn. BCC is collaborating with EPA to investigate sites according to the capacity of each agency to enforce action. The project also involves many sections of council to ensure consistency of programs plus engagement with external authorities such as Melbourne Water.

Bund walls and landscaping have been identified as one solution to reduce dust leaving sites and improving the amenity of the area although they are not currently meeting the ideal situations. A cooperative approach is being taken with industry. It is expected that 2 permits will be put to council by March which could take a further 4 – 6 months to resolve.

Action 120214_3: – *Simon to continue provide updates on the stockpile audit at future BCRG meetings.*

Question: The stockpiles have been getting larger for many years and permit conditions have often been brought in after the stockpiles were established or are allowed under the ‘as of right’ laws. Why isn’t someone able to change these laws and bring them into the 21st century?

Response (Simon Vittorio, BCC): It would be much better if these permits could be reviewed on a more regular basis but currently that is not the case. Brimbank is trying to bring in measures to address the stockpile height issue in collaboration with EPA within the constraints of the current laws. Council are dealing with planning permits that were issued prior to 21st century standards, rather than ‘as of right’ laws which assumes no planning permits have been obtained for these sites.

Question: The real issue is controlling the dust coming from these stockpiles. How cooperative are the current owners of these stockpiles owners and do they appreciate the BCC and EPA goals around the dust issues. It appears that the current operations still do not have adequate dust mitigation controls in place during operations.

Response (Simon Vittorio, BCC): Council works with the different owners across a range of issues and is using a strategic approach in the area. Not all of the sites have been approached yet as the focus is on the surrounding sites with the intent to address other key sites and seek improvements by invoking the amenity clause, if necessary. There have been some improvements as soil has been transferred to other sites.

Comment: The site with a 4m restriction is now well over that height and the dust has worsened since late 2013. The EPA is aware of this dust and it is always there.

Response (Simon Vittorio, BCC): My understanding is that the gypsum stockpile has been moved to another site. It appears that stockpiles on this particular site may actually be complying with the 4m height requirement, however further investigation is required. In some instances, part of the solution could be the use of bund walls to reduce the wind getting to the stockpile. Some industries are doing the right thing.

Response (Anita Scordia, EPA): I am in Brooklyn weekly so please let me know when there are dust issues to be investigated.

Question: What measures can the industries undertake to suppress the dust?

Response (Chris Bydder, EPA): There are a number of methods that can be used. It would be good to invite these industries to BCRG to give their perspective and show their existing plans for dust mitigation.

Response (Simon Vittorio, BCC): Many of the industries have measures in place and are trying to reduce the dust e.g. by installing dust monitors and ceasing operations on high wind days.

Question: What type of mitigation would happen on a Sunday with high winds when all the staff is away for the weekend?

Response (Chris Bydder, EPA): In previous years the EPA issued notices requiring industry to stop dust leaving the site without specifying controls and management controls. They were based on staff being present. The focus of the EPA now is to ensure engineering controls are installed and implemented continually. The response from industries ranges from full cooperation to submissions being heard at VCAT.

We don't see exceedences on Sundays in general. There have only been 2 in the last 4 years and these were on days where we had poor air quality across Melbourne and very extreme weather conditions. Dust is mainly from traffic movements (on sites and between sites) and when activity is occurring.

Comment: Despite the good work being undertaken most of the current issues result from the 'as of right' laws. BRAG is still advocating for the State government to update the industrial laws and for agencies to lobby for change to these 40 year old laws.

Response (Chris Bydder, EPA): This is a common issue in planning assessment all over Melbourne and it would be beneficial for the 'as of right' laws to be changed.

After the meeting 130214, Chris Bydder, EPA supplied the following information and comment:

[Clause 63](#) of the VPPs ([Victorian Planning Provisions](#)) relates to existing use rights.

In particular, 63.07 below is probably the best and only avenue for Council to get some sort of regulatory tool on some of the Brooklyn Premises:

Compliance with codes of practice

A use for which an existing use right is established must comply with any relevant code of practice incorporated in this scheme if either:

- *The instrument of approval of the code of practice has been ratified by Parliament in accordance with Section 55 of the Conservation Forests and Lands Act 1987.*
- *The code of practice is approved or ratified by Parliament under an Act.*

I'm not sure how complex / time consuming it would be to get a Code of Practice to be approved by Parliament and then get it incorporated in the planning scheme.

Sustainability Vic already produced a guideline on resource recovery centres ([click here](#)) and if the bulk of this information plus some more recent best practice measures were included then it may not be too difficult for EPA, Local Government and Industry stakeholders to develop a Code of Practice for materials recycling. Similarly the planning practice guideline for container parks could be incorporated in a similar code of practice.

Comment (Simon Vittorio): In many instances BCC are dealing with existing planning permits and conditions rather than 'as of right' or 'existing use right' legislation.

Comment (Jen Lilburn): What can the community do about this issue?

Responses: Local government and agencies in authority need to lobby State government; the laws need to be changed as they allow practices no longer acceptable in the rest of the world; plumes of dust from 6m high stockpiles exist with machinery still operating on top; Department of Health needs to be involved in the lobbying. The community is no longer prepared to live with the dust when the real issue is the need to change the laws.

Question: Can BCRG assist council to lobby for changes to these laws?

Response (Ian Butterworth, Maribyrnong CC): Changes to planning legislation are difficult.

Question: If new businesses have to comply why don't these other businesses?

Question: Is there a lobby group in existence already?

Response (Jane Nathan, Brimbank CC): One of the BCRG values is partnerships and there are a number of organisations and community that attend BCRG. A better approach might be to work more closely with private enterprise to address these issues and to encourage behaviour change from those not adhering to the permit conditions.

Response (Matthew Whelan, Onesteel): The challenge is during this transition phase and there has been an extraordinary amount of good work undertaken over the past 7 years. Industry needs to remember that a licence to operate is not a licence to pollute. Good industries work well with EPA and BCC. The community must continue to complain to EPA to allow EPA to act. If industry is receiving complaints they generally respond. The team approach is doing very well. The more you work together the better the results can be.

Comment: It is still a wonder that industry is able to operate these industries in the middle of a city and that change cannot be implemented more quickly.

Comment: There are still some recalcitrant operators that still don't want to comply and continue to fight the changes through VCAT - they are not prepared to be good citizens. The community has played their part in this process.

Item 6. Brooklyn Evolution Strategy Update, (Susan Fitton, Brimbank City Council)

Susan's presentation can be seen in full in [Attachment 3](#).

Susan gave an overview of the Brooklyn Evolution Strategy and the progress that has been made in Brooklyn over the past 3 years when there was a lot of frustration within the community, no vision for a better future and a feeling that there should be no industry in the area. Today the perception is quite different and the plan for a cleaner Brooklyn is a win-win for industry and the community.

The 20 year vision was adopted by council last year. 75% of the short term actions are already in progress e.g. strategic lobbying and making connections within government by council, Jones Rd and Bunting Rd projects, Living Brooklyn and ongoing compliance in collaboration with EPA.

The project governance and reporting allows for accountability and transparency plus partnership updates with relevant stakeholders.

Other information related to infrastructure initiatives such as the special charge scheme, business development and investment, Living Brooklyn - Integrated Water Cycle Management Strategy and environmental improvement projects

Action 120214_4: - Ray Martin, BCC to provide updates via email and BCRG when there are significant milestones reached for the special charge scheme.

Question: Are the compliance activity figures for all of Brimbank CC?

Response (Susan Fitton, Brimbank CC): The figures in the presentation are only for Brooklyn.

Item 7. Tashia Dixon, Brimbank CC, Living Brooklyn Project

Tashia's presentation can be seen in full in [Attachment 4](#).

Tashia gave an overview of the Living Brooklyn project which is being developed by Brimbank CC following the development of the Brooklyn Evolution Strategy. As a part of the implementation strategy a key action has been to prepare a Masterplan to facilitate a Vision for Brooklyn Industrial Precinct focused on place making. Living Brooklyn will achieve this by using *water* as the primary tool. In addition to place making, this project will use water to guide health, productivity and prosperity. This project is funded by the Living Victoria Fund and is compatible to the outcomes sought in Melbourne's Water Future Strategy.

Living Brooklyn is a solutions focused project and will use a collaborative approach to guide change. It will bring together stakeholders who use, influence or are affected by aspects of the water cycle at Brooklyn Industrial Estate. Business and government will work together on a Vision for a healthier and more prosperous future. This will occur at a visioning workshop that is being held on the 5th and 6th March, 2014.

This project will build on all the hard work that has already been done in Brooklyn including by those who are represented at BCRG. The next steps include building the leadership team to create a Vision to guide the creation of an Integrated Water Cycle Management Strategy for the Brooklyn Industrial Estate.

To demonstrate the value of Integrated Water Cycle Management at Brooklyn examples of international projects were shown to illustrate the type of outcomes that could be become part of the vision for Brooklyn.

Tashia gave an overview of the Living Brooklyn project which is being developed by Brimbank CC as part of the Brooklyn Evolution Strategy, the Living Victoria Fund and Melbourne's Water Future Strategy.

The [Living Brooklyn Newsletter 1](#) is now available.

Item 8. Panel questions/discussion, Foti Beratis (MCC), Malcolm Ramsay (HBCC), Simon Vittorio (BCC), Chris Bydder (EPA), Bruce Howden (Onesteel)

Ian Butterworth, (Maribyrnong CC) spoke of an example in Yarraville where best practice guidelines for container parks that had been developed by the Department of Infrastructure were used to help mitigate issues with truck movements. The guidelines are not mandatory but provide some controls and are now attached to the planning scheme. The process helped provide a benchmark to measure if operations were appropriate. Perhaps a similar approach could be taken for management of stockpiles?

Chris Bydder (EPA): Those best practice guidelines for container parks have been used by EPA when writing notices to industry. However one of the biggest issues in that industry is where sites are managed by tenants and not the owners, so they do not always have the funds to improve the site that they don't own. Often the occupier will move on rather than upgrade the site and the owner will simply get a new tenant doing the same thing and the cycle starts over. Two of the sites with stockpiles are

owner occupiers. There are [best practice guidelines for materials recycling](#) facilities but these are not linked to planning.

Question 1 for Chris Bydder (EPA)

On the stockpile sites where there is dust from operational activities on a daily basis – what controls have been put in place and with what success?

Response – Chris Bydder. The licence on one site needed to be updated to incorporate a contour plan and a dust notice has now been issued plus some other notices to assist with compliance. A plan has been provided to the EPA which aims to reduce the dust piles on that site. The notice was only issued in December 2013 but there is work that has been started e.g. new fence.

Response – Anita Scordia, EPA. The notices include conditions that there must be dust suppression while operating. If EPA can prove that there is airborne dust travelling beyond an operator’s boundary then EPA can act. The site in question has a dust monitor at the southern boundary.

Action 120214_4: - Invite stockpile owners to present at BCRG.

Comment: As a business operating next door to one stockpile site, our staff has seen the operators undertaking dust mitigation such as the use of water trucks and that the dust appears to be coming from another site that is leased out to different operators on a monthly basis.

Question 2 for Chris Bydder (EPA)

Can you provide an update on the Burgess St drain?

Response – Chris Bydder. The EPA is monitoring 3 drains including Burgess St Brooklyn and McArthur Rd Altona and one other which have frequent scum incidents. It is complex to locate the source but these are a high priority as they impact on Kororoit Creek. Scientific investigation is required but there is no funding at present.

After the meeting 130314, Chris Bydder, EPA supplied the following information:

I conducted an inspection personally with Melbourne Water; my report is attached ([click here](#)). I did not find much. The next report was after the first heavy rains in weeks, naturally there was quite a bit of muck in the drain after the rain. EPA is planning an inspection blitz in May in the catchment as we don’t believe there is any specific industrial source of pollution, it is more the accumulation of residential, public and commercial small discharges and urban run-off in the area.

Question 3 for Bruce Howden (Onesteel)

Onesteel has demonstrated good interim controls. How have you changed the culture within your organisation over and above the engineering controls installed.

Response – Bruce Howden. The best results have come from the leadership at the site. The branch manager has taken the time to explain to staff why the management controls are necessary. This has been backed up on a day by day basis to really engage with the staff.

Question 4 for Chris Bydder (EPA)

Is anyone actually allowed to set fires on their property? For example there is one site burning on a regular basis creating odour issues

Response – Chris Bydder. Generally burning is not allowed – there is a council by law prohibiting the disposal of waste by burning. EPA has had some success in prosecuting fires in the past, but the operators need to be caught in the act. These burning of waste can should be reported to Council first and also via the EPA hotline. In the case of fire that may be a risk to property or appears to be out of control you can also call the MFB. Remember the report MUST BE AT THE TIME of the fire to enable prosecution.

Comment Jen Lilburn: An anonymous letter addressed to BCRG regarding burning was received and passed on to EPA recently. Chris Bydder added that the letter provided no opportunity for immediate response option, hence could not be followed up.

Question 5 for Chris Bydder (EPA)

What does the EPA know about the landfill fires that seem to have reappeared and are evident by odour?

Response – Chris Bydder. EPA is currently monitoring this but has not confirmed the presence of any new fires.

Question 6 for Jen Lilburn

Has there been a resolution tonight regarding the ‘as of right’ laws?

Response – Jen Lilburn. The council representatives have listened to the concerns raised and will continue to work with industry through programs such as Living with Brooklyn and Brooklyn Evolution. There is no one present at this forum with the power to change the laws.

Action 120214_6: - Jen to follow up with Tashia and Sue to see how businesses can be assisted during this time of change.

Comment: It would require someone from the legal profession to investigate whether it’s a law or a regulation, a case law or a property law.

Action 120214_7: - Jen to refer to BCRG notes for presentation from a Brimbank CC staff member regarding the ‘as of right’ law.

After the meeting- notes regarding discussion around existing use from previous BCRG meetings can be seen in [Appendix B](#).

Comment: The land use planning regulations stipulate the land use zones but the difficulty is actually about how the land is being used. In order to enforce compliance, breaches must be reported so council can create a solid case to take to the offending industry to negotiate a way through the issue.

Jen thanked everyone for their contribution throughout the meeting.

Meeting Closed: 8:30

Attachment 1 The presentation from Bruce Howden, Onesteel can be seen on the [Brooklynip website](#)

Attachment 2 The presentation on the stockpile update from Simon Vittorio, Brimbank CC can be seen in full on the [Brooklynip website](#)

Attachment 3 The presentation from Susan Fitton, Brooklyn Evolution, Brimbank CC can be seen in full on the [Brooklynip website](#)

Attachment 4 The presentation from Tashia Dixon, Living Brooklyn, Brimbank CC can be seen in full on the [Brooklynip website](#)

Meeting Attendance Record – 12 February, 2014

36 people registered their attendance.

| Name | Organisation | Name | Organisation |
|-------------------|--------------------------|----------------------|--------------------------|
| Andrea Mason | Executive Officer, BCRG | Ian Butterworth | Maribyrnong City Council |
| Andrew Race | Veolia | Jan Cole | Resident |
| Anita Scordia | EPA Victoria | Jane Nathan | Brimbank City Council |
| Anna Crawford | Transpacific | Jen Lilburn | BCRG Chair |
| Annette Patrick | BRAG | Joe Coliero | Cargill |
| Ashley Hansen | Brimbank City Council | Kieren McDermott | Transpacific |
| Bert Boere | BRAG | Laurie Bell | BRAG |
| Bill Cole | Resident | Malcolm Ramsay | Hobsons Bay City Council |
| Brian Long | BRAG | Matthew Whelan | Onesteel |
| Bruce Howden | Onesteel | Olga Ghiri | Transpacific |
| Bruce Light | On The Nose | Richard Mataska | Resident |
| Carmen Largaiolli | Resident | Roger Isaac | Resident |
| Chris Bydder | EPA Victoria | Russell Cadman | Brimbank City Council |
| Daniel Watts | Veolia | Simon Vittorio | Brimbank City Council |
| Foti Beratis | Maribyrnong City Council | Stephen Gray | Victoria University |
| Geoff Mitchelmore | Resident Altona North | Susan Fitton | Brimbank City Council |
| Heather Humphreys | Resident | Tashia Dixon | Brimbank City Council |
| Helen Paterson | Container Logistics | Viranga Abeywickrema | EPA Victoria |

| Apologies | | | |
|------------------|--------------------------|----------------|-------------------------|
| Cathy Palmer | Aust Tallow Producers | Troy Kraska | EPA Victoria |
| Cheryl Valneris | Vic Container M'ment | Stuart Menzies | Brimbank City Council |
| Colleen Gates Cr | Hobsons Bay City Council | Wade Noonan MP | Member for Williamstown |
| Richard Marks | EPA Victoria | Clete Elms | Transpacific |
| Sandra Wilson Cr | Hobsons Bay City Council | | |

Notes were taken by Andrea Mason. Presenters were given the opportunity to review the notes relating to their item to ensure the discussion was accurately recorded. Additional comments received after the meeting have been highlighted as such.

Appendix B: Previous discussions relating to existing use rights at BCRG as taken from meeting notes:

BCRG MEETING JULY 2010: Item 3 **Statutory Planning Matters**

Stuart Menzies (Manager Planning, Brimbank City Council) provided the meeting with an overview of the “threshold distances” applying to various industries and the process followed by Council when a new industry or warehouse application is received. This presentation is available as Attachment 2.

A question and answer session followed Stuart’s presentation.

Q20. If this (the planning system) works why do we still have the problems we have? How long have the thresholds been around for?

Stuart explained that the provisions outlined only apply to uses approved in the last 10 years (when the thresholds were introduced as part of new format planning schemes in the late 1990s).

Q21. Are permit conditions policed? Why does enforcement not occur unless residents complain? Without follow-up after a permit is granted, problems will continue to occur won’t they?

There are opportunities for action where permit conditions are not complied with. Recognising the need for improvements and giving a priority to planning compliance, Brimbank City Council will be increasing its resources for enforcement, including recruiting new Enforcement Officers as part of the recently adopted 2010/2011 budget.

Note by Jen: After the meeting, Stuart Menzies added the following comment: Council will be continuing to work towards a risk-based approach to planning compliance having regard to the Auditor General’s 2008 report on the issue at Hume and Ballarat.

Q22. Is the concentration of similar types of industries and the impact of this considered?

Council is required to consider each individual application on its merits.

Laurie Bell moved a motion, being “that Council take positive steps to pressure State Government to amend legislation to address pre-existing licences that do not operate within their proper zones”

The motion was seconded by Jan Cole and received strong support from attendees.

Jen responded that BCRG wasn’t a formal body for passing resolutions, and in any case could not require other parties to take action. She undertook to ask Brimbank to respond to this request.

Note by Jen: After the meeting, Stuart Menzies responded to the request for comment by Brimbank: Existing use rights are recognised as part of all planning schemes in Victoria (Clause 63) for a use that has been lawfully operating before any planning scheme provisions applying to the land may have changed. Generally speaking, existing use rights can expire if the use stops for a continuous period of 2 years, or stops for two or more periods which together total 2 years in any period of 3 years.

A review of the Planning and Environment Act was initiated by the Minister for Planning in March 2009 and consultation about modernising the Act was undertaken at that time. A draft Bill setting out proposed amendments to the Planning and Environment Act 1987 was released in December 2009. Council is unable to consider changes to the Planning and Environment Act in relation to the operation of existing use rights. Ideas for changing the legislation should be directed to the Minister for Planning or the Act Review Team at the Department of Planning and Community Development by email at PEActreview@dpd.vic.gov.au

Council continues to monitor and enforce the operation of existing uses in the Brooklyn Industrial Precinct to ensure compliance with previous planning approvals. Council is also committed to working with the EPA and business to improve their current operations to avoid pollution and other amenity impacts.

BCRG Meeting November 2011

Item 5b. Discussion: What is the capacity to effect change now in order to shape the future of the Brooklyn industrial Precinct?

Stuart Menzies, BCC – Council officers take particular interest in planning applications from the Brooklyn area and many of these are dealt with in Council Chambers and not just through one officer. Particularly in the past 2 years and in regard to existing rights uses, a mix of several officers and the chamber are used to make decisions.

Carmen continued to read from her notes.

“In some cases existing use rights trumps the buffer zone requirement. For example - 690 Geelong Rd essentially does not have a buffer between it and the residential area.

This is a question for both BCC and EPA. In light of the impending sale of the large allotment of land at the corner of Geelong and McDonald Rds Brooklyn, and the constraints of the current BCC planning scheme (not suited to 21st century reality) how will both authorities protect environmental and community interests without compromise in ensuring that inappropriate industry does not establish roots at this site, or any other site within the precinct? What is the capacity to effect change NOW in order to help shape the future of BIP?”

Brian Long – Would you put abattoirs in same category as Methyl Bromide spraying?

Carmen – Yes. I just used this example because of its heritage overlay and it gave an insight of the social and cultural history of that site re noxious odours in 1924 and how it is still happening today.

Lowen Clark - Thank you for the history. Perhaps the Council should try to rezone that block now. We’d like to see it rezoned and turned into parks and would like to see Council working towards this instead of more industry.

Carmen - Interested to know how many existing rights permits exist or if they have expired. If their existing rights use ceases for 2 years running then the operator loses the right to use it and the permit expires.

How can we use this to ensure we get the right people taking up the land and prevent noxious industries coming in?

Lowen – As part of a literary festival next year I intend to bring a group to read TS Elliott’s *The Wasteland* in Bunting St. I would like to see industrial wastelands changed into something good for the community.

Marie Long – We are saying that the Council should rezone these areas and to make changes that improve the area for all of us. Can they do this? Do they have the power to make these changes when it is being sold and influence who it is sold to?

Stuart – Existing use rights are associated with the land, not an owner. A new owner can continue a past activity as long as it is in accordance with the original permit (that may have been obtained some years ago). If they cease to operate for 2 years or change their use then they cease to have that right. There are many sites in Brooklyn operating under historic permits which were established some time ago and we can only enforce breaches.

Rezoning issues are dealt with by Council which is a planning authority, responsible for planning issues for the whole of the municipality. It does this through the planning scheme and different zones that are appropriate in different areas. Council can begin a process to make changes to a zone in consultation with landowners and in line with planning policies and there needs to be a Council resolution to make

these changes. There has to be public consultation and Council approval before it can be taken to the Minister. Susan Fitton's work with the Brooklyn Strategy and the Stage 2 work is to provide the strategic work to justify consideration of future planning decisions and possible changes to the planning scheme. Council is sometimes approached to make changes to the planning scheme.

Lowen- HBCC have occasionally rezoned obsolete industrial areas and you can encourage landowners to apply, which can be set into a forward vision quite easily.

Stuart – The setting of zones in the planning scheme are generally the last part of planning considerations. First it has to be decided what is the 'idea' for the development of the area before the future decisions can be considered e.g. is it to provide employment, amenity or residential uses. Stage 1 of the Brooklyn Strategy considers the importance of employment, amenity etc.

Lowen – Residents need to lobby for rezoning and try to get industries to support the idea as well as Council.

Stuart - Through Stage 2 of the strategy, BCC will be inviting input through the community engagement processes.

Richard Marks –With regard to how to protect the community through change of ownership and land use it is up to BCC under the Planning Scheme to address this. However during the application process there are some triggers where the EPA is involved such as when licences are required to operate. We can also look at any scheduled activities where community have rights to object. The Planning Act can also trigger EPA involvement where buffers are required. The EPA and BCC now have a Memorandum of Understanding and a close working relationship and we can deal with these issues together.

No new activities will be the same as the old systems were. The controls are there now so that new operations must be modern and without impact on the community. The laws are robust, fair and predictable. Future development will be closely looked at by BCC and EPA. We hope that provides some reassurance for the community.

Stuart – The Powercor site that is for sale has been cleared so that there are now only 3 out of the 24 remaining on the site and all the illegal users have been removed. The remaining users have permits. With the land on the market, potential buyers are making enquiries to Council and Susan and Stuart from BCC will be involved in these discussions. We will explain the new rigor that both authorities will be taking in the future so that potential buyers are fully aware.

Susan Fitton – for BCC existing rights remain with the land parcel whereas for the EPA, licences are issued to the landowner.