

# RESPONSES TO QUESTIONS TAKEN ON NOTICE

## COUNCIL MEETING 15 MAY 2024



### **Public Question Time**

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#### **Questions from Isaac Hermann:**

Concerning Elwood Foreshore.

1. How many M3s of contaminated material spoil from the Elwood Reserve Ovals has been dumped in the Elwood Tea Tree Reserve and adjacent parkland from the works of 2008, 2016 and 2017?
2. Where in the Foreshore and Hinterland Vegetation Management Plan of June 2015 does it allow for the Tea Tree Reserve and surrounds to be used as a Class C toxic waste dump?
3. In the foreshore reserve just south of the Elwood Scouts Water Activity Centre – unremediated contaminated soil is exposed: at least half the site is exposed to sunbathers and the elements overall. The only groundcover appears to be sparse and self-sown seasonal weeds:
  - in which state or local government policy or plan, such as Council's Soil Contamination Management Policy, could this be deemed acceptable?
  - has the Soil Management Plan for this site failed?
  - from Item 5.1 Responsibilities has council failed to allocate appropriate resources for undertaking assessments and remediation.
  - and from Item 5.2 has the General Management Team also failed in its responsibility for monitoring the implementation of this policy.
4. Why have council officers intentionally chosen to neglect this concern?
5. With the proposed construction of new facilities by Wattie Watson Oval, where will excavation spoils be removed to?
6. Given that the Elwood Main Drain Duplication \$65million Project has been costed, and that Council is liaising with Melbourne Water, where are the approximately 12,000 M3s of toxic soil waste destined to be dumped?
7. Will Councillors move a motion to prohibit any further degradation of the Elwood foreshore by contaminated material?

#### **Responses:**

##### **General overview of contaminated soil and management procedures.**

*Two criteria are relevant here.*

*The HILs (#1 below) determine the suitability of the soil for a particular site usage.*

*The EPA regulations determine the disposal destination if spoil removed from site.*

##### **1. The Health Investigation Levels - HIL's**

*The ASC National Environment Protection Measures (1999) defines a health Investigation Level (HIL) (or a Health Screening Level – HSL – depending on the environmental chemistry of the contaminant) as the concentration of that substance above which further appropriate investigation and evaluation will be required. It also provides different HILs based on the setting in which the soil being assessed is located. The various HILs or HSLs are generally relevant to assessing whether a soil is likely to have health impacts on people exposed to the soil under one of the following broad land use scenarios:*

- **Residential A**, where the land is used for residential purposes and the residents have unfettered access to the soil for domestic gardening and recreational purposes.

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- **Residential B**, where, although the site is used for residential purposes, the soil is covered by building, pavement and/or gardens which are not worked by residents and there is therefore minimal opportunity for soil access.
- **Parks and Public Open Space (C)**, where exposure to soil is limited by both the design of the site (with paving, grassed and gardened areas) and the more limited time spent by people visiting the sites.
- **Commercial/Industrial (D)**, where the soil is typically covered by buildings and hardstand and is only exposed when excavated to install services, etc, and where the site users are present for only a limited part of their lives.

**Port Phillip reserves and playgrounds mostly fall within Parks and Open Space (C).**

2. **EPA and soil classification in accordance with EPA Publication 1828.2: Waste disposal categories – characteristics and thresholds**, to a much lesser extent. The presence of contamination does not require removal in many cases. Protective layers, hardstand or buildings will suffice, minimising exposure to persons. Harm to the environment is another reason but only if soil is affecting groundwater and it is migrating off site.

These requirements are contained within the Site Contamination Management Plans and include on-going inspection and maintenance procedures.

### **Responses to Questions:**

1. Further enquiries are being undertaken on this question about historical activities, and a detailed answer is not available at present. The area is not accessible to general public.
2. The Foreshore and Hinterland Plan does not cover Class C waste dumps and there is no reference to contamination in the Plan.

Class or Category C waste dumps are permitted and licenced by the Environment Protection Authority for waste disposal, following strict and comprehensive assessments. The class C or category C designation applies to material or waste soil that is removed from a site for disposal. Material and soil can be contaminated but still be under the Health Investigation Limits for a particular site use or activity. If under the the Health Investigation Levels (HILs) limits, the soil can be kept on site with appropriate protection barriers. The HIL limits are the primary driver for removal of spoil or protection measures at a site. EPA classifications determine suitable sites for disposal, only if spoil is removed from a site.

3. The area in question does have sparse cover, which is improving based on Arran's report. Bare dirt or sparse growth is not an accurate indicator for soil contamination or that a soil management Plan has failed. In this case high foot traffic, no irrigation and poor growing media may be the cause, but further investigations are being carried out.

Council has engaged Consultants and carried out many site soil investigations and the data base within Council is growing. A Human Health Risk Assessment report is due shortly and this covers over 25 open space and playground areas. The Council Policy's are being implemented and the status is reported regularly. The allocation of resources for assessments and remediation is above average for Council's generally.

4. Council Officers did not neglect this concern and investigations were carried out, as detailed in the Tracking Number above. The report was prepared on the 30th of April 2024 by an officer with the following resolution; "Area has seen strong re-growth since

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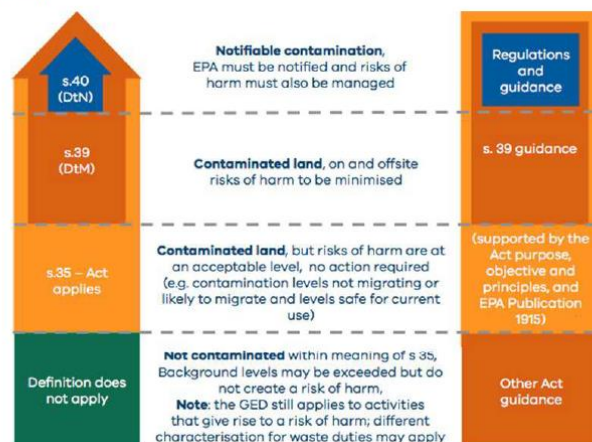


*lodgement of request and there is no adverse risk to the public relating to the contaminated soil. Area will continue to be monitored by Council staff and maintenance contractor.”*

5. *Any spoils required to be removed from the site will be disposed of at EPA licenced facilities, depending on the classification of the spoil. There is no proposal to move surplus spoil to a Port Phillip location.*
6. *The project is due to start in March April 2025. The principle is Melbourne Water and any material disposed of offsite will be managed by Melbourne Water, and their contractors, in accordance with EPA Publication 1828.*
7. *Councillors and Officers are committed to protecting the health and safety of humans in the Port Phillip area as well as ensuring that there is no harm to the environment. This is wholly captured in the EPA Act 2017 and the Council compliance with this Act and other Acts is a serious Governance issue.*

### 1.2 Effects of the new *Environment Protection Act, 2017*

Amongst other things, the new Act imposes a General Environmental Duty, which aims to prevent environmental harm from arising in the first place, by requiring all Victorians to manage risks to human health and the environment that their activities create. The Act also establishes duties in circumstances where pollution or waste has already impacted land or groundwater, such that it is regarded as ‘contaminated’ as defined in section 35 of the Act. Part 3.5 of section 35 creates both a **duty to manage** contaminated land and a **duty to notify** of contaminated land by person(s) in management or control of land, and, using the illustration below, specifies the circumstances in which these duties apply.



## Councillor Question Time

### Question from Councillor Nyaguy:

Can officers please clarify in relation to the Park Street tram link? I continue to hear from my colleagues that they are very excited about it, but I have never seen it on any public website or heard any mention of it when I was working in State Government. I know my colleagues are very enamoured about it but I would be curious to know where these commitments were made and where any public evidence of this project is actually a commitment of the State Government rather than just a plan or a thought bubble?

### Response:

In 2016 the Victorian Government through Rail Projects Victoria (RPV) included the Park St tram link project in ‘Other Tram works’ in [Appendix 3](#) that was to be funded as part of the Melbourne Metro Program Business case. We have undertaken a review of government web

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pages, links and media releases and have a reference to the Park Street tram in the following media release ([article](#)) from the Premier on 26 October 2016. It contains the following reference;

*“The Metro Tunnel project will also build new tram connections on Toorak Road West in South Yarra, Park Street in South Melbourne and on Flinders Street in the CBD to allow trams to continue at the end of Elizabeth Street.” “When this work is complete by mid-next year, Routes 8 and 55 will be combined into a new Route 58, which will run from Toorak through South Yarra to St Kilda Road via the new Toorak Road West connection. Trams will then turn left down Park Street and run along Kings Way to William Street, on to West Coburg”.*

The Tram Route 58 upgrade project was completed in 2019 with trams removed from Domain Road, diverted on Toorak Rd West, left down Park St and then along Kings Way into the City.

On 21 June 2023, the CEO wrote to RPV requesting an update on the Park St tram link project between Kings Way and Heather St, South Melbourne.

On 18 August 2023, RPV replied they are working with the Department of Transport and Planning (DTP) on the timing and scope of the Park St tram link project, as a part of the broader tram infrastructure upgrades on the network and will update Council once this process is complete.

No update has been received.

### **Item 14.1 Notice of Motion - Mayor Heather Cunsolo - Life saving clubs parking permits**

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#### **Question from Councillor Nyaguy:**

As part of the e permits, are we collecting data on the vehicles that are being scanned? By monitoring and scanning permits regularly I assume this would enable us to get a good data set on how often those permits are being used?

Response on the night: Tarnya McKenzie, Interim General Manager Community Wellbeing and Inclusion advised that when e permits are implemented, parking enforcement officers will scan vehicle registrations to check for digital permit validity. How the information is translated into the system is not yet known, therefore the question was taken on notice to follow up.

#### **Response:**

The data we collect through scanning number plates will go towards capturing the numbers of vehicle interrogated and it may assist to identify hot spots (e.g. assist with providing statistics on numbers of vehicles/number plates checked on any given day, and the % of those that did not have valid permits in a given area). This may help us better identify where parking may be a problem for our residents and be able to ensure that we are addressing this in a more evidence-based manner. We would not be capturing how often the permits are used by residents or for how long and where.

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