

## 16.1 RAIL SIDING CONTAMINATION TARAGO

**Author:** Scott Martin, Director Planning & Environment

**Authoriser:** Warwick Bennett, General Manager

**Attachments:** 1. Draft Notice of Significantly Contaminated Land

The Council is satisfied that, pursuant to Section 10A(2) of the *Local Government Act 1993*, the information to be received, discussed or considered in relation to this agenda item is:

- g advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

<b>Link to Community Strategic Plan:</b>	C03 – Our community – Healthy and safe community
<b>Cost to Council:</b>	Not applicable at this time
<b>Use of Reserve Funds:</b>	Nil

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### REPORT

On Thursday 27 February, it was brought to Councils' attention that there was potentially a significant public health issue due to lead contamination in Tarago. It seems as though this matter has arisen because land has been disturbed to construct the new rail siding in Tarago. It is our understanding at this time that a 12 month old child has been tested and has lead levels that are on the threshold of acceptable health standards. The house that the child lives in has also been tested and is 10-15 times above the safe limit for lead exposure. Other members of the family who live in that house have yet to have their test results returned.

At midday on Friday 28 February 2020, Council were issued with a draft Declaration of Significantly Contaminated Land from the NSW EPA (refer Attachment). The draft declaration seeks Council's comments prior to 20 March 2020, however in this regard, it is recommended that Council respond by seeking that the declaration be enacted immediately.

Although the correspondence identifies the land to be declared to be significantly contaminated it does not provide any guidance or explanation on how access to the area will or can be restricted, or the potential impact on adjoining land uses such as the Mulwaree Street residential subdivision or existing residential properties in close proximity. Although the EPA may plan to address this in a subsequent Management Order it would be better if Council had information in this regard. It would also be of benefit if Council had some idea of the further testing that is proposed and the potential for any widespread contamination outside of the site already identified.

I have asked for this matter to be discussed in the closed session of Council at this time because we are yet to have a briefing from NSW Health, NSW EPA, Transport for NSW or John Holland Rail. However I make it clear that we should be seeking from the State Government that this matter become public as soon as possible and as they are the leading agency in this matter, they should conduct press releases and public meetings or public information sessions. However in saying this, please be aware that if Council endorses the recommendation in this report, the matter will become public as Council is required to endorse any resolution it makes in open meeting. I do not have a problem with that because Council should not be party to a matter kept secret that is of such public health significance.

We are demanding an urgent briefing with NSW Health, EPA and other relevant agencies seeking clarification on the public health status of this contamination and what are the required works to ensure that this lead contamination, as well as any further contamination is contained. There are

also serious questions to be asked as to why this contamination has been kept secret as we understand it has been known since work commenced on the new Tarago rail siding. The local MP, Mrs Wendy Tuckerman also has not be informed.

We feel as though Council has been kept very much in the dark on this matter, thus we are seeking urgent briefings from the relevant agencies. Below are copies of two emails for your information; the first being the information I sent to all Councillors Friday 28 February 2020 and the second being the notification I received from Council's Business Manger Environment and Health on Thursday 27 February 2020, directly after she was notified by NSW Health. It is our intention to try to have further information available for the Council Meeting next week but that will be dependent upon the information we receive from the State Government agencies. We are in touch with Wendy Tuckerman MP's Office who are also frustrated by not being kept informed.

# Declaration of significantly contaminated land



Section 11 of the *Contaminated Land Management Act 1997*

Declaration Number 20201103; Area Number 3455

The Environment Protection Authority (EPA) declares the following land to be significantly contaminated land under s 11 of the *Contaminated Land Management Act 1997 (Act)*.

## 1. Land to which this Declaration applies

This declaration applies to significantly contaminated land described as part of the Tarago Station Rail Corridor, Tarago, NSW 2580 within the local government area of Goulburn Mulwaree Council (the Land). The Land includes the following:

- part of [REDACTED] (defined area of the Tarago Station Rail Corridor).

The land to which this declaration applies is shown on the attached map and is shaded blue.

## 2. Substances affecting the Land

The EPA has reason to believe that the Land is contaminated with the following substances (Substances) in such a way as to warrant regulation as significantly contaminated land under the Act:

- Lead

## 3. Nature of harm caused by the Substances

The EPA has considered the matters in s 12 of the Act before making this declaration. The EPA has reason to believe harm has been, or may be, caused by the Substances, including:

- lead concentrations in soil within the rail corridor ([REDACTED]) exceed national guideline values for the protection of human health and the environment;
- lead contamination has impacted adjacent land at [REDACTED], with soil also found to contain lead at concentrations exceeding national guideline values for the protection of human health and the environment;
- [REDACTED]
- there are potentially complete exposure pathways for onsite and offsite ecological receptors

## 4. Further action to carry out voluntary management under the Act

The making of this declaration does not prevent the carrying out of voluntary management of the Land by any person. Any person may submit a voluntary management proposal for the Land to the EPA.

## 5. Submissions invited

Any person may make a written submission to the EPA on:

- whether the EPA should issue a management order in relation to the Land; or
- any other matter concerning the Land.

# Council Meeting Open Report

Submissions should be made in writing and sent to:

Director Regulatory Operations – Regional South  
Environment Protection Authority  
PO Box 622  
QUEANBEYAN NSW 2620

or emailed to [contaminated.sites@epa.nsw.gov.au](mailto:contaminated.sites@epa.nsw.gov.au)

By not later than [date].

**NIGEL SARGENT**

**Director Regulatory Operations Regional South  
Environment Protection Authority**

(By delegation)

Date: [Insert]

## **Further Information about this Declaration**

### **Management Order may follow**

If management of the Land or part of the Land is required, the EPA may issue a Management Order under s 14 of the Act.

### **Amendment or Repeal of Declaration**

This declaration may be amended or repealed. It remains in force until it is otherwise amended or repealed. The subsequent declaration must state the reasons for the amendment or repeal (s 44 of the Act).

### **Information recorded by the EPA**

Section 58 of the Act requires the EPA to maintain a public record. A copy of this significantly contaminated land declaration will be included in the public record and is available for access at the principal office of the EPA and on the EPA's website.

### **Information recorded by Councils**

Section 59(a) of the Act requires the EPA to inform the relevant local Council as soon as practicable of this declaration. Pursuant to s 59(2)(a) of the Act, land being declared to be significantly contaminated land is a prescribed matter to be specified in a planning certificate issued pursuant to s 10.7 of the *Environmental Planning and Assessment Act 1979*. The EPA is also required to inform the relevant Council as soon as practicable when the declaration is no longer in force. Pursuant to s 59(3) of the *Contaminated Land Management Act 1997*, if a Council includes advice in a planning certificate regarding a declaration of significantly contaminated land that is no longer in force, the Council is to make it clear on the planning certificate that the declaration no longer applies.

### **Relationship to other regulatory instrument**

This declaration does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.

# Council Meeting Open Report

**Amy Croker**

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**From:** Warwick L Bennett  
**Sent:** Tuesday, 3 March 2020 9:44 AM  
**To:** Councillors  
**Cc:** Exec  
**Subject:** Doc 1234860 Tarago Lead Contamination

Good morning Councillors,

Yesterday Mayor Bob and myself attended a meeting in Sydney in the Minister of Regional Transport and Roads Office to discuss the lead contamination on land at Tarago. In the meeting were representatives from the Ministers office, Transport NSW, Department of Health, EPA and the Department of Education. Also in attendance was Mrs Wendy Tuckerman MP Member for Goulburn and her staff.

The outcome of the meeting is that Transport NSW will be issuing a communication strategy today clarifying some of the issues and that a public meeting will be held in Tarago Hall at 6.30pm next Monday night (9 March).

Other issues raised at the meeting were as follows:

- A large amount of contaminated material is stored on site and covered in a sand and cement mixture that should have prevented any of the material being distributed beyond the site by wind.
- The EPA were aware of the contamination since 29 August 2019, following a complaint from the public. The representatives at the meeting were unaware of who made the complaint or the details of that complaint.
- The waste that is stockpiled on site will be wrapped in a geofabric material and buried on the site. There was no indication given to us when that material would be buried.

- [REDACTED]

Following on from this meeting in Sydney, staff have contacted Veolia and have been advised that the stockpile is on Veolia land. Veolia have stated to us that they are frustrated by this because this land was remediated some time ago and now could potentially be contaminated again.

This email can be introduced into the meeting tonight if Councillors would like to discuss any of the contents. The State Government Officials are aware that Council is debating this matter in Open Meeting and accept that Council has no legal ability to conduct the discussion in Closed Session.

Kind regards,

**Warwick L Bennett**  
**General Manager**

**P:** 02 4823 4486 | **F:** 02 4823 4456

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