

Remediation of No. 3 Oval Boronia Park: Submission to Review Committee by the Hunters Hill Trust 19 January 2014

At Council Meeting CM 4349 (28 October 2013) Hunters Hill Council established a committee to review the remediation of No. 3 oval at Boronia Park, passing the following motion:

1. REVIEW OF BORONIA PARK NO. 3 REMEDIATION PROJECT

326/13 RESOLVED on the motion of Cllr Sheil, seconded Cllr Miles that:

1. A Committee of Review be formed to review the processes and procedures related to the remediation of Boronia Park No. 3 field, including:
 - 1.1 Discussions prior to the commencement of works;
 - 1.2 Any applications and conditions of consent;
 - 1.3 Project management responsibility,
 - 1.4 Programming of works;
 - 1.5 Contracting of services;
 - 1.6 Sources of funding for the project;
 - 1.7 Other issues that may arise during the review process.
2. The Committee comprises of the Mayor and Councillors Gary Bird and Zac Miles.
3. The Committee report back to Council, with recommendations, by 28 February 2014.

A) Introduction

Until recently Boronia Park sporting precinct had three playing field/ovals. Of these, No. 3 served a number of useful purposes as a small field used for junior cricket and junior soccer, as well as for informal play. As noted in Council's draft Sport & Recreation Strategy (2012), Council has limited resources for sport & recreation, yet it has allowed No.3 Field to be unavailable for these or any uses for over three years now.

Some time in 2009 or 2010, Council agreed to allow the Hunters Hill Union Football Club to convert No. 3 Oval to a full-sized rugby field, presumably in conjunction with Club's intention to build a clubhouse at north-eastern corner of No. 2 Oval. Because of the way this agreement was configured, there was no public discussion, and apparently no formal description of the extent of work, its funding, the management arrangements, or a determined time scale. There was also no prior assessment of ecological impacts from the proposed works either requested or undertaken despite this being a valued Heritage-listed Park containing sensitive bushland with protected ecological communities and native fauna corridors.

As detailed in the attached Chronology, fill began to be deposited on the field late in 2010. Trees were felled below the south-eastern corner of the field in May 2011, and late in 2011 work began on building a retaining wall and raising and extending the field with large quantities of fill. Since then progress has been intermittent; the field was not turfed until late 2013, and the project is still incomplete, more than three years after it commenced.

There has still been no attempt by Council to explain this project to the community, and no report of the cost.

B) Problems in the way the project was run

In the course of this project Council erred in the many ways, including the following:

1) Inappropriate classification of project

The work should not have been declared as Exempt Development, since this classification normally is used only for work undertaken under Council's direct supervision. Because there was no Development Application process, there was:

- no publicly-available justification for the project, and no defined scope;
- no opportunity for the community (or even other users of the sporting fields) to comment;
- no assessment of environmental impacts and requirements for damage mitigation despite the proximity to 'high conservation value' vegetation and the Lane Cove river;
- no proper procedures for supervision; and
- no proper financial management.

2) Poor supervision

Because Council failed to supervise the project adequately:

- trees (including indigenous eucalypts) were felled to allow the field to be enlarged;
- the retaining walls are of doubtful construction;
- the batters have not been stabilised against erosion, and after heavy rain silt washes down into the bushland and into nearby waterways via the stormwater drain in Boronia Ave;
- The upper level of the field contains 'dirty' fill, including broken brick and concrete, pieces of steel, and fragments of sewer pipe and machinery;
- the field has been out of use to an excessive period (approximately three years).

3) Poor communication, lack of frankness and misleading statements

Item	Statement	Comment
Email from Barry Smith, 24-8-2010	<i>'The Rugby Club have received a grant to level and re-surface No. 3 Field and this will involve changing levels and batters but not extend.'</i>	This statement implies that the project would be wholly funded by the Rugby Club, whereas Council has contributed substantially to the cost of drainage, irrigation, turfing, plants, and the disposal of surplus fill and rock as well as the labour cost of supervision.
Email from David Innes, 26-5-2011:	<i>'The works will involve the following: 1. Providing a slightly increased level playing area that will allow a senior playing field close to a regular full-sized field.'</i>	No. 3 field is now substantially (approx. 35m) longer than required for a rugby field, and somewhat wider.
	<i>2. Raising the levels of the field to improve drainage and the playing surface</i>	<i>The level of the field has been raised beyond that necessary for these objectives.</i>
	<i>3. Planting of suitable native/indigenous trees at the northern end of the playing field</i>	<i>Not yet done</i>
	<i>4. The protection of native trees along the eastern side of the field by constructing stone retaining walls</i>	<i>Some native trees were destroyed by this work, and the stone retaining walls appear to be structurally unsound</i>
	<i>5. The provision of improved pedestrian access from the end of Boronia Ave at the south eastern corner of the field</i>	<i>Not yet done</i>
	<i>6. Planting of replacement native vegetation and trees along the new batters on the eastern side of the field'</i>	<i>The batter has not been stabilised against erosion during heavy rain, many of the plants washed away, and some part remain unplanted</i>
	<i>'There is no plan to install lighting, and it should be noted that the plan of</i>	This is an empty reassurance, since the Rugby Club, at its meeting with Council on 12-12-

	<i>management does not allow lighting.'</i>	2012, stated its intention to install lights, as well as a fence along the eastern edge of the field. While not currently permitted, the Plan of Management for Boronia Park is scheduled for review this financial year, and could be varied to allow these changes.
	<i>'The Club is proposing to make this its main field in the longer term. It should be noted that this will free up Boronia 1 for other users, so it is reasonable to assume that other users of the Boronia complex will benefit from improved facilities.'</i>	This statement implies the Club, not Council, is in control of the allocation of park space amongst various users.
<i>Response by David Innes to a question without notice by Clr Astridge at CM 4307, 27-6-2011</i>	<i>'The works are largely maintenance works, they do not require a development application and would not normally require, or be, the subject of community consultation, as there are no perceived or potential adverse impacts on neighbours, or users of the Reserve.'</i>	The work was far in excess of what could reasonably be regarded as maintenance, and obviously there were perceived and potential adverse impacts on both neighbours and users of the Reserve because of the extent of the work, loss of amenity and its protracted timescale.
	<i>'... an article in Councils Newsletter informing residents of the works and POM may be prudent. Further, a notification of the works will be distributed to residents.'</i>	There has been no mention of the project in Council Newsletters, and no such notification was distributed to residents.
Sign near grandstand	<i>'Bore water used to irrigate ovals'</i>	Because of the limited availability of the bore water (and perhaps also its poor quality), considerable quantities of mains water were being used to irrigate Ovals Nos. 1 and 2 even before the irrigation system was fitted to No. 3. One must conclude, therefore, that the additional quantity of water required for No. 3 is wholly mains water, representing a continuing cost to Council.

C) Unresolved issues

1. Excessive size of field

A drawing held by Council for the project (dated 12-5-2011, showing original and proposed dimensions and levels) showed the proposed size of the field to be 120m x 73m, with the level raised by 0.3 - 0.4m. Aerial photographs show the actual levelled area to be wider and substantially longer than this (approximately 155m x 80m), and the height appears to have been increased by considerably more than 0.3 - 0.4m.

2. Excessive slope of the batter at the northern end

Due to the length of the field being extended at its northern end, the slope down to Princes St is now much steeper than previously. On several occasions, when this was brought to David Innes' attention, he gave an assurance that excess fill would be removed from this end, reducing the slope to one that would allow the grass could be mown by Council's tractor. This appears not to have been done.

3. Inclusion of 'dirty fill'

Although much of the fill used to raise the level was 'clean' (said to be from the widening of the M2 motorway), some later fill was 'dirty', containing fragments of broken brick and concrete, ceramic pipe and steel. It has been claimed that this fill was dumped without authorisation, due to failure to secure the site.

4. Failure to stabilise the batters

The steeply sloping edge of the eastern edge of the field has not been stabilised against erosion and the sediment fences were entirely inadequate and not maintained. As a result, silt and many of the plants installed here in early April 2013 were washed away by heavy rain. Accepted good practice is to cover such steeply sloping raw fill with geological cloth or using spray-on techniques.

5. Incomplete work

While No. 3 Oval is now turfed and fitted with a watering system, there is still work to be done. Yet to be completed are:

- replacement of the cricket pitch;
- stabilising and planting the batters;
- planting the northern end of the field;
- building an access path to Boronia Ave;
- removal of the 'bore water used on ovals' sign near the grandstand.

D) Recommendations

1. That no further Council projects be classified as Exempt Development unless fully assessed to be genuinely of minor impact, and performed under full Council supervision.
2. That the Survey report(s) supplied to Council, showing the actual size and height of the field in relation to its original size and height, be made available.
3. That the Engineer's report(s) supplied to Council as to the structural soundness of the retaining walls be made available.
4. That the incomplete items listed above (section C5) be completed.
5. That a financial report be made available showing all contributions to the cost of the project, financial or in-kind, including Government grants, and Council's own contributions including:
 - supervision of construction and remedial work;
 - removal and disposal of surplus fill;
 - removal and disposal of surplus rock;
 - installation of drainage;
 - installation of irrigation;
 - provision and installation of turf;
 - supply of plants and associated materials (including labour for rectification of initial planting after heavy rain);
 - estimates of the annual on-going cost of mains water for irrigation.
6. In view of implications given to the contrary, that, at the forthcoming review of the Plan of Management for Boronia Park, Council opposes any proposal to install lighting or fences on No. 3 field.
7. That Council make the report of the Review Committee a public document, and circulate it within the community.

APPENDIX

Chronology of changes to No. 3 Oval, Boronia Park

- 2009 Hunters Hill Rugby Union Football Club received a grant of \$35,576 from the NSW government's Community Building Partnership Grants scheme (App. No. 1757) for a 'Boronia Park community facility'. A community facility is envisaged in the current Plan of Management for Boronia Park Reserve.
- 24-8-2010, Barry Smith wrote: *'The Rugby Club have received a grant to level and re-surface No. 3 oval and this will involve changing levels and batters but not extend.'*
- 29-10-2010 Trucks, under Council supervision, were adding fill to that already dumped along the northeast edge of No. 3 Oval
- Dec 2010 Council Meeting gave approval-in-principle for a 20 year lease for the Rugby Club to build a "community facility" in Boronia Park. No construction has yet been authorised.
- May 2011 Trees (including some eucalypts) were cut down (by Council or with Council approval) at the southeastern corner of the No. 3 Oval
- 26-5-2011 Email from David Innes, in response to request for information about work at No. 3 Oval, reads (in part):
'... The tree removal is the first step in works to be carried out on the No.3 Oval.'
'The works will involve the following:
 - 1. Providing a slightly increased level playing area that will allow a senior playing field close to a regular full-sized field.*
 - 2. Raising the levels of the field to improve drainage and the playing surface*
 - 3. Planting of suitable native/indigenous trees at the northern end of the playing field*
 - 4. The protection of native trees along the eastern side of the field by constructing stone retaining walls*
 - 5. The provision of improved pedestrian access from the end of Boronia Ave at the south eastern corner of the field*
 - 6. Planting of replacement native vegetation and trees along the new batters on the eastern side of the field**'There is no plan to install lighting, and it should be noted that the plan of management does not allow lighting.'*
'The Club is proposing to make this its main field in the longer term. It should be noted that this will free up Boronia 1 for other users, so it is reasonable to assume that other users of the Boronia complex will benefit from improved facilities.'
- 27-6-2011 In a response to a question without notice to Council Meeting 4307 by Cllr Astridge, Council Engineer David Innes responded as follows (see minutes on Council's website)
'The works are largely maintenance works, they do not require a development application and would not normally require, or be, the subject of community consultation, as there are no perceived or potential adverse impacts on neighbours, or users of the Reserve.'
'... an article in Councils Newsletter informing residents of the works and POM may be prudent. Further, a notification of the works will be distributed to residents.' [Neither of these eventuated]
- 13-9-2011 Major work started on levelling, building a low stone retaining wall, and extending No. 3 Oval using some hundred truckloads of clean, sandstone fill (said to be from the widening of the M2). Some months later a second retaining wall was added, above the first.
- 23-11-2011 A drawing of proposed work viewed at Council shows a level area of 120m x 73m, with the level increased by up to 0.4m. In this drawing a single retaining wall is shown at the eastern edge, incorporating a subsoil drain (not subsequently installed).
- 26-4-2012 Aerial photography shows that the level area has been extended approximately 30% longer than that shown in the drawing (155m x 75-85m).
- May 2012 Work ceased
- July 2012 Work restarted, building a second, higher retaining wall above the first wall. Much stone delivered to site, but not all used.
- Sept 2012 Work ceased, but small loads of dirty (i.e. contaminated) fill accumulated on-site
- Dec 2012 Work restarted, removing and/or burying dirty waste, and moving surplus stone to the area adjacent to No. 3 Oval.

12-12-2012 Meeting in Council Chambers between Rugby Club meeting and Council, at which the Club expressed the intention to construct an artificial wicket and install fencing and lights.

April 2013 Working bee by Rugby Club planted batters with native plants supplied by Council. Heavy rain a few days later severely eroded the batters, washing away many of the plants.

June 2013 Surface of field levelled; more heavy rain washed silt into drains and bushland.

July 2013 Drain install along western side of field, running down to Princes St

Aug 2013 Topsoil sieved and spread over surface of field, and watering system installed to existing water storage tank

Sept 2013 Turf laid and watering commenced.

Dec 2013 Surplus sandstone removed from 'car park' area

Jan 2014 Batters still not stabilised, planting incomplete on batters and on northern end of field, cricket pitch not installed, pathways not constructed,