



Department of
Environment and Science

Ref CTS 32131/18

30 November 2018

Mr Philip Best
3 Sir Samuel Griffith Drive
TOOWOONG QLD 4066
Email philbest313@gmail.com

Dear Mr Best

Thank you for your emails of 23 and 28 November 2018 and telephone calls of 28 and 30 November 2018, concerning your active complaint regarding Brisbane City Council's (Council) Mount Coot-tha Quarry. As per the Department of Environment and Science's (the department) letter of 15 November 2018 and our subsequent telephone discussions, I am currently investigating your complaint. I would like to take the opportunity to further explain what my role involves and what I will be considering is as part of this process.

I acknowledge that you are representing a number of residents within the Mount Coot-tha area. As you are the nominated representative, the department considers it appropriate that you are the key point of contact. As such I will not be contacting other residents that you are speaking on behalf of.

Please be aware that the department's jurisdiction for blasting activities is limited to environmental nuisance (or human comfort) as per the *Environmental Protection Act 1994* (EP Act). Structural damage to properties as a result of blasting activities falls under the jurisdiction of the Queensland Explosives Inspectorate within the Department of Natural Resources, Mines and Energy. Further information on Queensland's explosives laws and the Explosives Inspectorate can be found here:

<https://www.business.qld.gov.au/industries/mining-energy-water/explosives-fireworks/laws>.

In the event that the department has undertaken joint inspections with the Explosives Inspectorate, then I will consider the results of these investigations in relation to environmental nuisance only.

As you are aware, there is a lengthy history associated with your complaint. Based on my review so far, I consider it reasonable to conduct the investigation on departmental records from 2016 onwards. Furthermore, my role in investigating your complaint is limited to the following issues that you provided within your formal complaint email of 26 October 2018:

- The impartiality and fairness applied by officers of the department who were previously involved in managing and investigating your complaints.
- The appropriateness of applying Australian Standard (AS) 2187.2-2006 Explosives – Storage and use of explosives, particularly Appendix J, in environmental compliance under the EP Act.
- Whether the blast monitoring methods utilised by Brisbane City Council is considered to be appropriate.
- Noise monitoring of blasts that you carried out within your place of residence.
- Whether the conditions of the environmental authority (EA) have been appropriately interpreted by previous departmental officers in terms of monitoring blasting activities.

I note your concerns about the blasting conditions contained within the current EA for the Mount Coot-tha Quarry. Please note that under the EP Act, the department cannot lawfully amend an EA without the EA holder's agreement unless there are reasonable grounds. Section 215(2) of the EP Act outlines the matters that can trigger an EA amendment without an EA holder's agreement. Unfortunately, this section does not cater for a condition to be amended simply because it is not in line with contemporary standards. Furthermore, in order for a condition to be amended based on a contravention of the EP Act or an EA, the department would first need to reasonably establish that an offence has occurred.

I would like to advise you that I will not be investigating the following matters raised in your original complaint and follow-up correspondence as they do not fall within the department's legislative jurisdiction:

- Community engagement issues with Council
- Impartiality and unreasonableness from Council employees or elected representatives / officials.
- The proposed Mt Coot-tha Zipline.
- Land use planning approvals and zoning.
- Amending AS 2187.2-2006 (including Appendix J).
- Structural damage to properties.
- Information requests and complaints that you have made directly to Council, including how Council managed such processes.

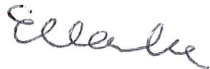
If you would like to pursue the above-mentioned matters that are outside of the department's jurisdiction, I recommend that you make a complaint to Council, the Explosives Directorate (for property damage allegations only) or to the Queensland Ombudsman's office. Information about the role of the Queensland Ombudsman can be found on their website (<https://www.ombudsman.qld.gov.au/>).

Thank you for extending an invitation for the department to meet with you in regards to your complaint. As discussed during our telephone conversation, I am declining this invitation as I believe that I have all of the necessary information in order to conduct a fair and informed review. If I determine that I need more information from you then I will be in contact.

As per the department's previous letter to you, it is anticipated that resolution of your complaint will take longer than 20 business days due to its history and complexity. However, I will provide you with an update on my investigation by 21 December 2018.

As per our telephone conversation, if you or anyone else wishes to raise further issues with the department's management of complaints in relation to Mount Coot-tha Quarry then this will need to be submitted through the department's online complaint form (<https://www.des.qld.gov.au/contactus/feedback/?type=complaint>).

Yours sincerely



Liz Clarke
Manager
Energy, Extractive and South West Queensland Compliance

