



# OUR FUTURE YOUR CHOICE



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To whom it may concern

We would like to make comment on the proposed extension to the Awaba Waste Management Facility, known locally as Awaba Tip.

We have been doing a great deal of research into the facility as we feel it will impact not only our young family but our whole community.

We have attended the meetings that the Lake Macquarie Council have provided, met with our local member and spent many hours reading as many documents possible to ensure that we have all the information.

We oppose the development expansion and have outlined our comments below.

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## 1. HISTORY AND LOCATION OF FACILITY

We would now like to bring to your attention some of the history of the current facility that we feel should be taken into consideration.

The council granted itself development consent for the tip in October, 1986. This was prior to the stringent environment studies that are needed today. It highlights that the dump site should never have been placed there to begin with.

Unless the laws have relaxed with the Land and Environment court, then the extension is not just wrong it boarder's illegal. Please read the article below from the Newcastle Herald.

### A. NEWCASTLE HERALD ARTICLE 1999



## Awaba tip 'in wrong place'

Author: By SCOTT TUCKER  
Date: 05/02/1999  
Words: 417

Publication: Newcastle Herald  
Section: News  
Page: 3

LAKE Macquarie City Council's only landfill site, the **Awaba** tip, is inappropriately sited in an environmentally sensitive area breaching the law and State Government guidelines, according to the Land and Environment Court.

Justice David Lloyd fined the council \$40,000 yesterday for negligence after it let leachate waste from the tip flow into a storm water tributary of Lake Macquarie over a period of about three days in August, 1997.

The council quickly fixed the spill and has allocated \$1.25million to improvements but Justice Lloyd says the tip is in the wrong place, less than 40 meters from a creek that runs into Kilaben Bay.

'For this reason the **Awaba** tip is considered to be sited within an environmentally sensitive and inappropriate area as defined in the Waste Minimisation and Management Regulation 1996 and by the Department of Urban Affairs and Planning,' he said in his judgment.

The council pleaded guilty to breaching the Environmental Offences and Penalties Act and Clean Waters Act following an Environmental Protection Authority (EPA) inspection on August 7, 1997.

The 30ha tip, 2km from **Awaba** and 3km from Lake Macquarie, receives about 143,000 tonnes of waste each year and is expected to operate until 2010.

The council granted itself development consent for the tip in October, 1986, under the condition water was monitored, drains installed, rubbish covered with soil and daily inspections undertaken.

The tip, which receives all types of inert and solid waste, was first required to be licensed under the Waste Minimisation and Management Act in July, 1997.

The licence imposed pollution controls and required preparation of a landfill environmental management plan.

The plan warned waste could escape unless drainage and maintenance was adequate.

But the August 7, 1997, EPA inspection found the tip's sedimentation ponds and leachate pond failed to keep pace after eight to 10 days of heavy rain.

The ponds were full of an 'orangey-brown' 'putrid smelling' liquid, while the nearby creek, emitted a 'foul, putrid odour', was 'brownny-black' with frothy clumps of material and bubbles on its surface.

The council has promised to appoint a \$50,000-a-year waste supervisor and a \$55,000 waste planner.

**B: LAND AND ENVIRONMENT RULING 1999**

The Following is extracted from the Land and Environment Court Papers:



**Land and Environment Court  
of New South Wales**

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<b>CITATION:</b>	Environment Protection Authority - V - Lake Macquarie City Council [1999] NSWLEC 4
<b>PARTIES</b>	Prosecutor Environment Protection Authority Defendant Lake Macquarie City Council
<b>NUMBER:</b>	50101 of 1998
<b>CORAM:</b>	Lloyd J
<b>KEY ISSUES:</b>	:- Environmental protection Offences and penalties
<b>LEGISLATION CITED:</b>	Environmental protection Offences and penalties
<b>DATES OF HEARING:</b>	12/10/1998; 12/11/1998; 12/18/1998
<b>DATE OF JUDGMENT DELIVERY:</b>	02/04/1999
<b>LEGAL REPRESENTATIVES:</b>	Prosecutor J C Kelly Defendant M H Tobias QC

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**JUDGMENT:**

1. The defendant pleads guilty to a charge that on or about 7 August 1997 at Awaba, it committed an offence against the *Environmental Offences & Penalties Act 1989* in that it did pollute waters contrary to s 16(1) of the *Clean*

## **Reasons Mentioned**

3. The defendant is and was at all material times the occupier and operator of the Awaba Waste Disposal Facility (known as the "Awaba Tip") at Wilton Road, Awaba. The tip is located on Crown land known as Lot 372 in Deposited Plan 723259. Land uses within an approximate one to two kilometer radius of the tip include: the Awaba State Coal Mine, a private haulage road, the Toronto Country Club, a motor club, a golf course, the township of Awaba, the Leisure Life Caravan Park, the Toronto Seventh Day Adventist School and St Joseph's Church and Primary School.

4. The Awaba Tip is approximately 30 hectares in area, with approximately 20 hectares devoted to the actual emplacement of waste and supporting infrastructure. The tip currently receives approximately 143,000 tonnes of waste per year. The tip is planned to operate until 2010 and the life span of the tip could be extended for several years beyond this.

5. An unnamed creek travels through the southern portion of the tip site. For convenience it has been referred to in this proceeding as the "Wilton Road Creek". This creek is within 40 meters of the landfill emplacement area. For this reason, the Awaba Tip is considered to be sited within an "environmentally sensitive and inappropriate area" as defined in the *Waste Minimisation and Management Regulation 1996* and by the Department of Urban Affairs and Planning.

6. The Wilton Road Creek flows eastward into Lake Macquarie at Kilaben Bay, approximately 2 kilometers away. There is a fall in the land from the base of the landfill emplacement area to Wilton Road Creek. Approximately 60 meters to the south of the southern boundary of the tip, the Wilton Road Creek joins with another unnamed creek and it is the joined creek which flows into Kilaben Bay.

7. The Awaba Tip is the defendant's only operating landfill. Development consent for the tip was granted by the defendant to itself on 8 October 1986

71. (c) The extent to which the person who committed the offence could reasonably have foreseen the harm caused or likely to be caused to the environment by the commission of the offence.

The offence, although not deliberate or intentional, was entirely foreseeable. It was the result of negligence

## ***Our Opinion (Mowczans)***

***The Land and Environment Court have already stated that the tip should not have been placed where it is currently situated.***

***With this information I find it difficult to agree to such a large expansion.***

***How can approval be made to extend a small facility into what can only be referred to as a super dump when it was identified by the land and environment court as "Inappropriately Sited".***

***I would like to ask the following questions***

- 1. How far is the "Wilton Rd Creek" going to be with the proposed extensions to the new phases?***
- 2. Will there be any attempt to divert natural watercourses / creeks?***



### **3. Have the Laws Changed?**

### **4. Does the law now allow this site to be doubled in capacity from its original state given the history?**

#### **C: NON COMPLIANCE ISSUES**

Our concerns do not stop here,  
This is not the only time the site has not complied with current laws.

If you reference the “**NSW Government of Environment and Heritage Protection License**” you see that over a 10 year period, 7 years have had noncompliance issues.

These issues are referenced below:

#### **1999 – 2001**

- Three samples could not be collected due to insufficient sample volume available at Monitoring Point 1.

#### **2000 – 2001**

- Leachate was discharged from the leachate holding pond on 11/8/01 due to vandalism at the site.
- Algal bloom and high nutrient levels recorded in sediment ponds from bird faecal matter and runoff from the greenwaste processing area at the site on 17/5/01.
- Water sample results showed DDD (degraded form of DDT) was found in samples collected from sediment pond 2.
- Electrical Conductivity monitored on a yearly basis instead of quarterly basis

#### **2001 - 2002**

- Insufficient water in stream to collect required number of surface water samples.
- Surface water in sediment ponds 3 & 5 observed to be discoloured caused by algal bloom die off. Water pumped to leachate pond for treatment and contained on site. No discharge occurred

#### **2002 - 2003**

- Not all water samples were collected that were required by the licence.
- Quarterly monitoring program not undertaken.
- Landfill gas monitoring wells not installed.
- Licensee did not submit design proposal for landfill gas strategy as required by condition U2
- Surface gas monitoring was not undertaken as required by licence.

#### **2003 – 2004**

- Samples not collected from monitoring points 1, 8 and 9
- Chain of custody analysis request not being adequately completed

#### **2004 – 2005**

- Groundwater point 1 did not have any sampling done over the AR period. Groundwater Pts 2,3 and 4 did not have sampling in 1 of the 1/4s. Surface Water sites 6,7,8 and 9 were not monitored (pt 6 once) due to lack of water
- not all pollutants tested for site 3 on the 31/01/05 and for site 2 on the 13/01/05 and 25/10/05

#### 2005 – 2006

Nil

#### 2006 – 2007

- some water samples were not collected due to insufficient volume being available in watercourse

#### 2008 – 2010

Nil

#### ***Our Opinion (Mowczans)***

***We are not confident that the council is proficient enough to ensure the health and safety of the community if the site is extended. The record shows in the past that they struggle to comply with the legislation now at its current size.***

***As the size of the tip grows, these errors will not be small; the statistics that they will make an irreversible mistake over the next few years is quite high given the history.***

***We do not agree with the current application for expansion.***

## **2: ODOUR CONCERNS AND AIR POLLUTION**

Mowczan Family members have lived in Awaba since 1985 when the Tip was first established. Up until the last 6 years we had never smelt the facility. We believe that as the tip has filled to its current capacity the odor has started.

From 2006 onwards the smell started. We did not report the problem as we knew that the life of the tip was 20yrs and we assumed the facility would be terminated along the lines of many other tip sites around Lake Macquarie.

In 2008 and the smell throughout the summer was to the point that we could not take our toddler outside to play on numerous occasions. The fact is not just the smell; my other concern is what my 1yr old was breathing in.

We did report this

Again the summer of 2009 had a similar result, many days that we had to keep windows and doors closed. We reported this again.

There are no records of our reports.

Only since the Application to extend the facility site has become available the council has started to document the complaints.

In the past 12 months each time we have reported an odor a representative has come to our house. This has been both appreciative but concerning at the same time. By the time staff arrives (usually at least 3 hours after our call) the odor has faded or wind direction changed, the tip has been covered as it is the end of the day or it's the next day they arrive.

Staff have also openly stated that they will do their best to mask the smell but it is impossible to stop it completely.

You don't need to be a rocket scientist to know that if you take the lid of something and it spills over the brim the smell will increase.

As the tip becomes higher and a visible mountain I am concerned with the air pollution and smell that this will bring:

- The stench will become unbearable and incidence will occur more often to the point where it will affect our way of life.
- No health study has been done to evaluate the human health impacts of this landfill site. No data at all has been taken from the township of Awaba.
- Studies suggest that adverse outcomes may accrue as a result of living near landfill sites in general. Concerns include a higher risk of certain cancers and birth defects. Such studies and their health implications were not considered or discussed in the human health component of the Environmental Assessment.

Reference for more information:

[http://docs.health.vic.gov.au/docs/doc/78F46C853BE960B6CA25791100058AC2/\\$FILE/Dandenong%20South%20and%20Lyndhurst%20health%20assessment\\_Full%20Report%20-%20September%202011.pdf](http://docs.health.vic.gov.au/docs/doc/78F46C853BE960B6CA25791100058AC2/$FILE/Dandenong%20South%20and%20Lyndhurst%20health%20assessment_Full%20Report%20-%20September%202011.pdf)

[www.atsdr.cdc.gov/hac/landfill/html/appc](http://www.atsdr.cdc.gov/hac/landfill/html/appc).

[www.ncbi.nlm.nih.gov/pmc/articles/PMC27248/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC27248/)



In our opinion, all risks are worthy of consideration, and it is the responsibility of authorities to provide and to discuss the potential risks of residing in proximity to Awaba Landfill if such a large extension is to be considered.

The presence of landfill odors demonstrates that landfill gas has migrated to our residential sites.

An absence of the application for the expansion is that it does not provide any data as to what chemicals are present in the landfill gas that Awaba residents are currently exposed to from Awaba Landfill. (It provides a Sydney based report which should be stated as NOT Applicable)

Risks to human health from exposure to chemicals in landfill gas can only be adequately assessed when results of monitoring data in ambient air and indoor air are available both on-site, at the landfill perimeter, and in properties in our community. **(I request that as part of the application process the Council assess the indoor air and outdoor air of AWABA including my property.)**

There is failure in the human health component of the application to provide more detailed information regarding what steps will be taken to prevent migration of landfill gas and odors outside the perimeter of the landfill if daily covering is not working.

This is especially important because of the proximity of the Landfill site to residents in Awaba as well as 3 primary schools within a few kilometers of the site and various recreational facilities.

Landfill gas migration onto surrounding properties impacts significantly on the health and safety of the public, and produces an obvious erosion of quality of life and generates considerable "environmental stress".

Serious deficiencies of the human health component of the application are that it has failed to address these issues, has not identified enough strategies that will be utilized to control exposure of the public to landfill gas and odors, and neglected to prevent or even mention the harmful effects experienced currently by the residents today.

It is widely believed by area residents that any further expansion of the Awaba Landfill will exacerbate what is already an intolerable situation.

***In our opinion (Mowczans)***

***We request a public health assessment needs to be undertaken before any expansion is considered, Along with a more proactive approach and plan to identifying current odors including Data collection of odours in the Awaba and surrounding areas of Toronto West, Rathmines and Kilaben Bay so the data information is accurate.***

***I don't believe that information retrieved from Sydney is relevant to our area. This is not only a cheap way financially for council to give figuresto complete your forms.***

***It leaves me to believe that council have no concern for Awaba residence; If they cannot afford to do a local assessment then they should not be granted any part of the extension.***

### 3. MAXIMUM HEIGHT PROPOSED AND LOCAL VIEWS OF FACILITY CONCERNS

As the Landfill becomes visible as a mountain of garbage we believe that there will be an increase in birds and vermin, along with the daily view of trucks and the noise associated with this.

It is known that seagulls harbor microbial organisms.

There is increased potential for residents of Awaba to contract disease due to the increased daily deposits of faecal matter on properties including on vegetables and other crops that are consumed by both humans and animals.

A serious concern is that children who live in Awaba are at increased risk for contacting infections due to their vulnerability as a sensitive population. Is it acceptable for the school to not have a community garden due to the risk of infection?

In 2000 – 2001 there was a noncompliance on the Landfill site due to increased faecal matter.

Another issue relating to contamination by seagulls is that they return each evening to the surrounding Creeks, Waterways, storm water runoffs and Lake Macquarie itself.

The Increased faecal matter deposited into the water could lead to localized water contamination that may have deleterious effects on fish and other wildlife.

Additional concern should be contamination of fish and wildlife as this will affect a major source of local income through tourism. Tourists come to Lake Macquarie to fish and spent time on the lake.

Awaba children should not have to attend school where there could be increased airborne pollutants and disease.

The following pictures show actual photos from the school to the site of view for the expansion.

*You cannot only see the 40km school zone site from the photo; it also shows the close proximity to the school to what will be a visible “Trash Mountain”*







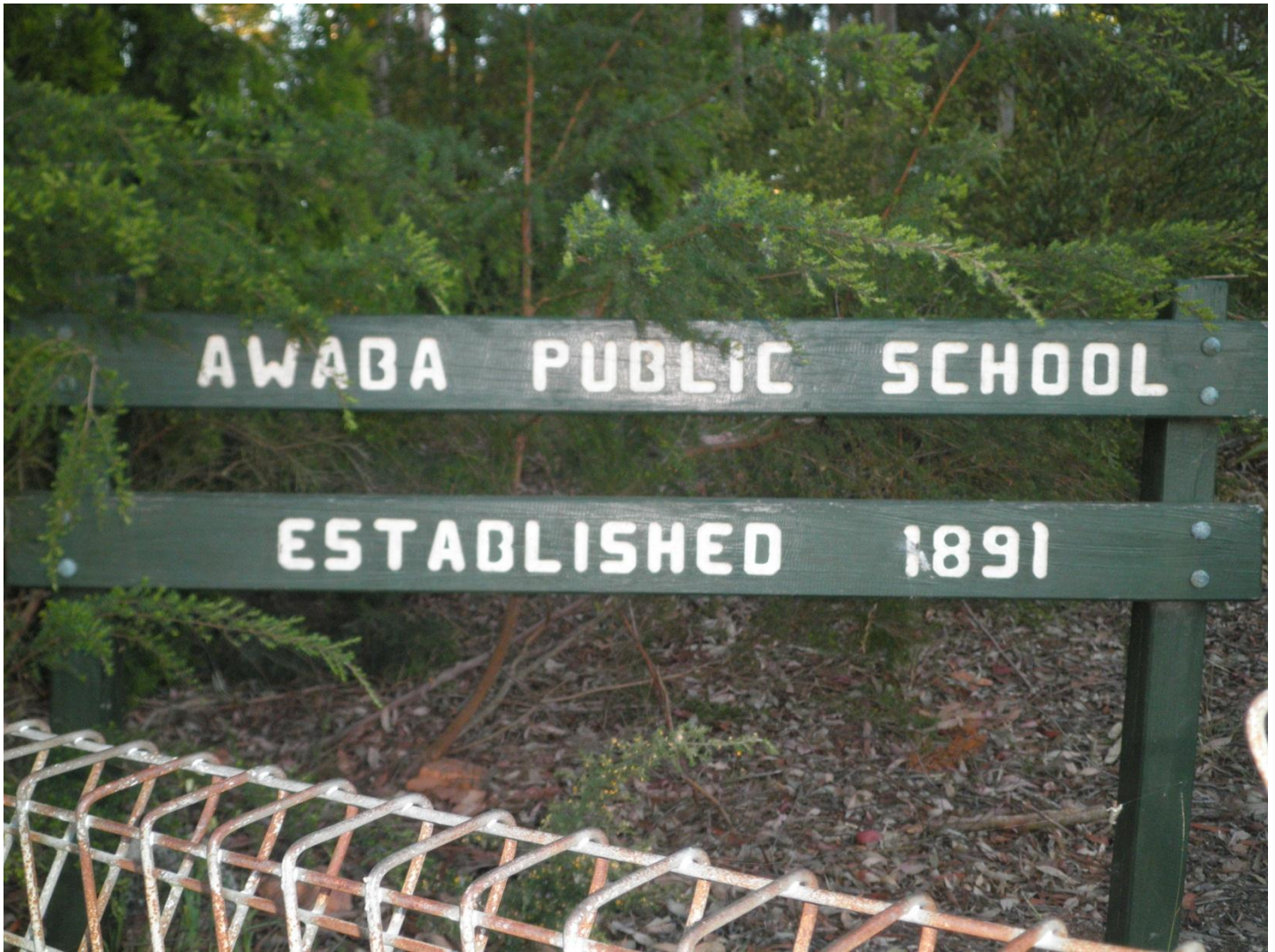
*This photo above is the view of the mountain from the school entrance at the 40km sign.*



*The next couple of photos show the school site and the age of the school.*







***Our Opinion (Mowczans)***

***The proposed height of the landfill will impact the communities' lives deleteriously.***

***We are a small community with only a small number of voices. The proof of this is in the school community, Awaba Primary School has 28 enrolments from Kindergarten to Year 6.***

***We would like to consider a height that is not visible to the community. The current natural landscape will provide a buffer somewhat for the facility if the height is lowered below the current mountain that exists.***

***I see no reason why the expansion cannot occur without having to rise above the mountain height.***

***This will give the council the time it needs to establish a more appropriate site for a new facility.***



#### 4. ECONOMIC MATTERS

"Selling a home with a view of a dump is a hard sell as you can well imagine,"

Given a choice between two sites offered for the same price and identical in every respect except that one is closer to a visible landfill home buyers will choose the site that is farther away. Only when the closer site is offered for less money will families consider the closer site a suitable alternative.

Expanding to a level that is beyond the current mountain buffer means equipment that makes beeping noises, more dust, birds, Vermin and an eyesore that bring reduced property values and the stigma of having a landfill even closer than it had been.

These are photos of Awaba; this is the community you will be affecting.



We will receive no compensation on our property values.

We are not asking for this.

We only request a height that cannot be seen over the top of the mountain ridge.

## 6. RECYCLING

The proposal relies a great deal on the community recycling and introduction of new 3 Bin System, I would like to bring to your attention the following in regards to this:

- A Waste Services Community Survey conducted in November 2010 revealed that out of the 1000 people surveyed only 69% of respondents stated that they believed it would be the best option for their household.
- The prime drivers of preference for the 3 bin system were essentially green waste management and the environment.
- But 45% of residents already have some methods of disposal/use of organic waste.  
These were:  
A working compost for food scraps 41%  
A working worm farm 8%  
Chooks or other domestic fowl 5%

Some of the Comments made from participants for not recycling included:

- My living circumstances are not appropriate 43%
- I do not need or want to compost food scraps 22%
- I don't have time for composting 14%

The Lake Macquarie Council records for recycling statistics are showing a decline in the amount of tonnes recycled since 2007, despite local advertising and domestic waste pickup. There was a small increase in the 09-10 figures but as a whole people are recycling 2,857,10 Tonnes less over a 3 year period despite population growth.

2007 – 2008     18,107,000 tonnes

2008 – 2009     16,381,000 tonnes

2009 – 2010     17,821,290 tonnes

### ***Our Opinion***

***More research needs to be invested to provide a more accurate assumption to the success of this costly 3 bin system. Lake Macquarie has a population of over 200,000 people. Only One Thousand were surveyed.***

***We feel that this is not the opinion of the whole community as only a minute number are represented.***

***If people do not use the new system not only will it be a financial waste but also contribute to yet another expansion of the landfill in the future. How many times will this occur?***

***Just because it is written in the application and it covers the environment part of the application does not show what is actually happening. The information I have found from the council website is factual.***

***It is also missing from the application that the Recycling Centre/Shop on the Awaba tip site where people could go and purchase items such as second hand building materials, Tvs, Bikes and all sort of things is no longer in operation. I feel that this is another money grab from the council and shows a lack of interest in allowing community involvement in recycling of such items.***

## 7. Our Conclusion

On the basis of the information submitted by the Lake Macquarie Council we feel more information and research needs to be done to ensure that any expansion will not pose health risks to the residents in Awaba. The site has been in operation for over 20 years and no assessment to resident health has ever been considered or undertaken. They are asking for 40 years of dumping with no records ever taken from within Awaba itself. People in Coorangbong and Marks Point would never be impacted from this site and taking data from Sydney is absurd.

Consider the facts,

The history of the site. The Land and Environment court found the site inappropriately located in 1999, 7 out of the past 10 years the site has had noncompliance issues. We do not have confidence that the current administrators of the site (given their documented history) are capable of managing such a large facility within the current laws. A generation on, when landfill space is exhausted, the Awaba community may be left with an unhealthy legacy in perpetuity.

We believe that the proposed height of the expansion will not only encourage more birds and vermin into the area it will also cause "environmental stress" to the people that live in the small community. The increase in Odor and Air pollution will be inevitable as the mountain of rubbish grows into a visible monstrosity. Again consider what is written on paper. A shield of any colour will not stop the noise of the trucks, the stink and pollution and the fact that Awaba's Main View is this section of mountain for most residence; it will affect everyone's living conditions.

Awaba is a small town you could say a minority community, you have the factors of no shops or grocery stores, no sidewalks, curbs or gutters, unfinished roads, limited street lighting, no sewage and you currently have excessive dust from a combination of a Coal Mine, Railway Line and the Landfill site, the local council are so isolated from the Awaba community and excluding residents from the decision making that they placed a Children's Play Park (2010) away from the majority of the township across a railway line with no walking access for parents with prams or disabled children and again no sidewalk. The only safe access to our park for 90% of residents is via our vehicles. If you can walk you must take caution as you walk along the same road as the garbage trucks. All these factors make up probably one of the neediest communities in Lake Macquarie.

Such life-quality issues, combined with the possibility of the landfill continuing for another 25 years will impact the community immensely, the economic impact on the community will be irreversible, house prices will be affected, and our quality of life will be affected deleteriously.

This could be seen as a case of Environmental racism.

**Environmental racism**, an internationally recognized sociological term referring to the enactment of any policy or regulation that negatively affects the living conditions of low-income or minority communities at a rate disproportionate from affluent communities.<sup>[1]</sup>

This can be either intentional or unintentional, and the term is often used to describe specific events in which minority communities are targeted for the siting of polluting industries and factories.<sup>[2]</sup> The term also describes the segregation of minority communities into regions where they are exposed to health hazards because property in polluted areas is inexpensive.<sup>[3]</sup> It can also encompass the exclusion of minority groups from the decision-making process in their communities.

**We have a basic right to a clean environment in Awaba. Every person - in any neighborhood or community, big and small - should have healthy air, water and land.** The law says that polluting facilities are not supposed to interfere with the use and enjoyment of your property. If this expansion is approved to its proposed height then you will forfeit this right for us.



We're not trying to shut the Landfill down "All we're trying to do it make sure there's a cooperative solution out there that works for everybody."

I have below some photos that I would like to share. These are ALL pictures of the View that could be a Screen of Rubbish.























You can clearly see how these mountains are the only views we actually have in Awaba. Is it fair to see, Birds flying on the peak, along with a manmade shield.

The Next Photos are pictures of the Park, Please note the distance from the Main Community – the train line that separates us and the effort needed for our community to enjoy it. This park is situated less than 1 Kilometer from the site it is the only park we have in Awaba. Also note lack of Street lights, Footpath, uncurbed and in some places dirt roads.













Ideally for us we would prefer the site be closed in line with the many other Tip sites in the Lake Macquarie Area over the past 20 years. We will consider a much lower expansion of the site with a guarantee that we will not be able to visually see the site from residential houses and roads and that no shield will be required for us to view at any stage. We understand this will shorten the length of operation time for the facility but will also give plenty of time for the council to find an alternative solution for the future.

I would ask a representative to come to Awaba and meet with our family so we can discuss our concerns further before any decision is made.

Awaiting your reply.

Thank you

David and Simone Mowczan

