

Notice to Amend Approved Voluntary Management Proposal



Sections 17 and 44 of the *Contaminated Land Management Act 1997*

Notice Number: 20234402 **Area Number:** 3485

Date: 26 July 2023

To: Transport for NSW (ABN: 18 804 239 602)
PO Box K659
Haymarket NSW 1240

1. Why is the EPA writing to you?

The Environment Protection Authority (EPA) has issued this Notice to Amend Approved Voluntary Management Proposal (Amendment Notice) to notify you of amendments to the originally approved Voluntary Management Proposal No. 20211713 (Original VMP) and the amended Voluntary Management Proposal No. 20224425 (Amended VMP).

2. What are you required to do?

Please read this Amendment Notice carefully and comply with its conditions. If you have any queries about this matter, please contact the EPA.

3. Land to which this Amendment Notice applies

The land to which this Amendment Notice applies is Part of Lot 4425 of deposited plan (DP) 1217100, which has been defined area of the Captains Flat Rail Corridor, Captains Flat NSW, 2623.

4. Relevant information

The EPA is responsible for administration and enforcement of the *Contaminated Land Management Act 1997* (Act) and has issued this Amendment Notice under section 44 of the Act.

The Land was declared as significantly contaminated land on 22 April 2021 (Declaration No. 20211105) under s 11 of the Act.

The original VMP was issued under s17 of the Act on 25 June 2021 and an amended VMP was issued under s44 of the Act on 1 June 2022.

5. Reasons for the Amendment

The proponent has determined that the most appropriate usage for this site is for recreational/ public open space, and as such the appropriate remediation criteria will be used. However, the remediation criteria for public open space are more stringent compared to the commercial/industrial remediation criteria. As a result, this means that the remediation of the site will need to meet a higher standard than what was initially assessed.

A Remediation Options Assessment (ROA) and Remediation Action Plan (RAP) have been completed for the site, and they have identified that a number of additional investigations will need to be done to inform the remediation strategy. However, these additional investigations may require planning pathway assessments and approvals which will impact on the VMP timeframes.

Given the above reasons, the proponent has proposed a staged approach for the amended VMP. There are proposed to be two phases:

Phase 1 – Remediation Action Planning

Phase 2 – Remediation and Validation

Phase 1 includes identifying and analysing the remediation options to support the proposed land use, developing a remediation action plan, and obtaining any necessary planning approvals for the remediation works.

Phase 2 includes the delivery of the remediation action plan, as well as validation that the remediation has met the objectives of the VMP. A s44 will be submitted for Phase 2 works following the completion of Phase 1.

The EPA is satisfied that the terms of the approved voluntary management proposal, as modified by this Amendment Notice, are appropriate.

This Amendment Notice is taken to be made under the same provisions of the Act as the Original Notice.

6. Amendment of Original Notice

Revised VMP stages and milestones

The amended stages and deadlines for completion of works are specified below:

| Works | Comment or Revised Deadline |
|--|------------------------------------|
| T1. Supplementary Detailed Site Investigation | 30 April 2024 |
| T2. Update Remediation Action Plan | 30 June 2024 |
| T3. Detailed Design & Engineering | 31 July 2024 |
| T4. Statement of Heritage Impact & Archaeological | 30 November 2024 |
| T5. Biodiversity Management Plan | 30 November 2024 |
| T6. Preparation of Interim Audit Advice on Data Gap Investigation and Remediation Action Plan | 30 September 2024 |

The amended stages and deadlines to provide reports to the EPA are specified below:

| Report | Comment or Revised Deadline |
|---|------------------------------------|
| R1. Supplementary Detailed Site Investigation | 31 May 2024 |
| R2. Updated Remediation Action Plan | 31 July 2024 |
| R3. Detailed Design and Engineering | 31 August 2024 |
| R4. Statement of Heritage Impact & Archaeological Assessment | 31 December 2024 |
| R5. Biodiversity Management Plan | 31 December 2024 |
| R6. Interim Audit Advice | 31 October 2024 |

Attachment A contains the completed stages from the previous VMP.



JANINE GOODWIN
Unit Head
Regulatory Operations Regional

(By delegation)

Date of this Amendment Notice: 26 July 2023

NOTE:

Information recorded by the EPA

Section 58 of the CLM Act requires the EPA to maintain a public record. A copy of this notice will be included in the public record and is accessible on the EPA's website.

Information recorded by councils

Section 59(1)(c) of the Act requires the EPA to inform the relevant local Council as soon as reasonably practicable after giving its approval for a voluntary management proposal relating to the Land to which this notice applies. Section 44(2)(d) of the Act outlines that an amendment of an approved voluntary management proposal is to be taken to be made under the same provisions as the original approved voluntary management proposal (namely, under s 17 of the Act). In these circumstances, and pursuant to s 59(2)(c) of the Act, the existence of an approved voluntary management proposal (or amended approved voluntary management proposal) 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*. Pursuant to s 59(3) of the Act, if a Council includes advice in a planning certificate regarding an approved voluntary management proposal that no longer applies to the Land, it is to make it clear on the planning certificate that the notice no longer applies.

Relationship to other regulatory instruments

This Amendment Notice 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.

Previous regulatory instrument

As of 1 July 2009, all current declarations of investigation area and declarations of remediation site are taken to be declarations of significantly contaminated land, all current investigation orders and remediation orders are taken to be management orders and all current agreed voluntary investigation proposals and agreed voluntary remediation proposals are taken to be approved voluntary management proposals.

Preparation and approval of reports submitted to EPA to comply with this Amendment Notice

Any report submitted to the EPA to comply with this voluntary management proposal must be prepared, or reviewed and approved, by a consultant certified by an EPA recognised scheme. A personalised electronic seal providing evidence of certification must be affixed alongside the certified person's details in the quality information section of a report.

Note: If a report submitted has not been prepared or reviewed and approved by a certified consultant, the EPA will not accept the report. The report will be returned to the regulated party to arrange for review and approval by a certified consultant.

Attachment A – Completed Works and Reports

| Previous VMP stages | Comment or Revised Deadline |
|---|-----------------------------|
| T1. Detailed Site Investigation. (P1-P2) | Completed |
| T2. Development of an Interim Environmental Management Plan to mitigate risks from the Contaminants at or originating from the Site (P3) | Completed |
| T3. Development of a stakeholder/community engagement plan (P4) | Completed |
| T4. Determine future land use for the Site and assess remedial options to achieve intend use (P5 – P7) | Completed |
| T5. Develop Remedial Action Plan (RAP) (P8) | Completed |
| T6. Section B (B1 & B2) Site Audit Statements from the Auditor (P9) | Completed |

| Previous VMP stages | Comment or Revised Deadline |
|---|-----------------------------|
| R1. Detailed Site Investigation | Completed |
| R2. Environmental Management Plan for Contaminants at or from the site | Completed |
| R3. Stakeholder & Community Engagement Plan | Completed |
| R4. RAP(s) | Completed |
| R5. Section B1 and B2 Site Audit Statement | Completed |