

Tuesday, 12 February 2019

LABOR: EPA MUST TEST POTENTIALLY TOXIC HOUSING ESTATE THIS WEEK

The Berejiklian Government's environment agency failed to act for three years on the potential toxic contamination of a Sydney housing estate, a new Government letter has revealed.

Member for Strathfield and Labor Shadow Minister, Jodi McKay, today called for immediate and swift action from the Berejiklian Government and an explanation for why they failed to act.

"Environment Minister Gabrielle Upton must immediately direct the EPA to test the site this week to determine whether or not the site is contaminated," Ms McKay said.

Up to 2,500 people and 1,200 homes are potentially affected.

The Environmental Protection Authority (EPA) was first notified in March 2016 by Ford Motor Company that there had been a chemical "breach" at an old landfill site which adjoins the Homebush West housing estate.

In a letter to strata owners, the EPA, which calls the housing estate the "Site", said:

"The EPA suspects that the Old Landfill leachate is now migrating south from the Old Landfill and is potentially contaminating the Site."

and

"The EPA reasonably suspects the Site is potentially contaminated with one or more of the following substances: Ammonia in groundwater; Formaldehyde in groundwater; Polycyclic aromatic hydrocarbons in groundwater; Volatile organic compounds in groundwater; Semi volatile organic compounds in groundwater; and Landfill gases (methane, carbon dioxide and hydrogen sulphide)."

Ford Motor Company wrote to the housing estate developers, who still own a significant portion of the estate, seeking access to the site to test for chemicals.

Ford and the developer have been unable to agree on access.

Over these three years, the EPA says they wrote one letter requesting more information.

"More than 2000 residents should not be punished by the incompetence of the Environment Minister."



DOC18/811464-02

Proper Officer
The Owners' Corporation
Strata Plan No 87671
Centenary Park
81-86 Courallie Ave
HOMEBUSH WEST NSW 2140

Email: cpmanagement.strata@gmail.com

Dear Proper Officer

Preliminary Investigation Order for Centenary Park 81-86 Courallie Ave, Homebush West, NSW (the site).

I refer to the letter sent by Strathfield Municipal Council dated 2 March 2018 requesting information from the Centenary Park Owners' Corporation and access for Ford Australia Motor Company Pty Ltd (Ford) to the site (our ref. DOC18/99926-01).

Ford informed the Environmental Protection Authority (EPA) under section 60 of the *Contaminated Land Management Act 1997* (the CLM Act) that there is evidence that the landfill wall has been breached to the north of the site and there is potential for landfill leachate and potential for landfill gas to have migrated from the landfill to the land at 81-86 Courallie Ave, Homebush West, NSW.

Ford have provided a document to the EPA outlining the liaison they have had with Telmet Developments, Centenary Park Management Pty Ltd and their legal advisors, Milad S Raad & Associates. This document shows that Ford and the owners and managers of your site have not been able to agree about access despite three years of correspondence between the two parties. Currently the potential for your site to be impacted by contamination derived from landfill has not been confirmed nor the potential risks determined.

The CLM Act enables the EPA to issue a Preliminary Investigation Order to determine the nature and extent of contamination. If there is reason to believe the contamination is significant enough to warrant regulation under the CLM Act, the EPA can publicly declare the land to be significantly contaminated land. The EPA may then issue a Management Order requiring remediation of the land in line with community expectations.

The EPA intends to issue a Preliminary Investigation Order under section 10 of the CLM Act to the Centenary Park Owners' Corporation which requires you to investigate whether 81-86 Courallie Ave, Homebush West is contaminated with landfill leachate and landfill gases, being the substances the EPA reasonably suspects contaminate the specified land to the north, and to determine the nature and extent of such contamination if present.

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A draft Preliminary Investigation Order is enclosed. If you intend to provide comments on the draft Order, please ensure that your comments are received by the EPA within 21 days of the date of this letter. Subject to consideration of those comments the EPA intends finalising the Order. Once finalised, the Order will be entered on a public register kept by the EPA to ensure all interested parties are able to access the information (refer to notes in the Order)

Cost recovery

Section 34 of the CLM Act allows for the EPA to recover administrative costs associated with assessing and settling of terms of a preliminary investigation order, monitoring action and seeking compliance of a preliminary investigation order, and other associated or incidental matters.

Should you or your environmental consultant need to discuss the draft Order or this letter, please contact Olivia Patterson on (02) 9995 5798 or at olivia.patterson@epa.nsw.gov.au

Yours sincerely



9 January 2019

BEN LIVISSIANIS
A/Manager Regulation - Contaminated Land Management
Environment Protection Authority

Cc.
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Encl. Draft Preliminary Investigation Order 20181010

Environment Protection Authority

Preliminary Investigation Order

(Section 10 of the *Contaminated Land Management Act 1997*)

Service: Email

Proper Officer
The Owners' Corporation
Strata Plan No 87671
Centenary Park
81-86 Courallie Ave
HOMEBUSH WEST NSW 2140

cpmanagement.strata@gmail.com

Attention: The Proper Officer

Order Number 20181010; Area Number TBA

The Environment Protection Authority (EPA) issues this preliminary investigation order ("**the Order**") for the following land under section 10 of the *Contaminated Land Management Act 1997* ("**the Act**"):

1. Land to which this order applies

- A. The land to which the Order applies is described as Strata Plan 87671, in Strathfield Municipal Council or the Centenary Development at 81-86 Courallie Avenue, Homebush West, NSW 2140 ("**the Site**").

2. Background

- B. The premises located at 22 Mandemar Avenue, Homebush West, New South Wales 2140 (Lot 11 DP 854284) ("**the Old Landfill**") was previously operated as a landfill site and filled with a mix of waste comprising a high proportion of putrescible waste.
- C. In the 1980s a leachate treatment plant and a gas extraction system was installed at the Old Landfill, with monitoring networks (for both landfill gas and groundwater) and the installation of an engineered cap.
- D. The Old Landfill is located to the immediate north of the Site.
- E. The EPA has received information which suggests that the wall on the southern border of the Old Landfill has been breached, resulting in a drop of groundwater and elevated ammonia concentrations.
- F. Further investigation confirmed the existence of elevated levels of ammonia and dissolved methane in the groundwater at the Old Landfill and elevated methane in ground gas at the Old Landfill.
- G. Subsequently, the owner of the Old Landfill notified the premises to the EPA under section 60 of the Act on 3 March 2016.
- H. The EPA suspects that the Old Landfill leachate is now migrating south from the Old Landfill and is potentially contaminating the Site.

- I. The EPA understands there has been discussions between the owner of the Old Landfill and you, as the Owner of the Site, in relation to access to the Site to carry out investigative works. The EPA understands those discussions were ultimately unsuccessful.
- J. The purpose of this Order is to investigate the extent to which the Site is contaminated with the leachate containing elevated concentrations of ammonia, formaldehyde, polycyclic aromatic hydrocarbons, volatile organic compounds, semi volatile organic compounds and landfill gases.

3. Specified substances to which this Order relates:

- K. The EPA reasonably suspects that the Site is potentially contaminated with one or more of the following substances (“**the specified substances**”):
 - i. Ammonia in groundwater;
 - ii. Formaldehyde in groundwater;
 - iii. Polycyclic aromatic hydrocarbons in groundwater;
 - iv. Volatile organic compounds in groundwater;
 - v. Semi volatile organic compounds in groundwater; and
 - vi. Landfill gases (methane, carbon dioxide and hydrogen sulphide).

4. Power to serve this Order

- L. Under section 10(1) of the Act, the EPA may serve a preliminary investigation order to direct a person to:
 - i. investigate whether the land is contaminated with the substances specified in the order (the **specified substances**) being the substances that the EPA reasonably suspects contaminate the specified land;
 - ii. investigate the nature and extent of any such contamination; and
 - iii. provide to the EPA such information with respect to the investigation as it may require.
- M. Under the Act, the EPA may serve a preliminary investigation order on one or more of the persons listed under section 10(3) of the Act to undertake an investigation of site contamination, including an owner of the Site specified under Part 1 of this Order.
- N. This order is served on you as the owner of the Site, pursuant to section 10(3)(b) of the Act.

5. Action required by this notice

By this Order the EPA directs the owners of Strata Plan 87671, Centenary Park, to do the following:

- a) By 31 January 2019, provide the EPA with a Sampling, Analysis and Quality Plan (“**the Plan**”) for the work to be undertaken to determine if the wall of the Old Landfill to the north of the Site has been breached and subsequently

contaminated the Site with the specified substances. The Plan must include, but is not limited to, the following works:

- i. Drilling and installation of four new groundwater wells within the three basement car parks on Site and two further to the south on Courallie Road (**the Wells**);
 - ii. Survey of wells to confirm groundwater flow direction;
 - iii. One groundwater and ground gas monitoring event of the newly installed wells);
 - iv. Sampling and analysis of seepage samples from lift well sumps (three samples) and stormwater tank;
 - v. Indoor air monitoring from each basement car park for landfill gases; and
 - vi. Groundwater and seepage water to be analysed for ammonia, barium, formaldehyde, polycyclic aromatic hydrocarbons, semi-volatile organic compounds and volatile organic compounds.
- b) Within six weeks after receiving approval of the Plan in writing from the EPA, commence the work as approved.
- c) Within 3 months after receiving approval of the Plan in writing from the EPA, submit a report which includes, but is not limited to, the following:
- i. the results of the investigation carried out;
 - ii. confirmation of the works completed; and
 - iii. an assessment of the potential for the specified substances to have migrated south and contaminated the Site.

ROB HOGAN
Manager Regulation - Contaminated Land Management
Environment Protection Authority

Date: **DATE**

NOTE:

Declaration of significantly contaminated land/Management order may follow

If the preliminary investigation of the site or part of the site identifies land contamination, the EPA may declare the land to be significantly contaminated land under s11 of the Act if it believes that the land contamination is significant enough to warrant regulation as per s12 of the Act and may issue a management order under s.14 of the Act.

Amendment/Repeal

The Order may be varied by subsequent notices. It remains in force until it is otherwise amended or repealed. The subsequent order 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 the Order will be included in the public record.

Information provided to councils

The EPA will notify the relevant local council of the existence of the Order. There is no legal obligation to note on its planning certificate issued pursuant to s.10(7) of the *Environmental Planning and Assessment Act 1979* that the land is currently subject to a preliminary investigation order. However, Council should record the existence of the Order for any enquirers to ensure transparency. The EPA will notify council as soon as practicable when the Order is no longer in force.

Relationship to other regulatory instrument

The Order 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.

Provision of reports to comply with requirements of this Order

Any report submitted to the EPA to comply with this Order must be prepared, or reviewed and approved, by a practitioner certified by an EPA-recognised scheme. Evidence of certification under a recognised scheme must be affixed to the front cover of the report. A list of contaminated land consultant certification schemes recognised by the EPA is available on the EPA's website at <https://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated-land/engaging-consultant>

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