

Environment Protection Authority**Remediation Order**

(Section 23 of the Contaminated Land Management Act 1997)

Order Number 23022; Declaration Number 21055; Area: 3335

Service: By Registered Mail to address shown in EPA records

Maritime Authority of New South Wales
Locked bag 5100
CAMPERDOWN NSW 1450

Attention: Mr S Montgomery

Background

- A. On 25 May 2004 the Environment Protection Authority (EPA) declared the sediments of the bed of Kendall Bay and the Parramatta River which fall within 200 metres of the land based boundary of the former Mortlake gasworks site as a remediation site ("the site") under section 21 of the *Contaminated Land Management Act 1997* ("the Act"). A map of the area is attached at Attachment 1.
- B. The site has been found to be contaminated with polycyclic aromatic hydrocarbons (PAHs), and total petroleum hydrocarbons (TPHs) ("the contaminants").
- C. The EPA has considered the matters in s.9 of the Act and found that, the contamination in the near-shore sediments adjoining the former Mortlake gas works site pose a significant risk of harm (SRoH) for the following reasons:
 - Environmental harm has occurred in that there is a "lack of benthic biota" in the area. Although "cause and effect" has not been established it is reasonable to assume based on the scientific literature that the nature and degree of the contaminants results in the "lack of benthic biota";
 - The concentration of total polycyclic aromatic hydrocarbons (both low and high molecular weight components) are significantly elevated above ANZECC 2000 sediment quality guideline levels. Although there is no criteria for TPHs, these are also present in the sediment in significant concentrations and separate phase product has been observed;
 - Some PAHs are classifiable as human carcinogens;
 - PAHs have the potential to biomagnify through the food chain;
 - Benthic biota, and humans could be exposed to the contaminants;
 - It is likely that further development of the area would increase the risk of harm
 - Disturbance of the sediments would mobilise contaminants and hence increase the risk of harm.
- D. The bed of Kendall Bay and the Parramatta River is owned by Maritime Authority of New South Wales (Maritime Authority of NSW).
- E. The purpose of this Order is to ensure further disturbance of contaminated sediments at the site is minimised and that persons proposing to carry out activities, which may disturb these sediments, prepare and comply with EPA approved plans. EPA may review this strategy and require a more active remediation approach in light of future investigations and remediation actions and scientific knowledge on the impact caused by these sediments.
- F. EPA has considered all submissions received in response to the remediation declaration as to

whether an order should be made.

- G. EPA has provided a copy of this order to Alinta LGA Ltd ACN 052 167 405 (formerly known as the Australian Gas light Company) PO Box R 1465, Royal Exchange NSW 1225, for the purposes of section 23(4)(b) of the Act, which requires the EPA to serve copies of the order on "those persons who the EPA has reason to believe contaminated the land in such a way as to present a significant risk of harm."

Action required by this order

By this order, the EPA orders Maritime Authority of NSW, being a public authority within the meaning of the Act, to do the following:

1. refrain from carrying out or causing, permitting or allowing another person to carry out any works or activities at the site that would result in the disturbance, or further disturbance, of the bed sediment of Kendal Bay and the Parramatta River in the area adjacent to the former Mortlake gasworks site and which fall within 200 metres of the land based boundary of the former gasworks site except as provided by this Order. Examples of the types of works or activities that may come within the scope of this Order include: construction and maintenance works such as dredging or excavation activities for boating facilities (for piers, wharves, slipways or marinas) or infrastructure works (including bridges or pipelines).
2. Prior to commencing any such works or activities described or referred to in paragraph 1 above, the person proposing to conduct the works or activities must prepare and submit for the EPA's approval a written plan with specific measures directed at minimising the disturbance and migration of the contaminants in the bed sediments of the site. Prior to being provided to the EPA, the report must have been reviewed by a site auditor accredited under the Act in relation to the suitability of the plans and revised so that it is consistent with the auditor's comments.
3. The plan submitted to the EPA must be prepared in accordance with the EPA publication titled *Guidelines for Consultants Reporting on Contaminated Sites*, dated November 1997, as it relates to investigation and/or remedial action plans.
4. The person proposing to conduct the works or activities must have the plan audited by an accredited site auditor in accordance with Part 4 of the Act before submitting the plan to the EPA for approval.
5. EPA may approve the plan as submitted or approve the plan subject to a requirement that additional mitigation measures be implemented. The person proposing to conduct the works or activities cannot commence such works or activities until the management plan submitted to the EPA has been approved in writing.
6. The works or activities must be carried out in accordance with the management plan approved by the EPA.
7. On completion of the works or activities, the person having conducted them must prepare, and furnish the EPA with a report which addresses the manner in which the works were implemented and how the plan was complied with.

At this stage, no active remediation works are envisaged. Rather, the critical issue is that the bed sediments are not further disturbed without appropriate investigation and or remediation. EPA may review this strategy and require a more active remediation approach in light of future investigations and remediation actions and scientific knowledge on the impact caused by these sediments.

[Signed]

NIALL JOHNSTON
A/Manager Contaminated Sites
Department of Environment and Conservation
(by Delegation)

Date: 22 June 2007

NOTE:

Cost Recovery

Section 34 of the CLM Act allows the EPA to recover its costs in connection with the issue of a remediation order.

Information recorded by the EPA

Section 58 of the Contaminated Land Management Act 1997 requires the EPA to maintain a public record. A copy of this investigation order will be included in the public record.

Information recorded by councils

Section 59 of the Act requires the EPA to give a copy of this order to the relevant local council. The council is then required to note on its planning certificate issued pursuant to s.149 (2) of the Environmental Planning and Assessment Act 1979 that the land is currently subject to a remediation order. The EPA is required to notify council as soon as practicable when the order is no longer in force and the notation on the s.149 (2) certificate can be removed.

Relationship to other regulatory instrument

This order does not affect the provisions of any relevant environmental planning instruments which may control the land on which the land is located or provisions of any other environmental protection legislation administered by the EPA.

Guidelines made or approved under section 105 of the CLM Act.

All the investigation or remediation must be carried out consistent with guidelines made or approved under section 105 of the CLM Act. (See <http://www.environment.nsw.gov.au/clm/guidelines.htm>).

Term of this order

This order may only be varied or revoked in writing pursuant to section 44 of the Act.

A variation to the order may modify or add to the terms and specifications of the order. The EPA may issue a further remediation order to an appropriate person or public authority as defined in s.12 (2) of the Act, including 'a person who had principal responsibility for such contamination of the land'. Such decisions may be made as a result of new advice or information, new remediation technology or changes in the proposed use of the land and may require some other form of remediation action.

Periodic review and further remediation action

No active remediation works are envisaged, for the time being. Rather, the critical issue is that the bed sediments are not disturbed without appropriate investigation. The appropriateness of this strategy will be required to be periodically reviewed.

Cc: Department of Planning