



DOC15/524777
Contact: Niall Johnston 02 9995 5651

Mr Graham Funch
Project Director - Remediation
Jemena Gas Works
99 Walker Street
NORTH SYDNEY NSW 2060

Dear Mr Funch

Hamilton Gasworks - Final Management Order

I refer to the Environment Protection Authority's (EPA) regulation of the former gasworks site, located at Clyde Street, Hamilton North NSW and our previous letters of 24 November 2015 (DOC15/474242-02) and 16 December 2015 (DOC15514866). I also refer to your reply dated 10 December 2015 (our ref DOC15/510845) and email advice of 18 December 2015. The EPA has now finalised the Management Order for the Hamilton Gasworks which is attached.

While your advice indicates that the completion dates may be difficult to achieve, they have been retained in the Management Order. If, as these dates are approached, it is evident that Jemena is unable to achieve these milestones then Jemena can make application for an extension of the Management Order, with appropriate justification and having demonstrated that substantial progress has been made towards remediating the site.

The EPA looks forward to working with Jemena and other stakeholders in achieving a praiseworthy environmental outcome at the Hamilton site. The EPA acknowledges Jemena's commitment to this process. Please feel free to contact me on 02 9995 5651 should you have any further questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Niall Johnston'.

21 December 2015

NIALL JOHNSTON
Manager, Contaminated Sites
Environment Protection Authority

Attachment: Management Order
Cc Department of Planning
Newcastle City Council

Other Contact officer: Ben Livissianis 9995 5731

Environment Protection Authority

Management order

(Section 14 of the *Contaminated Land Management Act 1997*)

Order Number 20151403; Declaration Number 20111101; Area Number 3060

Service: By registered mail

Jemena Gas Networks (NSW) Limited
(ACN 003 004 322)
Level 9-15
99 Walker Street
North Sydney NSW 2060

Background

- A. On 18 August 2011 the Environment Protection Authority ("EPA") declared the following area to be significantly contaminated land (declaration No. 20111101) under the *Contaminated Land Management Act 1997* ("the Act"):
 - All of Lot 1 in DP 79057; and
 - All of Lot 270 in DP 812689.
- B. The land was so declared because the EPA believes that the site is significantly contaminated with gasworks waste and particularly waste tar as a result of the previous use of the site as a gasworks plant.
- C. On 17 August 2012, the EPA approved a voluntary management proposal ("VMP1") (Approval No. 20121706) from Jemena Gas Network (NSW) Ltd in relation to the land.
- D. The primary objectives of VMP1 were to define the nature and extent of impacted soil and groundwater contamination, as well as the collection of information to enable a subsequent VMP No.2 to assess contamination management technologies.
- E. On 20 September 2013, the EPA issued an Official Caution letter (Reference DOC13/52903) that identified a number of non-compliances with the then current VMP1.
- F. In December 2013, Jemena submitted Voluntary Management Proposal No.2 for the site (VMP No. 2), to the EPA for approval, after completing the investigative works required by VMP1 noting that the EPA had advised Jemena that all elements of the VMP1 were satisfied in its letter of 20 January 2014 (Reference DOC14/641).
- G. On 20 January 2014, the EPA approved the voluntary management proposal ("VMP2") (Approval No. 20141702) from Jemena Gas Network (NSW) Ltd in relation to the land.
- H. Remediation works proposed under the approved VMP2 have not been adequately carried out to date, and some key milestones and reporting requirements established in the approved VMP2 have not been met. The EPA is concerned about the ongoing delay on the completion dates of the major milestone events.
- I. Under section 17(6)(b)(i) of the CLM, the EPA can serve a management order if, in the opinion of the EPA, the terms of the approved proposal are not carried out.

- J. In view of the ongoing delay and non-compliance of VMP2, the EPA considers it prudent that its regulation of site be through a management order, which is legally enforceable, rather than via a VMP, and that it is in the public interest to do so.
- K. Consequently, the EPA withdraws its approval of VMP No. 20141702. In addition VMP No. 20121706 ceases to be an approved VMP as the EPA is satisfied that the terms of the VMP were carried out (EPA letter of 20 January 2014 Reference DOC14/641).
- L. Prior to the making of this order the EPA considered any submissions made in accordance with s11(2)(e) as to whether an order should be issued.

Land to which this order applies

This order applies to the significantly contaminated land identified in declaration No.20111101 made on 18 August 2011 and listed in the following table (“the land”).

Description	Address
Lot 1 in DP 79057 and Lot 270 in DP 812689	1 Chatham Road, Hamilton North NSW

Persons served with copy of this order

The persons who are required to be served with a copy of this order for the purposes of s.14(2) of the Act are listed in the following table.

Land	Person
Lot 1 in DP 79057 and Lot 270 in DP 812689	Jemena as the site owner and who is responsible for the significant contamination of the land

Nature of contamination and risk of harm affecting the land

The EPA believes that the site is contaminated with gasworks waste as a result of the previous use of the site as a gasworks plant. The chemical composition of gasworks waste includes the following substances (“the contaminants”): polycyclic aromatic hydrocarbons (PAHs); benzene, petroleum hydrocarbons (TPHs); arsenic and lead.

The EPA believes that the land is contaminated and that the contamination is significant enough to warrant regulation for the following reasons:

- Groundwater at the site has been degraded by gasworks waste contaminants at concentrations exceeding criteria for beneficial use and protection of aquatic ecosystems. Groundwater is also contaminated with phase separated hydrocarbons; and
- Contaminated groundwater may migrate further off-site and ultimately impact the Hunter River.
- Workers may become exposed to vapours during subsurface works at the site.

Remediation Plan

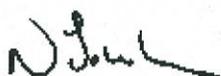
Jemena prepared a Remedial Action Plan (RAP- *Clyde Street (former Newcastle Gasworks) Remediation Project: Provision of Contaminated Land Assessment and Remediation Services - Remediation Action Plan (RAP Stage1)* dated 26 September 2014) that presented a plan for the first phase of remediation works to be undertaken in accordance with the EPA approved Stage 2 VMP. The objective of the RAP was to develop an initial plan with the intent to remediate material on the site that was known to be contaminated, and used to inform the RAP Stage 2 phase of works. The RAP – Stage 1 was approved by the EPA and the site auditor on 31 August 2014.

Action required by this order

By this notice the EPA orders Jemena as the appropriate person to which this order relates to do the following (subject to necessary approvals):

Action number	Action required by this order	Period for taking action
1	Carry out surface water monitoring every month in Styx Creek in locations adjacent to the site and provide a factual report to the EPA.	Factual report to be provided monthly within 30 days of sampling.
2	Carry out groundwater monitoring every six months from on-site and off-site monitoring wells, and provide a report to the EPA.	Report to be provided within 30 days of sampling.
3	Complete the data gap investigation to collect additional environmental data deemed necessary by the Site Auditor to enable RAP- Stage 2 to be prepared and finalised.	To be completed by 30 June 2016
4	Submit a Data Gap Investigation Report to the EPA.	To be completed by 30 June 2016
5	Submit the final RAP- Stage 2 to the EPA.	To be completed by 30 June 2016
6	Commence remedial works specified in the RAP – Stage 2, subject to gaining all necessary approvals.	January 2017
7	Complete and validate remedial works specified in the RAP – Stage 2 to the satisfaction of the EPA.	To be completed by 30 December 2017
8	Submit a validation report for remedial works specified in RAP – Stage 2 to the EPA.	To be completed by 30 December 2017
9	Make available for inspection by any person, free of charge, and provide a copy to any person for a reasonable fee: <ul style="list-style-type: none"> a. each report; and b. each plan of management; required to be prepared and submitted to the EPA under this management order. It is not necessary to disclose:	

	<p>(i) any information contained in those documents that relates to any manufacturing or other industrial or commercial secrets or working processes; or</p> <p>(ii) any personal information, within the meaning of the <i>Privacy and Personal Information Protection Act 1998</i> contained in those documents.</p>	
10	Inform the EPA of any change in the ownership or occupancy of the land, to the extent that the person is aware of the change.	



NIALL JOHNSTON
Manager Contaminated Sites
Environment Protection Authority
 (by delegation)

Date: 21 December 2015

NOTE:

Cost Recovery

Section 34 of the Act allows the EPA to recover its costs in connection with preparing and serving, monitoring actions under, and seeking compliance with a management order.

Information recorded by the EPA

Section 58 of the Act requires the EPA to maintain a public record. A copy of this management 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 management 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 works must be carried out consistent with guidelines made or approved under section 105 of the Act. See www.epa.nsw.gov.au/clm/guidelines.htm.

Appeal rights

Under section 61 of the Act a person who is the subject of a management order has the right to appeal against the management order to the Land and Environment Court within 21 days of after the date of service.



DOC16/639109-01

Mr Lee Mason
General Manager Health, Safety, Environment & Quality
Jemena Gas Networks (NSW) Ltd
Lee.mason@jemena.com.au

Dear Mr Mason,

**Former Newcastle (Hamilton) Gasworks
Amendment to Management Order**

I refer to the letter from Mr Graham Funch of Jemena Gas Networks (NSW) Ltd dated 21 November 2016 requesting an amendment to the management order for the Former Hamilton Gasworks site. The letter provides confirmation of the works which have been completed in accordance with the management order, and requests an extension for the remainder of the work associated with implementing the remedial works at the site.

We understand that the amendment to the management order is required to allow Jemena Gas Networks (NSW) Ltd additional time to comply with the requirements of the Department of Planning and Environment (DPE) for the remedial works, which have been determined to be State Significant Development (SSD 7676).

The EPA agrees to the proposed amendments, noting that we expect that these approvals would be obtained within six months. A Notice issued under section 44 of the *Contaminated Land Management Act 1997* amending the management order has been issued and a copy is enclosed with this letter. A copy of the section 44 Notice has also been provided to Newcastle City Council and will be included on the Contaminated Land Record of Notices, which can be accessed at www.epa.nsw.gov.au/prclmapp/searchregister.aspx.

Please be aware that from 1 July 2017, all reports submitted to the EPA to comply with the requirements of the *Contaminated Land Management Act 1997* are to be prepared, or reviewed and approved, by a practitioner certified by an EPA recognised contaminated land consultant certification scheme. Please refer to the EPA's website for details about EPA recognised schemes <http://www.epa.nsw.gov.au/clm/selectaclmcons.htm>.

Please contact Ben Livissianis on (02) 9995 5731 if you have any questions relating to the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Arminda Ryan'.

30 December 2016

ARMINDA RYAN
Acting Executive Director Hazardous Incidents & Environmental Health
Environment Protection Authority

Enclosure: Section 44 Notice to amend Management Order (No.20164439)
CC: Newcastle City Council

Environment Protection Authority

Notice to amend management order

(Section 44 of the *Contaminated Land Management Act 1997*)

Notice Number 20164439; Area Number 3060

Background

The land to which this notice applies was declared as "significantly contaminated land" (Declaration No. 20111101) and has been the subject of a management order (Order No. 20151403) issued by the Environment Protection Authority (EPA).

Land to which this notice applies

Description	Address
Lot 1 in DP 79057 and Lot 270 in DP 812689	1 Chatham Road, Hamilton North, NSW

Amendment

The amendment to the management order is required to allow Jemena Gas Networks (NSW) Limited additional time to comply with the requirements of the Department of Planning and Environment (DPE) for the remedial works, which have been determined to be State Significant Development (SSD 7676).

The amendment to Management Order No. 20151403 is as follows:

Action number	Action required by this order	Period for taking action
6	Commence remedial works specified in the RAP – Stage 2, subject to gaining all necessary approvals.	60 days following approval notification
7	Complete and validate remedial works specified in the RAP – Stage 2 to the satisfaction of the EPA.	12 months following date of commencement of Stage 2 remedial work
8	Submit a validation report for remedial works specified in RAP – Stage 2 to the EPA.	4 months following completion of Stage 2 remedial work

The EPA requires all reports submitted after 1 July 2017 under this Management Order, to be prepared, or reviewed and approved, by a practitioner certified by an EPA recognised contaminated land consultant certification scheme.

All other requirements of the Management Order remain unchanged.



ARMINDA RYAN
Acting Executive Director Hazardous Incidents & Environmental Health
Environment Protection Authority

Date: 30 December 2016

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.

Information recorded by councils

Section 59 of the CLM Act requires the EPA to give a copy of this notice to the relevant local council. The council may then make appropriate consequential modifications to the planning certificate issued in relation to the land to which this notice applies pursuant to s149 of the *Environmental Planning and Assessment Act 1979*.

Relationship to other regulatory instrument

This 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.