

06 November 2015

The Hon Rob Stokes MP  
Minister for Planning  
Department of Planning & Environment  
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Dear Minister

### **Hickson Road, Millers Point Remediation Works (SSD 6617)**

Jemena submits that there is insufficient justification in the environmental impact statement (**EIS**) to enable the consent authority to grant development consent to the proposed remediation works for the reasons set out below. It is expected that the Barangaroo Delivery Authority will seek to recover the costs of the proposed remediation works from Jemena (as operator of the former gas works on the site nearly 100 years ago).

- (a) The remediation strategy put forward to the EPA and the consent authority is based on the Human Health and Environment Risk Assessment (**HHERA**) prepared by AECOM (Appendix L of the EIS). The HHERA identifies the nearest ecological receptor as being groundwater dependent ecosystems (**GDEs**) between the down gradient boundary of the Declaration Area and Darling Harbour. There is no evidence of GDEs in this area. The HHERA describes the human health risk from the contamination as being a risk to intrusive maintenance workers undertaking works without protective equipment. The risks to intrusive maintenance workers are able to be controlled by a site management plan in a similar way to the way the paved open space at 36 Hickson Road is currently managed by a site management plan authorised by a site auditor.
- (b) The nearest ecological receptor to Hickson Road is Darling Harbour. It is located more than 100 metres to the west of Hickson Road. It is currently mostly reclaimed land with fill. A large basement with retention walls has now been constructed at Blocks 1-3 of Barangaroo. Development consent has been granted for the excavation of Block 4 and installation of perimeter walls around the works at Block 4. A development application has been lodged and publicly exhibited for remediation of Block 5 (which involves excavation and construction of perimeter walls). A further development application has been lodged and publicly exhibited for the walls and excavation works in the area down gradient of the Declaration Area and Darling Harbour associated with the proposed construction of a hotel resort. These works create a hydraulic barrier between Hickson Road and Darling Harbour (see for example Appendix L of the EIS for the Block 4 bulk excavation and remediation works). The EIS includes the following statement in the executive summary:

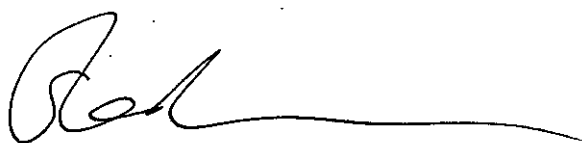
The EPA Declaration states: *'Contaminated groundwater is likely to be migrating from the site to Darling Harbour and could ultimately affect*

*aquatic ecosystems*'. These contaminants include human carcinogens and substances toxic to aquatic ecosystems and could ultimately be affecting aquatic ecosystems. The proposed remediation works will remediate the principal sources of contamination from Hickson Road. As such, the remediation works are expected to result in an improvement to water quality and aquatic ecosystems in the vicinity of the site.

There is no technical evidence presented in the EIS that suggests that any contaminants are migrating into Darling Harbour in excess of marine water quality criteria. In fact, the evidence is to the contrary (see Appendices C and D to the Remediation Extent Document – Appendix H of the EIS). In any event, barrier walls are being constructed as part of the broader Barangaroo development and other remediation works (see for example the PDA HHERA which is Appendix L to the Block 4 bulk excavation and remediation EIS). It is not clear from the EIS how the specific remediation works on Hickson Road, when taken in conjunction with the installation of the perimeter groundwater retention walls being installed on the broader site, will improve aquatic ecosystems in Darling Harbour.

- (c) Clause 12 of SEPP 55 requires the consent authority to consider whether there would be a more significant risk of harm to human health or some other aspect of the environment from the carrying out of the work than there would be from the use of the land concerned (in the absence of the work) for any purpose for which it may be lawfully be used. The EIS identifies significant risks associated with the proposed chemical use and the excavation of the material which is currently located in situ under an operational paved public road. These risks of disturbing the contamination need to be balanced against the risks of harm to human health and the environment from the contamination based on the use of Hickson Road as a public road. The EIS does not provide sufficient justification to demonstrate that the risks from the current contamination based on the use of Hickson Road as a public road or to surrounding areas would be greater than the proposed intrusive remediation works.
- (d) The contamination under Hickson Road is able to be managed to address the human health and environmental risks arising from the use of the land as a public road and potential risks to surrounding areas in a less environmentally intrusive manner (eg cap and contain) which would be more consistent with the principles of ecologically sustainable development.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Shaun Reardon', with a long horizontal flourish extending to the right.

**SHAUN REARDON**  
**Executive General Manager – Strategy, Regulation & Markets**