

From:
To: [Public Works](#)
Cc:
Subject: RE: Costs for remediation of sites containing coal ash repositories - Post-hearing responses - 1 September 2020
Date: Tuesday, 8 September 2020 11:02:25 AM
Attachments:

Hi Emma,

Receipt of your email below is confirmed. I can also confirm the transcript is acceptable to Delta.

Attached is the Clean Up Notice and subsequent variations as requested on the day.

There was another question regarding ash imports. India is currently importing ash into South Australia. Over the years China and South East Asian countries (such as Malaysia) have also imported ash into Australia on accession.

I believe this satisfies all the information requests but please let me know if I missed anything.

Regards,

Justin

Clean-Up Notice



Licence - 761

SUNSET POWER INTERNATIONAL PTY LTD
Trading as DELTA ELECTRICITY
ABN 75 162 696 335 ACN 162 696 335
LEVEL 7, 287 ELIZABETH STREET
SYDNEY NSW 2000

Attention: Ms Kerrie Davis & Mr Bryan Beudeker

Notice Number 1570966
File Number EF15/21083
Date 12-Oct-2018

To The Proper Officer

NOTICE OF CLEAN-UP ACTION

DEFINITIONS

In this Notice, unless explicitly stated otherwise, the following definitions apply:

- a. The EPA - the NSW Environment Protection Authority;
- b. The POEO Act - the *Protection of the Environment Operations Act 1997*;
- c. The ARA - the Appropriate Regulatory Authority;
- d. EPA Authorised Officer - a person appointed as an Authorised Officer by the EPA;
- e. Delta Electricity - Sunset Power International Pty Ltd;
- f. Howards - Howard Recycling Services Pty. Ltd.;
- g. The Premises - Vales Point Power Station and coal unloader as defined by the Licence;
- h. The Licence - Environment Protection Licence 761 that applies to the Premises;
- i. Waste - as defined by the dictionary within the POEO Act; and
- j. Pollution Incident - as defined by the dictionary within the POEO Act.

Note: Current copies of legislation referred to in this Notice can be found at www.legislation.nsw.gov.au.

MATTER(S) TO WHICH THIS NOTICE RELATES

This Notice is issued in relation to the alleged unlawful transportation, depositing and disposal of waste (which may constitute the negligent disposal of waste that harms or is likely to harm the environment as per Part 5.2 of the POEO Act and with potential breaches of Sections 64(1), Section 143(1), Section 144(1) and 144AA (1 and 2) also being investigated at this time), including suspected asbestos waste and general solid

Clean-Up Notice



waste, at and on the ash dam of the Premises that was identified by an EPA Authorised Officer on 27 September 2018.

Delta Electricity is legally required to comply with the Directions in this Notice. Further details regarding Delta Electricity's legal obligations in respect of this Notice are found at the end of the Notice.

PURPOSE(S) FOR WHICH THIS NOTICE IS ISSUED

This Notice is being issued to Delta Electricity as the occupier of the Premises where the EPA reasonably suspects that a Pollution Incident is occurring directing Delta Electricity to take such clean-up action as specified by this Notice.

A separate Notice of Clean-Up Action will also be issued to Howards in respect of this matter.

BACKGROUND

- A. Delta Electricity is the holder of the Licence issued under the POEO Act that permits scheduled activities to be carried out at the Premises that includes the deposition of ash in the dedicated ash dam. Delta Electricity is also considered the occupier of the Premises as defined by the POEO Act.
- B. Delta Electricity holds a contract with Howards regarding the capping and rehabilitation of the ash dam at the Premises using virgin excavated natural materials (VENM) and excavated natural materials (ENM) predominately.
- C. On 26 September 2018, the EPA received a Self-Report from Delta Electricity regarding the discovery of waste not permitted to be received at the ash dam being suspected building and demolition waste.
- D. On 27 September 2018, the EPA carried out a compliance inspection of the ash dam active capping and rehabilitation area and identified multiple pieces of suspected asbestos waste and a large stockpile of suspected general solid waste.
- E. The suspected asbestos waste was:
 - i. found both at the active tipping area at the south western portion of the actively capped cell known as "Pond 4" and also an approximate 500m long by 60m wide area of spread and leveled material at the east to south east of Pond 4; and
 - ii. of multiple different types ranging from suspected asbestos sheeting, asbestos cladding and asbestos piping.
- F. The EPA held discussions with representatives of Delta Electricity about the receipt of further waste and the placement of waste onsite. These discussions are now being formalised by this Notice.
- G. The EPA is of the opinion, based on evidence obtained to date which includes the suspected identification of asbestos waste, that a Pollution Incident is occurring at the Premises. The presence of asbestos waste and other potential contaminants is likely to cause degradation of the land resulting in potential human and environmental health risks. Uncontrolled asbestos waste has the potential to cause air pollution.
- H. The EPA is therefore of the opinion that action is required to address the Pollution Incident described above to prevent impacts to human and environmental health.

Clean-Up Notice



DIRECTION TO TAKE CLEAN-UP ACTION

The EPA directs SUNSET POWER INTERNATIONAL PTY LTD (trading as Delta Electricity) to take the following clean-up action:

1. Immediately, on receipt of this Notice, cease causing or permitting the transport of any waste to the Premises (including the ash dam) except VENM obtained from the NorthConnex Project.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

2. Immediately, on receipt of this Notice, cease causing or permitting the receipt of any waste at the Premises (including the ash dam) except VENM obtained from the NorthConnex Project.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

3. Immediately, on receipt of this Notice, cease causing or permitting any waste within the blue polygon at **Attachment A** to be moved, mixed, spread, buried or otherwise disturbed at the Premises.

Note 1: this does not apply to the use of perimeter access roads for vehicle movement and foot traffic within the northern boundary (adjacent to Pond 3), eastern boundary (adjacent to slurry pipeline) and southern boundary (ash dam link road).

Note 2: this does not apply to any VENM from the NorthConnex Project stockpiled and spread in the area defined by the blue polygon at **Attachment B**.

4. Delta Electricity must manage the waste within the blue polygon at **Attachment A** to prevent or minimise as far as possible, any air emissions to prevent harm to human and environmental health.
5. By **5pm 19 October 2018**, Delta Electricity must engage a suitably qualified hygienist and have them undertake a risk assessment of the asbestos exposure risk associated with the area of waste within the blue polygon at **Attachment A** and provide mitigation measures as appropriate to address any risks by **5pm 02 November 2018**.
6. Delta Electricity must immediately implement any of the mitigation measures provided in response to Direction 5.
7. By **5pm 26 October 2018**, Delta Electricity must provide the EPA (via hunter.region@epa.nsw.gov.au) with the details of a suitably qualified and independent person in contaminated land and waste classification assessment for review who is to be engaged to carry out a detailed waste assessment of the area of waste within the blue polygon at **Attachment A** as per Direction 8.

Note: the person submitted in response to Direction 7 is subject to EPA approval.

8. By **5pm 09 November 2018**, Delta Electricity must provide the EPA (via hunter.region@epa.nsw.gov.au) with a draft Scope of Works prepared by the suitably qualified and independent person required by Direction 7 above and as approved by the EPA for review that addresses:

Clean-Up Notice



- i. the proposed methodology to undertake a contaminated land and waste classification assessment of the area within the blue polygon at **Attachment A**;
- ii. the statistical validity of the proposed methodology given the area and volume of waste to be assessed;
- iii. the proposed guidelines and reference material that will be utilised as part of these works;
- iv. the proposed physical, chemical and any other criteria that will be utilised as part of these work in line with the EPA's Waste Classification Guidelines (ensuring that tests for asbestos, general solid waste, restricted solid waste, hazardous waste, acid sulphate soils and PFAS are included); and
- v. any other matters required by the guidelines and reference material nominated.

Note: this draft Scope of Works will be reviewed by the EPA and once approved, a variation to this Notice will be issued to enact it.

9. By **5pm 26 October 2018**, draft and provide the EPA (via hunter.region@epa.nsw.gov.au) with a detailed Waste Acceptance Protocol or similar for review that clearly identifies the ways in which Delta Electricity will ensure that every load of waste received at the Premises will be verified for the contents within and validated by inspection on arrival, including rigorous rejection and follow-up procedures and practices.

Note: this draft Waste Acceptance Protocol or similar will be reviewed by the EPA and once approved, placed within the Licence or other such statutory instrument for ongoing implementation.

FEE TO BE PAID

- Delta Electricity are required by law to pay a fee of \$550 for the administrative costs of issuing this Notice. An invoice for the fee has been attached to this Notice.
- It is an offence not to pay this fee. However, Delta Electricity can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this Notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

MATTHEW CORRADIN
A/Unit Head Hunter South
Environment Protection Authority

(by Delegation)

INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This Notice is issued under Section 91 of the POEO Act.

Clean-Up Notice



- It is an offence against the POEO Act not to comply with this Notice unless there is a reasonable excuse.

Penalty for not complying with this notice

- The maximum penalty for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues. The maximum penalty for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

Cost recovery from the person who caused the incident

- If Delta Electricity comply with this Notice but are not the person who caused the pollution incident to which the Notice relates, Delta Electricity have a right to go to court to recover the costs of complying with the Notice from the person who caused the pollution incident.

Deadline for paying the fee

- The fee must be paid by **no later than 30 days after the date of this Notice**, unless the EPA extends the time to pay the fee, or waives the fee.

How to pay the fee

- Possible methods of payment are listed on the last page of the attached invoice/statement.
- Please include the payment slip from the attached invoice/statement with your payment.

How to apply for an extension of time to pay/waive the fee

- Any application for an extension of time to pay the fee, or for the fee to be waived, should be made in writing to the EPA. The application should set out clearly why Delta Electricity thinks the application should be granted.

Other costs

- The POEO Act allows the EPA to recover from Delta Electricity reasonable costs and expenses it incurs in monitoring action taken under this Notice, ensuring the Notice is complied with and associated matters. (If Delta Electricity are going to be required to pay these costs and expenses you will later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses").

Continuing obligation

- Under Section 319A of the POEO Act, Delta Electricity's obligation to comply with the requirements of this Notice continues until the Notice is complied with, even if the due date for compliance has passed.

Variation of this notice

- This Notice may only be varied by subsequent Notices issued by the EPA.

Clean-Up Notice



ATTACHMENT A (with Pond 4 of the Vales Point Power Station Ash Dam highlighted)



Clean-Up Notice

ATTACHMENT B (showing the only area where NorthConnex VENM/ENM can be deposited and land applied highlighted).



Variation of Clean-up Notice



HOWARD RECYCLING SERVICES PTY. LTD.
ABN 92 169 695 201 ACN 169 695 201
LOT 150 RUTLEYS ROAD
MANNERING PARK NSW 2259

Attention: Mr John and Ms Jodie Howard

Notice Number 1571208
File Number EF15/21083
Date 16-Oct-2018

To The Proper Officer

VARIATION OF NOTICE OF CLEAN-UP ACTION

BACKGROUND

- A. The Environment Protection Authority ("the EPA") issued Notice of Clean-Up Action No. 1570967 ("the Notice") to HOWARD RECYCLING SERVICES PTY. LTD. ("Howards") on 12 OCTOBER 2018.
- B. The Background of the Notice provides details regarding the purposes for which it was issued.
- C. On 15 and 16 October 2018, Howards made representation directly, and via its environmental consultant and solicitor, to the EPA regarding the removal of items of plant and equipment located at Pond 4 of the Vales Point Power Station Ash Dam and as defined by Attachment A of the Notice.
- D. The stated reason was that this plant and equipment could be utilised elsewhere by Howards.
- E. The EPA has reviewed the submissions by Howards and agrees to this request, subject to the Directions contained within this Variation of Notice of Clean-Up Clean-Up Action No. 1571208 ("Variation Notice 01").
- F. These Directions are detailed below.

VARIATION OF NOTICE OF CLEAN-UP ACTION

By this Notice being Variation Notice 01, the EPA varies the Notice by deleting all previous Directions and replacing them with the following (these Directions are consolidated Directions for ease of viewing):

- 1. Immediately, on receipt of this Notice, cease causing or permitting the transport of any waste to the Premises (including the ash dam) except VENM obtained from the NorthConnex Project and under the express direction of Delta Electricity's direct employees.

Variation of Clean-up Notice



2. Immediately, on receipt of this Notice, cease causing or permitting the receipt of any waste to the Premises (including the ash dam) except VENM obtained from the NorthConnex Project and under the express direction of Delta Electricity's direct employees.
3. Immediately, on receipt of this Notice, cease causing or permitting any waste within the blue polygon at **Attachment A** to be moved, mixed, spread, buried or otherwise disturbed at the Premises except under the express direction of Delta Electricity's direct employees or in accordance with Note 2 below.

Note 1: "otherwise disturbed" includes such things as removing waste, such as suspected or known asbestos fragments, or sampling waste.

Note 2: "otherwise disturbed" does not include the cleaning and removal of potential asbestos waste and potential asbestos contaminated soils from the four items of plant and equipment that belong to Howards currently within the blue polygon at **Attachment A** that is undertaken under the strict supervision of an appropriately qualified hygienist.

4. Prior to undertaking any works or activities associated with Direction 3, Note 2, Howards must provide written notification to Delta Electricity via environment@de.com.au and via documented telephone call made to Kerrie Davis, Environment Manager, at least 2 hours prior to any works or activities occurring.
5. Prior to the removal of any plant and equipment from within the blue polygon at **Attachment A**, Howards must provide a report to the EPA via hunter.region@epa.nsw.gov.au prepared by an appropriately qualified hygienist that certifies that each item of plant and equipment is free of potential asbestos waste and potential asbestos contaminated soils and obtain EPA approval in writing that each item of plant and equipment can be removed.
6. By **5pm 16 November 2018**, draft and provide the EPA (via hunter.region@epa.nsw.gov.au) with an updated and detailed Waste Acceptance Protocol or similar for review that clearly identifies the ways in which Howards will ensure that every load of waste received at the Premises will be verified for the contents within and validated by inspection on arrival, including rigorous rejection and follow-up procedures and practices.

Note: this draft Waste Acceptance Protocol or similar will be reviewed by the EPA and

The Definitions from the Notice apply to the Directions listed within this Notice being Variation Notice 01.

PETER JAMIESON

**Head Regional Operations Unit - Hunter
Environment Protection Authority**

(by Delegation)

Variation of Clean-up Notice



INFORMATION ABOUT THIS NOTICE

- Details provided in this Notice will be available on the EPA's Public Register in accordance with Section 308 of the *Protection of the Environment Operations Act 1997*.
- This Notice is issued under Section 110 of the *Protection of the Environment Operations Act 1997*.
- This Notice operates from the date of issue of this Notice unless a later date is specified in this Notice.

Variation of Clean-up Notice



ATTACHMENT A (with Pond 4 of the Vales Point Power Station Ash Dam highlighted)



Variation of Clean-Up Notice



Licence - 761

SUNSET POWER INTERNATIONAL PTY LTD
Trading as DELTA ELECTRICITY
ABN 75 162 696 335 ACN 162 696 335
LEVEL 7, 287 ELIZABETH STREET
SYDNEY NSW 2000

Attention: Ms Kerrie Davis & Mr Bryan Beudeker

Notice Number 1573787
File Number EF15/21083
Date 20-Dec-2018

To The Proper Officer

VARIATION OF NOTICE OF CLEAN-UP ACTION

BACKGROUND

- A. The Environment Protection Authority ("the EPA") issued Notice of Clean-Up Action No. 1570966 ("the Notice") to SUNSET POWER INTERNATIONAL PTY LTD ("Delta Electricity") on 12 OCTOBER 2018.
- B. The Background of the Notice provides details regarding the purposes for which it was issued.
- C. On 5th and 11th December 2018, Delta Electricity made representation to the EPA for approval to sample a number of existing stockpiles not spread on Pond 4 of the ash dam on or near to the existing perimeter and access road for the purpose a civil matter where the results of this sampling is required. This would be done by an appropriate occupational hygienist and oversee by safety/environment staff.
- D. Representation was also made to permit certain dust suppression activities upon Pond 4.
- E. The EPA has reviewed the representation made and agrees to the two requests detailed above, subject to the Directions contained within this Variation of Notice of Clean-Up Action No. 1573787 ("Variation Notice 01").
- F. These Directions are detailed below.

Note: the Definitions contained within the Notice applies to this Variation Notice 01.

VARIATION OF NOTICE OF CLEAN-UP ACTION

By this Notice being Variation Notice 01, the EPA varies the Notice by deleting all previous Directions and replacing them with the following (these Directions are consolidated Directions for ease of viewing):



Variation of Clean-Up Notice

Licence - 761

1. Immediately, on receipt of this Notice, cease causing or permitting the transport of any waste to the Premises (including the ash dam) except VENM obtained from the NorthConnex Project.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

2. Immediately, on receipt of this Notice, cease causing or permitting the receipt of any waste at the Premises (including the ash dam) except VENM obtained from the NorthConnex Project.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

3. Immediately, on receipt of this Notice, cease causing or permitting any waste within the blue polygon at **Attachment A** to be moved, mixed, spread, buried or otherwise disturbed at the Premises where otherwise disturbed includes such things as removing waste, such as suspected or known asbestos fragments, or sampling waste, except as permitted by the Notes below.

Note 1: this Direction does not apply to the use of the perimeter access roads for vehicle movement and foot traffic within the northern boundary (adjacent to Pond 3), eastern boundary (adjacent to slurry pipeline) and southern boundary (ash dam link road).

Note 2: this Direction does not apply to dust suppression activities on Pond 4 as required by Direction 4 below so long as those dust suppression activities are approved by an appropriately qualified occupational hygienist.

Note 3: this Direction does not apply to the sampling of material as identified at Paragraph C above and as show in **Attachment C** so long as the sampling requested in undertaken by an appropriately qualified occupation hygienist.

Note 4: this Direction does not apply to any VENM from the NorthConnex Project stockpiled in the area defined by the blue polygon at **Attachment B**.

4. Delta Electricity must manage the waste within the blue polygon at **Attachment A** to prevent any air emissions to prevent harm to human and environmental health.
5. Delta Electricity must continue to implement the mitigation measures provided in response to Direction 5 of the Notice.

.....
Mark Hartwell
Unit Head
North - Hunter
(by Delegation)

Variation of Clean-Up Notice



Licence - 761

INFORMATION ABOUT THIS NOTICE

- This Notice is issued under Section 110 of the POEO Act.
- Details provided in this Notice will be available on the EPA's Public Register (<http://www.environment.nsw.gov.au/prpoeo/index.htm>) in accordance with section 308 of the POEO Act.
- This Notice operates from the date of issue of this Notice unless a later date is specified in this Notice.

Variation of Clean-Up Notice

Licence - 761

ATTACHMENT A (with Pond 4 of the Vales Point Power Station Ash Dam highlighted)



Variation of Clean-Up Notice

Licence - 761

ATTACHMENT B (showing the only area where NorthConnex VENM/ENM can be deposited and land applied highlighted).



Variation of Clean-Up Notice

Licence - 761

ATTACHMENT C (showing the area where selected sampling may occur)



Variation of Clean-Up Notice



Licence - 761

SUNSET POWER INTERNATIONAL PTY LTD
Trading as DELTA ELECTRICITY
ABN 75 162 696 335 ACN 162 696 335
LEVEL 7, 287 ELIZABETH STREET
SYDNEY NSW 2000

Attention: Ms Kerrie Davis & Mr Bryan Beudeker

Notice Number 1574753
File Number EF15/21083
Date 15-Feb-2019

To The Proper Officer

VARIATION OF NOTICE OF CLEAN-UP ACTION

BACKGROUND

- A. The Environment Protection Authority ("the EPA") issued Notice of Clean-Up Action No. 1570966 ("the Notice") to SUNSET POWER INTERNATIONAL PTY LTD ("Delta Electricity") on 12 OCTOBER 2018.
- B. The Background of the Notice provides details regarding the purposes for which it was issued.
- C. The EPA issued Variation of Notice of Clean-Up Action No. 1573787 ("Variation Notice 01") to Delta Electricity on 20 DECEMBER 2018.
- D. The Background of Variation Notice 01 provides details regarding the purposes for which it was issued.
- E. Direction 8 of the Notice required Delta Electricity to provide the EPA with a draft Scope of Works to be prepared by a suitably qualified and independent person in contaminated land and waste classification assessment to undertake a detailed assessment of the waste within cell 4 of the Ash Dam at the Vales Point Power Station ("the Premises"). On 09 November 2018, the EPA received the Scope of Works.
- F. The EPA has finalised its assessment of the draft Scope of Works and finds that it meets the EPA's objectives (subject to the Directions below).
- G. The EPA is now requiring that Delta Electricity have the Scope of Works implemented/actioned and reported on.
- H. These Directions are detailed below.

Note: the Definitions contained within the Notice applies to this Variation Notice 02.

Variation of Clean-Up Notice



Licence - 761

VARIATION OF NOTICE OF CLEAN-UP ACTION

By this Notice being Variation Notice 02, the EPA varies the Notice and Variation Notice 01 by deleting all previous Directions and replacing them with the following (these Directions are consolidated Directions for ease of viewing):

1. Immediately, on receipt of this Notice, cease causing or permitting the transport of any waste to the Premises (including the ash dam) except VENM obtained from the NorthConnex Project.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

2. Immediately, on receipt of this Notice, cease causing or permitting the receipt of any waste at the Premises (including the ash dam) except VENM obtained from the NorthConnex Project.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

3. Immediately, on receipt of this Notice, cause causing or permitting any waste within the blue polygon at **Attachment A** to be moved, mixed, spread, buried or otherwise disturbed at the Premises where otherwise disturb includes such things as removing waste, such as suspected or known asbestos fragments, or sampling waste, except as permitted by the Notes below or another Direction of this Notice.

Note 1: this Direction does not apply to the use of the perimeter access roads for vehicle movement and foot traffic within the northern boundary (adjacent to Pond 3), eastern boundary (adjacent to slurry pipeline) and southern boundary (ash dam link road).

Note 2: this Direction does not apply to dust suppression activities on Pond 4 as required by Direction 4 below so long as those dust suppression activities are approved by an appropriately qualified occupational hygienist.

Note 3: this Direction does not apply to the sampling of material as shown in **Attachment C** so long as the sampling requested is undertaken by an appropriately qualified occupational hygienist.

Note 4: this Direction does not apply to any VENM from the NorthConnex Project stockpiled in the area defined by the blue polygon at **Attachment B**.

4. Delta Electricity must manage the waste within the blue polygon at **Attachment A** to prevent any air emissions to prevent harm to human and environmental health.
5. Delta Electricity must continue to implement the mitigation measures provided in response to Direction 5 of the Notice.
6. By **5pm on 31 May 2019**, Delta Electricity must cause SLR Consulting Australia Pty Ltd to finalise the draft Scope of Works (SLR Ref: 630.12571.00020-R01) by appropriately and adequately completing Section 3.2 as required, implement/action the works detailed by the finalised Scope of Works and provide a report of the findings to the EPA at hunter.region@epa.nsw.gov.au.
7. The Report provided under Direction 6 above must clearly detail/show, but need not be limited to, the following:
 - a. The study area,
 - b. Map of the sampling locations,
 - c. Photographs of sampling locations throughout excavation,

Variation of Clean-Up Notice



Licence - 761

- d. Confirmation of the sampling methodology that was followed,
- e. Confirmation of the analytical suite of contaminants tested for,
- f. Map of the sampling locations with any contaminants tested for over any relevant criteria shown against the relevant sampling point, including location of any asbestos containing material,
- g. Table showing all results at all sampling locations with results over any relevant criteria highlighted, including asbestos containing material finds, with raw results included as an appendix,
- h. Discussion of results including the waste types identified in line with the EPA's Waste Classification Guidelines, estimated quantities of the waste types identified and their location in graphical format and including any modelled findings,
- i. Conclusions from the study, and
- j. Any relevant recommendations identified by SLR.

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Mark Hartwell

Unit Head

North - Hunter

(by Delegation)

INFORMATION ABOUT THIS NOTICE

- This Notice is issued under Section 110 of the POEO Act.
- Details provided in this Notice will be available on the EPA's Public Register (<http://www.environment.nsw.gov.au/prpoeo/index.htm>) in accordance with Section 308 of the POEO Act.
- This Notice operates from the date of issue of this Notice unless a later date is specified in this Notice.

Variation of Clean-Up Notice

Licence - 761

ATTACHMENT A (with Pond 4 of the Vales Point Power Station Ash Dam highlighted)



Variation of Clean-Up Notice

Licence - 761

ATTACHMENT B (showing the only area where NorthConnex VENM/ENM can be deposited and land applied highlighted).



Variation of Clean-Up Notice

Licence - 761

ATTACHMENT C (showing the area where selected sampling may occur)



Variation of Clean-Up Notice



Licence - 761

SUNSET POWER INTERNATIONAL PTY LTD
Trading as Delta Electricity
ABN 75 162 696 335 ACN 162 696 335
LEVEL 7, 287 ELIZABETH STREET
SYDNEY NSW 2000

By Email: environment@de.com.au

Attention: Mr Justin Flood and Ms Kerrie Davis

Notice Number 1583789
File Number DOC19/801184-3; SF18/97698
Date 24-Sep-2019

To The Proper Officer,

VARIATION OF NOTICE OF CLEAN-UP ACTION

BACKGROUND

- A. The Environment Protection Authority (EPA) issued Notice of Clean-up Action No. «LinkedNoticeNo» ("the Notice") to SUNSET POWER INTERNATIONAL PTY LTD Trading as Delta Electricity ("Delta Electricity") on 12-Oct-2018. The Background of the Notice provides details regarding the purposes for which it was issued.
- B. On 20 December 2018, the EPA issued Variation of Notice of Clean-Up Action No. 1573787 ("Variation Notice 01") to Delta Electricity. The Background of Variation Notice 01 provides details regarding the purposes for which it was issued.
- C. On 15 February 2019, the EPA issued Variation of Notice of Clean-Up Action No. 1574753 ("Variation Notice 02") to Delta Electricity. The Background of Variation Notice 02 provides details regarding the purposes for which it was issued.
- D. On 2 August 2019, Delta Electricity wrote to the EPA providing an update on its program of works aimed at ensuring compliance with all legislative requirements with regard to the receipt of future capping material at the Vales Point Power Station Ash Dam. This program of works has included the following.
 - Development of a site specific Waste Acceptance Protocol;
 - Installation of high resolution, tilt and pan security camera/monitoring system;
 - Recruitment of an Ash Dam Site Manager responsible for environmentally compliant operations and maintenance of the Vales Point ash dam;
 - Recruitment of an Ash Dam Environmental Compliance Officer;

Variation of Clean-Up Notice

Licence - 761

- Installation of sliding security gate at the Ruttleys Road entrance (in progress)
- Installation of a certified weighbridge and viewing stage, including appropriate weighbridge software (in progress). Both the gate and weighbridge will have truck identification capabilities.
- Construction of site office facilities (in progress);
- Purchase of a new water cart and truck wash (in progress); and
- Engagement of a contractor to push out capping material under the direction of Delta Electricity's Ash Dam Manager and Compliance Officer.

The Notice, and subsequently varied by Variation Notice 01 and Variation Notice 02, limits VENM transported and received at the Premises to that obtained from the NorthConnex Project. Delta Electricity have advised that with tunnelling works for the NorthConnex Project complete that they are no longer able to source VENM from this Project.

Delta Electricity have requested that Variation Notice 02 be amended accordingly to permit VENM or ENM which meets the requirements of the NSW EPA's Excavated Natural Material order and Exemption to be alternatively sourced.

- E. The EPA notes that Delta Electricity have put in place revised procedures and systems, outlined in the program of works in the paragraph above, such that VENM or ENM is transported to and received at the Premises in a lawful manner. The EPA considers Delta Electricity's request to amend Variation Notice 02 as reasonable.
- F. Delta Electricity notified the EPA on 20 September 2019 that it had no comments on the draft variation. Note: the Definitions contained within the Notice applies to this notice, being Variation Notice 03.

VARIATION OF NOTICE OF CLEAN-UP ACTION

By this notice, being Variation Notice 03, the EPA varies Variation Notice 02 by deleting all previous Directions and replacing them with the following (these Directions are consolidated Directions for ease of viewing):

1. Immediately, on receipt of this Notice, cease causing or permitting the transport of any waste to the Premises (including the ash dam) except VENM or ENM which meets the requirements of the NSW EPA Excavated Natural Material Order and Exemption.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

2. Immediately, on receipt of this Notice, cease causing or permitting the receipt of any waste at the Premises (including the ash dam) except VENM or ENM which meets the requirements of the NSW EPA Excavated Natural Material Order and Exemption.

Note: this Direction does not relate to the transfer of coal ash from the Vales Point Power Station to the ash dam.

3. Immediately, on receipt of this Notice, cease causing or permitting any waste within the blue polygon at **Attachment A** to be moved, mixed, spread, buried or otherwise disturbed at the Premises where otherwise disturb includes such things as removing waste, such as suspected or known asbestos fragments, or sampling waste, except as permitted by the Notes below or another Direction of this Notice.

Variation of Clean-Up Notice

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Note 1: this Direction does not apply to the use of the perimeter access roads for vehicle movement and foot traffic within the northern boundary (adjacent to Pond 3), eastern boundary (adjacent to slurry pipeline) and southern boundary (ash dam link road).

Note 2: this Direction does not apply to dust suppression activities on Pond 4 as required by Direction 4 below so long as those dust suppression activities are approved by an appropriately qualified occupational hygienist.

Note 3: this Direction does not apply to the sampling of material as shown in **Attachment C** so long as the sampling requested is undertaken by an appropriately qualified occupational hygienist.

Note 4: this Direction does not apply to any VENM or ENM which meets the requirements of the NSW EPA Excavated Natural Material Order and Exemption defined by the blue polygon at **Attachment B**.

4. Delta Electricity must manage the waste within the blue polygon at **Attachment A** to prevent any air emissions to prevent harm to human and environmental health.
5. Delta Electricity must continue to implement the mitigation measures provided in response to Direction 5 of the Notice.
6. By **5pm on 31 May 2019**, Delta Electricity must cause SLR Consulting Australia Pty Ltd to finalise the draft Scope of Works (SLR Ref: 630.12571.00020-R01) by appropriately and adequately completing Section 3.2 as required, implement/action the works detailed by the finalised Scope of Works and provide a report of the findings to the EPA at hunter.region@epa.nsw.gov.au.
7. The Report provided under Direction 6 above must clearly detail/show, but need not be limited to, the following:
 - a. The study area,
 - b. Map of the sampling locations,
 - c. Photographs of sampling locations throughout excavation,
 - d. Confirmation of the sampling methodology that was followed,
 - e. Confirmation of the analytical suite of contaminants tested for,
 - f. Map of the sampling locations with any contaminants tested for over any relevant criteria shown against the relevant sampling point, including location of any asbestos containing material,
 - g. Table showing all results at all sampling locations with results over any relevant criteria highlighted, including asbestos containing material finds, with raw results included as an appendix,
 - h. Discussion of results including the waste types identified in line with the EPA's Waste Classification Guidelines, estimated quantities of the waste types identified and their location in graphical format and including any modelled findings,
 - i. Conclusions from the study, and
 - j. Any relevant recommendations identified by SLR.

.....
Natasha Ryan

Variation of Clean-Up Notice



Licence - 761

Regional Operations Officer

North - Hunter

(by Delegation)

INFORMATION ABOUT THIS NOTICE

- This notice is issued under section 110 of the *Protection of the Environment Operations Act 1997* (the Act).
- Details provided in this notice will be available on the EPA's Public Register (<http://www.environment.nsw.gov.au/prpoeo/index.htm>) in accordance with section 308 of the Act.
- This notice operates from the date of issue of this notice unless a later date is specified in this notice.

Variation of Clean-Up Notice

Licence - 761

ATTACHMENT A (with Pond 4 of the Vales Point Power Station Ash Dam highlighted)



Variation of Clean-Up Notice

Licence - 761

ATTACHMENT B (showing the only area where NorthConnex VENM/ENM can be deposited and land applied highlighted).



Variation of Clean-Up Notice

Licence - 761

ATTACHMENT C (showing the area where selected sampling may occur)

