

Clean-Up Notice



STATE OF NEW SOUTH WALES (Department of Primary Industries - Lands)
ABN 42 860 678 701
PO Box 2185
DANGAR NSW 2309

Attention: Gary Clarke, Manager Coastal Infrastructure

Notice Number 1541800
File Number "File Number"
Date 22-Jun-2016

NOTICE OF CLEAN-UP ACTION

BACKGROUND

- A. The Environment Protection Authority (EPA) is responsible for investigating suspected contraventions of the *Protection of the Environment Operations Act 1997* (POEO). This includes investigating activities carried out by a State or other Public Authority (section 6 of POEO).
- B. The Department of Primary Industries - Lands (DPI Lands) is currently managing a navigation dredging project at Ballina Boat Harbour (the Boat Harbour), West Ballina. The dredging operation is contracted to Dredging Solutions Pty Ltd.
- C. The 'de-watering' of liquid dredged material (a mixture of sediment and water) is achieved through pumping dredged material into large geotextile bags (Geobags). A flocculent (polymer) is dosed into this material (in-line) to the Geobags to help bind sediment particles together and aid the de-watering process. Over time, water within the Geobags separates from the sediment and escapes through the permeable Geobag surface, theoretically as 'clean' discharge. The time taken for sediment to dry varies depending on sediment type.
- D. Between the hours of approximately 20:00 and 21:00 on Saturday 18 June 2016 the Geobag identified as 'Bag 3' on site ruptured. This rupture caused approximately 1000m³ of dredged silt from the Boat Harbour to flow uncontrolled off site, towards the Richmond Estuary.
- E. The EPA was first notified of the incident via a complaint to the EPA's Environment Line at 13:10 Sunday 19 June. A message was left on the EPA's Acting Regional Manager's (Graeme Budd) office land line at 10:47am 19 June by Andy Hartley of DPI Lands. The office was unattended at this time.
- F. DPI Lands advised that dredging utilising the bag in question (and other 4 bags) was occurring on Saturday 18 June, however dredging had ceased several hours before the rupture.
- G. The EPA attended the Boat Harbour on Monday 20 June to investigate the incident. The investigation involved the collection of evidence including silt/sediment samples, photographs and discussions with site personnel including Mr Brad Jordan (Dredging Solutions) and Mr Andrew Harlley (DPI Lands).

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- H. Initial measurements indicate that the rupture has caused fine silt to smother approximately 12,000m² of land outside the boundary of the work site. The effected area includes grassed parkland, Casuarina forest, Mangrove forest and intertidal mud flats, with silt expected to extend into the sub-tidal zone.
- I. The ruptured dredge silts were known to contain Potential Acid Sulphate Soil (PASS), as identified in the DPI Lands Review of Environmental Factors for the project dated March 2016. The EPA notes DPI Lands verbal advice provided on 20 June 2016 that the known TBT hotspot within the Boat Harbour had been previously dredged and isolated within a separate Geobag on the northern part of the site.
- J. Dredging Solutions has advised DPI Lands that there is evidence that the geobag was deliberately opened (by persons unknown), evident by a vertical cut (likely caused by a knife). Dredging Solutions advise that the vertical cut has intersected the horizontal seam of the geobag and the seam of the geobag has then failed, evident by horizontal tearing along the seam.

DIRECTION TO TAKE CLEAN-UP ACTION

The Environment Protection Authority (EPA) directs STATE OF NEW SOUTH WALES (Department of Primary Industries - Lands) to take the following clean-up action:

- 1. Immediately install appropriate erosion and sediment (ERSED) controls to prevent silt from moving off the de-watering site and other effected areas and polluting the Richmond Estuary;
- 2. Remove silt from all grassed parkland areas impacted by the rupture. These works are to be completed by **Friday 24 June 2016**;
- 3. In consultation with EPA, OEH and DPI Fisheries, prepare a comprehensive proposal for the removal of silt from within Casuarina forest, Mangrove forest and intertidal areas. This proposal should assess the practicality of various methods of silt removal and should be ultimately achieved through minimal disturbance methods, and should provide a proposed time frame for completion. This proposal is to be provided the EPA by **Friday 24 June 2016**;
- 4. Implement clean up of Casuarina forest, Mangrove forest and other intertidal areas as per the proposal developed in response to clean up action 3. This is to be completed by a time agreed to in writing by the EPA.
- 5. Provide EPA, OEH and DPI Fisheries with a proposal for the short and longer term monitoring of the ecological health of the intertidal area effected by the rupture. This is to be provided to the EPA by **Friday 1 July 2016**;
- 6. All silt removed from effected areas must be securely stored / stockpiled in a weather proof containment system. The material is to be securely stored until such a time that the contamination status of the material is known, and an appropriate and lawful disposal pathway is confirmed.
- 7. All silt removal methods are to be designed to avoid further mobilisation of sediments into the estuary. Any such mobilisation of sediments to waters is likely to represent pollution and a breach of section 120 of POEO.
- 8. All correspondence in response to this notice is to be emailed to north.coast@epa.nsw.gov.au and scott.ensbey@epa.nsw.gov.au.

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FEE TO BE PAID

- You are required by law to pay a fee of \$506 for the administrative costs of issuing this notice.
- It is an offence not to pay this fee. However you 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.

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Graeme Budd
Head Environmental Management Unit
North - North Coast
(by Delegation)

INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This notice is issued under section 91 of the Protection of the Environment Operations Act 1997.
- It is an offence against the Act not to comply with a clean-up notice unless you have 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 you comply with this clean-up notice but you are not the person who caused the pollution incident to which the notice relates, you have a right to go to court to recover your costs of complying with the notice from the person who caused the 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.

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

- Any application for and 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 you think your application should be granted.

Other costs

- The Protection of the Environment Operations Act allows the EPA to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters. (If you 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 Act, your 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.