



# *Government Gazette*

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# Declaration of significantly contaminated land

Section 11 of the *Contaminated Land Management Act 1997*



Declaration No. 20201116; Area No. 3469

The Environment Protection Authority (EPA) declares the following land to be significantly contaminated land under s.11 of the *Contaminated Land Management Act 1997* (Act).

## Land to which this Declaration applies

1. This Declaration applies to significantly contaminated land described as Part Lot 59 DP 1105100 located at 58 Kelly Street, Scone NSW within the Upper Hunter Shire Local Government Area (Land).
2. A map of the Land is attached to this Declaration.

## Significant Contaminants affecting the Land

3. The EPA has reason to believe that the Land is contaminated with the following substances (Significant Contaminants) in such a way as to warrant regulation as significantly contaminated land under the Act:
  - (i) Petroleum hydrocarbons including total recoverable hydrocarbons (TRH) and benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN).

## Nature of harm caused, or that may be caused, by the Significant Contaminants

4. The EPA has reason to believe harm has been caused, or may be caused, by the Significant Contaminants, including:
  - (i) Soil and groundwater, including light nonaqueous phase liquids (LNAPL), are contaminated with Significant Contaminants at concentrations exceeding guidelines that are protective of human health and the environment.
  - (i) The contamination has migrated from the Land and has been encountered in off-site groundwater extraction wells and the sewer network that passes through the Land.
  - (ii) There are potential risks to human receptors through vapour inhalation, dermal contact and ingestion if contaminated soil or groundwater is disturbed or exposed under the current and approved land uses.

## Matters considered before declaring the Land to be significantly contaminated land

5. Before making this Declaration, the EPA has taken into account relevant guidelines and each of the matters listed in s.12(1) of the Act with respect to the Significant Contaminants that the EPA believes cause the Land to be contaminated.
6. The EPA believes that the Land is contaminated, and that the contamination is significant enough to warrant regulation under the Act for the following reasons:

- (i) Soil and groundwater beneath the site and at off-site locations are contaminated with petroleum hydrocarbons including LNAPL associated with the underground petroleum storage system at the site;
- (ii) Petroleum hydrocarbons have entered the sewer network that passes through the site and preferential migration of contamination off-site has occurred via the sewer network;
- (iii) There are potential risks to on-site and off-site receptors from the contamination, including potential users of groundwater, occupants of nearby buildings through vapour intrusion and maintenance workers through direct contact and / or inhalation of vapours.

**Further action to carry out voluntary management under the Act**

7. The making of this Declaration does not prevent the carrying out of voluntary management of the Land by any person. Any person may submit a Voluntary Management Proposal for the Land to the EPA.

**Submissions invited**

8. Any person may make a written submission to the EPA on:
  - whether the EPA should issue a Management Order in relation to the Land; or
  - any other matter concerning the Land.

9. Submissions should be made in writing and sent to:

**Email** RegOps.MetroNorth@epa.nsw.gov.au

or

**Post** Director Regulatory Operations Metro - North  
NSW Environment Protection Authority  
PO Box 488G  
NEWCASTLE NSW 2300

10. Submissions should be made by no later than **21 days after the date of this Declaration**.
11. Information on contaminated land management can be found on the EPA's website at:  
[www.epa.nsw.gov.au/your-environment/contaminated-land](http://www.epa.nsw.gov.au/your-environment/contaminated-land)



8 October 2020

**DAVID GATHERCOLE**  
**A/Director Regulatory Operations**  
**NSW Environment Protection Authority**

(by delegation)

Date of this Declaration:

## **Further information about this Declaration**

### **Management Order may follow**

If management of the Land or part of the Land is required, the EPA may issue a Management Order under s.14 of the Act.

### **Amendment or Repeal**

This declaration may be amended or repealed. It remains in force until it is otherwise amended or repealed. The subsequent declaration must state the reasons for the amendment or repeal (s.44 of the Act).

### **Information recorded by the EPA**

Section 58 of the Act requires the EPA to maintain a public record. A copy of this significantly contaminated land declaration will be included in the public record and is available for access at the principal office of the EPA and on the EPA's website.

### **Information recorded by Councils**

Section 59(a) of the Act requires the EPA to inform the relevant local Council as soon as practicable of this Declaration. Pursuant to s.59(2)(a) of the Act, land being declared to be significantly contaminated land is a prescribed matter to be specified in a planning certificate issued pursuant to s.10.7 of the *Environmental Planning and Assessment Act 1979*. The EPA is also required to inform the relevant Council as soon as practicable when the declaration is no longer in force. Pursuant to s.59(3) of the *Contaminated Land Management Act 1997*, if a Council includes advice in a planning certificate regarding a declaration of significantly contaminated land that is no longer in force, the Council is to make it clear on the planning certificate that the declaration no longer applies.

### **Relationship to other regulatory instruments**

This Declaration 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.

Area of proposed declaration is depicted by the red line and includes Part Lot 59 DP1105100. The original image was taken from <https://maps.six.nsw.gov.au> and has been adapted by the NSW EPA.



**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**Order under clause 6 of Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017***

Under delegation from the Minister for Planning and Public Spaces, I declare the development specified in column 1 of the table in Schedule 1 to this Order on the land specified in the corresponding row in column 2 of the table in Schedule 1 to this Order to be State significant development under clause 6 of Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, for the purposes of the *Environmental Planning and Assessment Act 1979* (the Act).

This Order takes effect upon publication in the *New South Wales Government Gazette*.

Dated: 8 October 2020

A handwritten signature in blue ink, consisting of the letters 'K' and 'T' followed by a long horizontal stroke.

Keiran Thomas

Director, Regional Assessments

## SCHEDULE 1

Column 1	Column 2
Development	Land
Development known as the 'Cabarita Beach Mixed Use Development (MP 07_0179)', approved by the Director-General, as delegate of the Minister, under section 75J of the Act on 2 December 2009 (and as subsequently modified under 75W of the Act).	All land identified by Lot and DP references in <b>Schedule 1</b> of the project approval to carry out the development known as the 'Cabarita Beach Mixed Use Development (MP 07_0179)' as in force on the date of this Order.

# PESTICIDES ACT 1999

Order issued by the Environment Protection Authority  
under section 115 of the *Pesticides Act 1999*

## Background

- A. The *Pesticides Regulation 2017* (Regulation) and Pesticide Control Orders made under section 38 of the *Pesticides Act 1999* (the Act), place training requirements on occupational pesticide users, specify training requirements needed to obtain licences for prescribed pesticide work and specify training requirements for persons using certain high risk vertebrate bait products.
- B. The COVID-19 pandemic is a public health emergency which has the potential to significantly impact the ability of those persons to access training courses to comply with the requisite training requirements under the Act and Regulation.
- C. Complying with the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020* and current advice from NSW Health in relation to social distancing is likely to prevent training facilities operating the necessary training courses for those persons.
- D. The Authority seeks to provide temporary relief from specific training requirements, in specific circumstances, while the COVID-19 pandemic is being managed.
- E. The Authority is satisfied that the current COVID-19 pandemic is an emergency, and therefore that it may grant an exemption under section 115 of the Act.
- F. The Authority has previously granted an exemption under section 115 of the Act on 20 April 2020 which has effect until 21 October 2020. This Order renews the provisions of that Order, without change, for a further six months.

## Exemption

By this Order, the Authority, in circumstances of an emergency, being the COVID-19 pandemic in New South Wales, grants the following classes of persons an exemption from specific provisions of the Act and the Regulation as specified below.

Terms used in this Order have the same meaning as they have in the Act, the Regulation, or where they are used in this Order in relation to a Pesticide Control Order made under section 38 of the Act, the same meaning as they have in that Pesticide Control Order.

### ***Classes of persons to which this exemption applies***

1. The classes of persons to which this exemption applies are persons who:
  - a. obtained a trainee permit for fumigation or pest management technician work from the Authority on or after 1 March 2020;
  - b. hold a recognised qualification that was issued on or after 1 March 2015 which qualified the person to use a pesticide under clause 31(1)(b) of the Regulation;
  - c. fall, as at 1 March 2020, within the definition of an Authorised Control Officer under the *Pesticide Control (1080 Bait Products) Order 2019*, *Pesticide Control (PAPP) Order 2016*, *Pesticide Control (Pindone Products) Order 2010* or *Pesticide Control (Rabbit Haemorrhagic Disease Virus) Order 2017*;



- d. are authorised, as at 1 March 2020, to use a restricted chemical product to control vertebrates under a Pesticide Control Order;
- e. are unqualified persons using pesticides in connection with agricultural or forestry operations in accordance with clause 32(2)(e) of the Regulation;
- f. unqualified persons required to use restricted chemical products to control vertebrates and who are unable to complete the Vertebrate Pesticide training course delivered by the Local Land Services by any mode that training is delivered.

### ***Provisions the subject of this exemption***

- 2. The EPA hereby exempts:
  - a. the class of persons described in paragraph 1(a) of this Order from clause 13(1)(b) of the Regulation;
  - b. the class of persons described in paragraph 1(b) of this Order from clause 31(1)(b) of the Regulation;
  - c. the class of persons described in paragraph 1(c) of this Order from section 39(4) of the Act in so far as a Pesticide Control Order requires those persons to maintain the currency of their Australian Qualifications Framework level 3 Chemical Accreditation by completing refresher training every 5 years and to hold a current certificate of completion or statement of attainment for completion of the Vertebrate Pesticide accreditation course;
  - d. the class of persons described in paragraph 1(d) of this Order from section 39(4) of the Act in so far as a Pesticide Control Order requires those persons to maintain the currency of their Australian Qualifications Framework level 3 Chemical Accreditation or Vertebrate Pesticide training course delivered by Local Land Services;
  - e. the class of persons described in paragraph 1(e) of this Order from clause 32(2)(e)(ii) of the Regulation;
  - f. the class of persons described in paragraph 1(f) of this Order from section 39(4) of the Act in so far as a Pesticide Control Order requires those persons to complete the Vertebrate Pesticide training course delivered by the Local Land Services.

### ***Conditions of this exemption***

- 3. The exemption in paragraph 2(f) of this Order is subject to the condition that the person uses the restricted chemical product under the direct supervision of a person qualified to use that restricted chemical product under the relevant Pesticide Control Order.

### ***Duration of this exemption***

- 4. This Order takes effect from 21 October 2020 and has effect until 21 April 2021. The Order may be varied, revoked or renewed by further order made and published in accordance with section 115 of the Act.

**Jacqueleine Moore**  
Acting Chief Executive Officer  
NSW Environment Protection Authority  
Date: 9 October 2020

# Declaration of significantly contaminated land

Section 11 of the *Contaminated Land Management Act 1997*

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## Declaration Number 20201101; Area Number 3452

The Environment Protection Authority (EPA) declares the following land to be significantly contaminated land under the *Contaminated Land Management Act 1997* (“the Act”):

### 1. Land to which this declaration applies

The land to which this declaration applies is Denham Court Caravan Park and Service Station located at Lot 1 DP630181, No. 505 Campbelltown Road, Denham Court (“Land” or “site”). The Land is within Liverpool local government area.

The Land is currently used as a caravan park and service station. A map of the Land is attached to this declaration.

### 2. Nature of contamination affecting the Land

The EPA has found that the Land is contaminated with the following substances (“the contaminants”):

- Petroleum hydrocarbons including Benzene, Toluene, Ethyl Benzene, Xylenes (BTEX), Naphthalene, Total Recoverable Hydrocarbons (TRH) and Phase Separated Hydrocarbons (PSH).

### 3. Nature of harm that the contaminants may cause

The EPA has considered the matters in section 12 of the Act and has reason to believe that the Land is contaminated, and that the contamination is significant enough to warrant regulation under the Act due to the following:

- Groundwater is contaminated with petroleum hydrocarbons in the form of phase separated hydrocarbons (PSH) and dissolved phase hydrocarbons;
- PSH in groundwater continues to be an ongoing source of contamination and requires active management;
- Dissolved phase hydrocarbons in groundwater have migrated offsite to the northeast and potentially to the north and northwest onto adjoining residential properties;
- Greater consideration of all preferential contamination migration pathways is needed because the petroleum hydrocarbons in groundwater are widespread and concentrations are indicative of PSH at some wells both onsite and offsite;
- The potential impact of petroleum hydrocarbons in groundwater to ecological receptors remains uncertain so further delineation of the groundwater plume is required; and
- The continued migration of PSH in groundwater onsite may increase the exposure risk for residents both onsite and offsite as a result of vapour intrusion into buildings.

### 4. Further action under the Act

The making of this declaration does not prevent the carrying out of voluntary management of the Land and any person may submit a voluntary management proposal for the Land to the EPA.

## 5. Submissions invited

The public may make written submissions to the EPA on:

- Whether the EPA should issue a management order in relation to the Land; or
- Any other matter concerning the Land.

Submissions should be made in writing to:

Director Regulatory Operations Metro  
NSW Environment Protection Authority  
Locked Bag 5022  
PARRAMATTA NSW 2124

or

email: [RegOps.MetroRegulation@epa.nsw.gov.au](mailto:RegOps.MetroRegulation@epa.nsw.gov.au)

by not later than Friday 6<sup>th</sup> November 2020.



**JAMES GOODWIN**  
**Director Regulatory Operations Metropolitan - West**  
**Environment Protection Authority**

Date: 13/10/2020

### NOTE:

#### **Management order may follow**

If management of the site or part of the site is required, the EPA may issue a management order under s.14 of the Act.

#### **Amendment/Repeal**

This declaration may be amended or repealed. It remains in force until it is otherwise amended or repealed. The subsequent declaration must state the reasons for the amendment or repeal (s.44 of the Act).

#### **Information recorded by the EPA**

Section 58 of the Act requires the EPA to maintain a public record. A copy of this significantly contaminated land declaration 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 declaration to the relevant local council. The council is then required to note on its planning certificate issued pursuant to s10.7 of the *Environmental Planning and Assessment Act 1979* that the land is declared significantly contaminated land. The EPA is required to notify council as soon as practicable when the declaration is no longer in force and the notation on the s10.7 certificate is no longer required.

#### **Relationship to other regulatory instrument**

This declaration 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.



Map – Declaration Area – Denham Court Caravan Park and Service Station – 505 Campbelltown Rd Denham Court – Lot 1 DP630181 (SIX Maps image dated July 2018)

