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Environment Protection Authority

Notice to amend significantly contaminated land declaration notice 20151106

(issued under Section 44 of the *Contaminated Land Management Act 1997 (CLM Act)*, and made in accordance with section 11 and section 12 of the *CLM Act*)

AMPOL Australia Petroleum Pty Ltd (formerly Caltex Australia Petroleum Pty Ltd)
ACN 000 032 128
2 Market Street
Sydney NSW 2000

Notice Number 20224405; Area Number 3396

1. Background

- a) AMPOL Australia Petroleum Pty Ltd (formerly Caltex Australia Petroleum Pty Ltd) (**Ampol**) is the registered owner of the AMPOL Newcastle Terminal, 156 Hannell Street, Wickham, legally identified as Lot 1 DP 80877, Lots 1 and 2 DP 997113, Lots 6-12 DP 192926, Lot 1 DP 720682 and Lot 1 DP 715007 (**Site**).
- b) The Site is also subject to [Environment Protection Licence 452 \(Licence\)](#), issued under Chapter 3 of the *Protection of the Environment Operations Act 1997 (POEO Act)*.
- c) On 14 January 2010, Ampol notified the EPA of petroleum hydrocarbon contamination at the Site, in accordance with s 60 of the *Contaminated Land Management Act 1997 (CLM Act)*.
- d) On 11 August 2014, the owners of 33 Annie St, Wickham, NSW 2293, identified as Part Lot 3 DP 346352 (**33 Annie St**), also notified the EPA of petroleum hydrocarbon contamination at 33 Annie St, in accordance with s 60 of the CLM Act.
- e) Progressive investigations undertaken by consultants engaged by Ampol at the Site and 33 Annie St identified phase separated hydrocarbons, referred to as light non aqueous phase liquids (**LNAPL**), and / or dissolved-phase hydrocarbon (**DPH**) contamination in soil and groundwater, resulting from the use of the Site as a bulk fuel storage facility.
- f) On 22 February 2016, the EPA issued [Declaration notice 20151106](#) to Ampol declaring a portion of the Site in the southwestern corner, identified as Part Lot 1 DP 715007 and Part Lot 1 DP 8087, as '*significantly contaminated land*' under s 11 of the **CLM Act**.
- g) On 27 August 2018, the Licence was varied by [Licence Variation Notice No 1554923](#) to include bi-annual sampling of nine groundwater monitoring wells across the Site for laboratory analysis of petroleum hydrocarbons. Since this time, Ampol has completed sampling of the licenced wells, and additional wells across the Site for their own due diligence purposes and submitted two reports for each of the bi-annual monitoring events to the EPA with the annual return, as required by the Licence.

- h) On 24 July 2019, the EPA amended Declaration No. 20151106 via [Amendment Notice 20194428](#) to include a portion of land at 33 Annie St after additional investigations completed by Ampol between 2016 and 2019 confirmed contamination had migrated off-site beneath a building on 33 Annie St, as the EPA believed this off-site contamination was significant enough to warrant regulation under the CLM Act.
- i) On 14 August 2019, the EPA approved a [Voluntary Management Proposal \(VMP\)](#) via [VMP Approval Notice 20191715](#) for the management of contamination on the parts of the Site and 33 Annie St declared under the CLM Act. The VMP also required investigations be undertaken at the southern site boundary to assess the potential for contamination to extend beyond the southern site boundary.
- j) Since approval of the VMP, works have been ongoing and completed in accordance with the VMP, with oversight from an EPA Accredited Contaminated Land Auditor.
- k) On 29 July 2020, the EPA issued [Preliminary Investigation Order 20201004 \(PIO\)](#), requiring investigation into the nature and extent of contamination identified on Lot 1 DP80877, which was identified through the EPA's review of groundwater monitoring reports provided as a requirement of the Licence.
- l) On 9 December 2020, the legal identity of 33 Annie St changed from Part Lot 3 DP 346352 to Lot 313 DP1269453.
- m) Between 27 April 2021 and 23 November 2021, the following reports were provided to the EPA as required by the Licence, the VMP and the PIO, relating to the status of contamination in areas of the Site that were not declared and regulated under the CLM Act at that time (Part Lot 1 DP80877, Lots 1 and 2 DP 997113, Lots 6-12 DP 192926, Lot 1 DP 720682 and Part Lot 1 DP 715007):
 - i. GHD (2021a). *Supplementary Groundwater, Soil Vapour and Air Monitoring Event* – September 2020, 22 October 2021
 - ii. GHD (2021b). *Supplementary Groundwater, Soil Vapour and Air Monitoring Event* – December 2020 – April 2021, 22 October 2021
 - iii. WSP (2021b). *Annual Groundwater Monitoring Event, December 2020*, 17 September 2021
 - iv. WSP (2021c). *Interim Groundwater Monitoring Event, Ampol Newcastle Terminal, Hannell st, Wickham NSW*, 14 October 2021
 - v. WSP (2021a). *Ampol Wickham Terminal (1158) Soil Vapour Investigations*, 23 April 2021, and
 - vi. WSP (2021d). *Ampol Wickham Terminal (1158) Supplemental Soil Vapour Investigation – Rev B*, 19 November 2021.
- n) Following review of the above listed reports, the EPA has reason to believe that petroleum hydrocarbon contamination is significant enough to warrant regulation under the CLM Act in areas of the Site that are not already declared under the CLM Act.
- o) The purpose of this notice is to:
 - i. amend Declaration notice 20151106 to declare Part Lot 1 DP80877, Lots 1 and 2 DP 997113, Lots 6-12 DP 192926, Lot 1 DP 720682 and Part Lot 1 DP 715007 as significantly contaminated land, and

- ii. amend Declaration notice 20151106 to reflect that the legal identity of 33 Annie St has been changed to Lot 313 DP1269453.

2. Amendment

Pursuant to section 44 of the CLM Act, this notice amends the declaration of significantly contaminated land No. 20151106, dated 22 February 2016, to:

- i. Declare additional lands at the Site as set out below in (3), and
- ii. Amend all references to '33 Annie St' and 'Part Lot 3 DP 346352' to 'Part Lot 313 DP1269453'.

This notice is issued under s 44 of the CLM Act and is made in accordance with s 11 and s 12 of the CLM Act.

3. Land to which this notice applies

This notice applies to areas of the Site that were not previously declared under the CLM Act, and are identified as Part Lot 1 DP80877, Lots 1 and 2 DP 997113, Lots 6-12 DP 192926, Lot 1 DP 720682 and Part Lot 1 DP 715007, as shown in **Figure 1**.

Following issue of this notice, all lands that are declared as significantly contaminated under the CLM Act through the issue of notices 20151106, 20194428 and this notice 20224405 are shown in **Figures 1 to 4** attached.

4. Nature of the contamination affecting land declared under this notice

Review of the investigation reports listed in paragraph 1 (m) confirms that groundwater that is present beneath the land to which this notice applies is contaminated with the following substances (**substances**):

- Petroleum hydrocarbons (including Total Recoverable Hydrocarbons (**TRH**) predominantly in the C10-C40 carbon fraction range, and benzene, toluene, ethylbenzene and xylenes (**BTEX**), and
- Polycyclic Aromatic Hydrocarbons (**PAHs**) (including naphthalene).

5. Nature of harm that the contaminants may cause

The EPA has considered the matters in s 12 of the CLM Act and has reason to believe under section 11 of the CLM Act that contamination of the land to which this notice applies warrants regulation under the Act because:

- Soil and groundwater are contaminated with petroleum hydrocarbons, including LNAPL, associated with the bulk storage, handling and transport of hydrocarbons,
- Further investigations are required to determine the extent of the contamination beyond the northern, southern, and south-eastern boundaries of the Site, and to assess the potential for off-site migration of contamination to be occurring.
- Further investigations are needed to determine if there are potentially complete exposure pathways from the substances to occupants of adjacent commercial properties through vapour inhalation, and intrusive maintenance workers through direct contact and vapour inhalation, and to assess if there are any unacceptable risks to off-site human health receptors, and

- Further investigation is needed to confirm if ecological harm, if any, has been caused, or has the potential to occur to the environment, particularly ecological receptors in Throsby Creek.

6. Further Action under the Act

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

7. Submissions invited

The public may make written submissions to the EPA on:

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

Submissions should be made in writing to:

Director Regulatory Operations Metro North
Environment Protection Authority
By email to: info@epa.nsw.gov.au

by no later than 4 weeks from the date of this notice.



DAVID GATHERCOLE
A/Director - Regulatory Operations
Environment Protection Authority

Date: 8 November 2022

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 s10.7 of the *Environmental Planning and Assessment Act 1979*.

Relationship to other regulatory instruments

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.

Figure 3: The red outline and yellow shading below show the area of land that was declared through issue of amendment notice 20194428, pursuant to s44 of the CLM Act. This land is now legally identified as Part Lot 313 DP1269453.



Figure 4: The red outline and yellow shading below shows the extent of all lands that are declared under the CLM Act associated with petroleum hydrocarbon contamination from the AMPOL Newcastle Terminal, as covered by notices 20151106, 20194428 and this notice 20224405.



PROTECTION OF THE ENVIRONMENT OPERATIONS (CLEAN AIR) REGULATION 2021

NOTICE OF APPROVAL FOR PILE BURNS FOR BUSHFIRE FUEL MANAGEMENT

Pursuant to the provisions of the Protection of the Environment Operation (Clean Air) Regulation 2021, The Hills Shire Council hereby grants general approval for the burning of dead and dry vegetation on the premises on which the vegetation grew.

This approval is in force until 24 September 2025 (unless revoked earlier) and is subject to the following conditions.

CONDITIONS:

1) Land to which the approval applies

- a) Land zoned RU1, RU2, RU3 and RU6, under The Hills Local Environmental Plan 2019; and
- b) On allotments greater than 4,000m² in area; and
- c) On an allotment that contains an approved dwelling; and
- d) Land located outside the Sydney Fire District (Fire & Rescue NSW Area).

Note: For land within the Sydney Fire District, an application is required to be made to Council and a Fire Permit obtained from Fire & Rescue NSW.

Land zoning and allotment sizes can be checked on the [Hills Shire Interactive Map](#), on Council's website.

2) Material to be burnt

- a) Only dead and dry vegetation originating on the property shall be burnt on that property.

3) Burning Procedure

- a) Burning is to be conducted in accordance with the NSW Rural Fire Service "Standards for Pile Burning" February 2006; www.rfs.nsw.gov.au

4) Restrictions on Piles

- a) Pile burning must be carried out by such practical means as are necessary to prevent or minimise air pollution. The potential for smoke impacting on any person due to wind direction and weather conditions must be taken into account. Pile burns should only take place when weather conditions are calm & predicted to remain so for the time that the fire is active.
- b) Piles are not to exceed 2m in length or width and must not be greater than 1.5m high.
- c) A responsible supervising adult over the age of eighteen shall be on site at all times and have enough water and/or fire suppression resources to extinguish the fire, if required, for the time that the fire is active.

5) Notification

- a) All adjoining neighbours and people likely to be affected by smoke are to be notified at least 24 hours before the fire is lit.
- b) Notice is to be given to The NSW Rural Fire Service at least 24 hours prior to the burn. Notification is to be completed using the RFS online notification form at <https://www.rfs.nsw.gov.au/fire-information/fire-permits/burn-notifications>
- c) A fire permit issued by the NSW Rural Fire Service is required for burning during the bushfire danger period (October 1st March 31st unless varied). Please contact The NSW Rural Fire Service - The Hills District on **Tel-** (02) 9658 9000, **Email -** thehills.fcc@rfs.nsw.gov.au.

6) Disposal of residue waste

- a) Any residue waste from the burning must be disposed of in an environmentally satisfactory manner. On completion of the burn, the burnt area must be maintained in a condition that minimises or prevents the emission of dust from the area and prevents sediment or ash from fires being washed from the area into waters.

7) This approval does not include

- a) Burning for the purposes of bush fire hazard reduction. Bush fire hazard reduction burns are not covered under this notice. Such burns need to be assessed and approved under the Rural Fires Act 1997 and residents should apply to the NSW Rural Fire Service-The Hills District on (02) 9658 9000.
- b) The removal and burning of any tree/s or bush land covered by The Hills Shire Councils Tree and Bush Land Management Provision.
- c) The removal or burning of any native vegetation that comprises an Endangered Ecological Community (EEC) or habitat for threatened species for the purpose of Bush Fire Hazard Reduction unless the material is sourced from an Asset Protection Zone established by a Development Consent.
- d) Ecological/bush regeneration burns to be carried out in vegetation which is listed as an EEC or which is habitat for threatened species will require a licence from the NSW Office of Environment & Heritage.
- e) The burning of vegetation pruned or required to be removed in association with a Development Consent, Complying Development Certificate or associated construction is not permitted.

8) General Prohibitions

- a) It is prohibited to burn without a Fire Permit issued by the NSW Rural Fire Service during the bushfire danger period (1st October – 31st March unless varied).
- b) It is prohibited to burn matter other than dead and dry vegetation grown on the property.
- c) It is prohibited to burn vegetation resulting from land clearing. Development consent is required for the clearing of native vegetation which must be obtained from Council.

9) Suspension of this approval

- a) This approval is suspended in the event of the total prohibition of lighting of fires (TOTAL FIRE BAN) under section 90 & 99 of The Rural Fires Act 1997; or on days where the fire danger rating is HIGH, EXTREME or CATASTROPHIC. For current Fire Danger Rating Information, please visit www.rfs.nsw.gov.au.
- b) This approval is suspended for the duration of a declaration of a 'No Burn Day' being declared by the Environment Protection Authority (EPA). When a "No Burn" notice is issued, it applies to the lighting of new fires in the declared areas. Existing fires should be allowed to continue as extinguishing the fire will result in more smoke. Please call the EPA on 131 555 to check if a "No Burn Notice" is in place for The Hills Local Government Area, or check via the Internet; www.environment.nsw.gov.au.
- c) Individuals may have this 'Notice of Approval' revoked by an Authorised Officer of The Hills Shire Council and or NSW Rural Fire Service.

Failure to comply with this approval may result in a Penalty Notice or Court Attendance Notice being issued. In the event of prosecution, the maximum penalty is \$5,500 for an individual and \$11,000 for a corporation.

If you cannot comply with the conditions specified above you are not permitted to burn without separate approval being issued by Council and/or the NSW Rural Fire Service – The Hills District.