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Declaration of significantly contaminated land



Section 11 of the *Contaminated Land Management Act 1997*

Declaration No. 20211115; Area No. 3502

The Environment Protection Authority (EPA) declares the following land to be significantly contaminated land under section 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 289 Menai Road, Menai NSW 2234 within the local government area of Sutherland Shire Council (the Land).
2. The Land is described as Lot 222 in Deposited Plan (DP) 828360.
3. A map of the Land is attached to this Declaration.

Significant Contaminants affecting the Land

4. 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
 - (ii) Benzene, Toluene, Ethyl Benzene and Xylene
 - (iii) Naphthalene

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

5. The EPA has reason to believe harm has been, or may be, caused by the Significant Contaminants, including:
 - (i) Soil and groundwater have been contaminated from a loss of fuel from an underground petroleum storage system (UPSS); and
 - (ii) Potential harm may be caused to human health or the environment by the offsite migration of contaminated groundwater.

Matters considered before declaring the Land to be significantly contaminated land

6. 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.
7. 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.
 - Perched groundwater has been impacted by fuel contamination;

- The likely source of the contamination, underground petroleum storage system infrastructure, requires management to prevent further migration of contamination offsite;
- The contamination may present risks to users of adjacent land if the contamination is not appropriately managed.

Further action to carry out voluntary management under the Act

8. 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

9. 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.

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

Email RegOps.MetroRegulation@epa.nsw.gov.au

or

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

11. Submissions should be made by no later than **5:00pm on 1 June 2022**.
12. Information on contaminated land management can be found on the EPA's website at:
www.epa.nsw.gov.au/your-environment/contaminated-land



JACINTA HANEMANN
Director Regulatory Operations

(by delegation)

Date of this Declaration: 05/05/2022

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.

The Land to which this Declaration applies is shown in the diagram below shaded in yellow and bounded in red and identified as Lot 222 in DP 828360. The original image was sourced from Six Maps.



Declaration of significantly contaminated land



Section 11 of the *Contaminated Land Management Act 1997*

Declaration No. 20211114; Area No. 3495

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 16B Sorrento Road, Empire Bay NSW 2257, within the Central Coast Council (the Land). The Land is described as Lot 486 in Deposited Plan (DP) 727270, part of Lot 7036 in DP1058756 and part of Brisbane Channel (Cockle Channel).
2. A map of the Land is attached to this Declaration. The area declared is shown by the red line, which is the site boundary.

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) Tributyltin (TBT);
 - (ii) Petroleum hydrocarbons (TPH C10-C40); and
 - (iii) Heavy metals (Copper, Lead, Zinc and Mercury).

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 as:
 - (i) The contaminants have impacted soil and groundwater beneath the Land as a result of poor working practices and the deterioration of the marina during operations; and
 - (ii) Potential harm may be caused to human health and the environment by the off-site migration of the contaminants to the adjoining waterways.

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 section 12(1) of the Act with respect to the Significant Contaminants that the EPA considers caused the Land to be contaminated.
6. The EPA considers that the Land is contaminated, and that the contamination is significant enough to warrant regulation under the Act for the following reasons:
 - The former marina operations have resulted in the contamination of the site, adjacent water body and sediments.

- Sources of contamination (two underground storage tanks) remain on the site.
- Soil is contaminated with total petroleum hydrocarbons, heavy metals and tributyltin at concentrations exceeding the criteria specified in the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (April 2013) (NEPM).
- Copper, lead, mercury and tributyltin in groundwater and tributyltin in sediments exceed the criteria specified in the NEPM.
- There are potential risks to users (or visitors) of the site through direct contact, and the contamination has the potential to further impact on the aquatic environment.

Asbestos and lead based paints are also reported at the site and should be managed concurrently with addressing the risks identified in the declaration.

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.MetroRegulation@epa.nsw.gov.au

or

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

10. Submissions should be made by no later than **5:00pm on 1 June 2022**.
11. Information on contaminated land management can be found on the EPA's website at: www.epa.nsw.gov.au/your-environment/contaminated-land



JACINTA HANEMANN
Director Regulatory Operations

(by delegation)

Date of this Declaration: 5th May, 2022

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

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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.

Figure 1: Former Empire Bay Marina showing the declared land within the site boundary (bounded by red).

