



Section 65
Environmental Protection Act 1986.

ENVIRONMENTAL PROTECTION NOTICE

Reference No: 202308

PERSON TO WHOM THIS NOTICE IS GIVEN:

Cleanaway Co Pty Ltd ACN 127 853 561
Level 4, 441 St. Kilda Road
MELBOURNE, Vic 3004

PREMISES TO WHICH THIS NOTICE RELATES (the Premises):

The premises the subject of the Environmental Protection Notice (Notice) is situated on:

- (a) Lot 300 on Plan 23084 as shown on Certificate of Title Volume 2202 Folio 933, also identified as 24 Stuart Drive, HENDERSON, WA 6166.

Reasons for which this notice is issued:

This Notice is given because the CEO suspects on reasonable grounds that there is, or is likely to be, an emission from the Premises, which has caused or is likely to cause pollution.

Per- and polyfluoroalkyl substances (*PFAS*), specifically Perfluorooctane sulfonic acid (PFOS), has been reported in groundwater on the Premises immediately adjacent to waste containment infrastructure on the southern boundary at levels significantly above the ecological water quality guideline for 99% species protection specified in the PFAS National Environment Management Plan 2.0 (PFAS NEMP) for PFOS.

I am satisfied that because:

Cleanaway Co Pty Ltd, is the owner and occupier of the Premises and person upon whom the requirements of Licence L9169/2018/2 issued on 6 December 2021 are binding;

that you are the appropriate person to whom to give this Notice.

REQUIREMENTS OF THIS NOTICE:

1. Within 30 days of the date of issue of this Notice the Person to which this Notice is given must provide to the CEO a report prepared by a *suitably qualified and experienced* professional detailing an investigation of the cause of the *emission*

including an assessment of infrastructure integrity for all liquid waste containment infrastructure on the Premises;

2. Within 60 days of the date of issue of this Notice the Person to which this Notice is given must provide to the CEO for their approval a report prepared by a *suitably qualified and experienced* professional detailing a plan for the prevention, control or abatement of the *emission* from the Premises and the rectification of any integrity issues identified in complying with Requirement 1;
3. Within 30 days of the date of approval of the plan by the CEO, submitted in accordance with Requirement 2, the Person to which this Notice is given must implement the approved plan;
4. Within 30 days of the completion of the plan specified in Requirements 2, the Person to which this Notice is given must provide to the CEO a report prepared by a *suitably qualified and experienced* professional detailing the effectiveness of actions taken in accordance with Requirements 2 and 3;
5. Within six months of the date of issue of this Notice, the Person to which this Notice is given must provide to the CEO a report prepared by a *suitably qualified and experienced* professional detailing an investigation of the nature and extent of potential pollution in groundwater beneath the Premises and beneath adjoining land;

The investigation and report must;

- 5.1. Include analysis of the following 'minimum' parameters in groundwater shown in Table 1 below:

Table 1: Required Analysis		
Column 1	Column 2	Column 3
Parameter	Units	Limits
pH	pH	NA
PFOS	µg/L	0.00023
PFOA		19
PFHxS		0.07
TRH (C ₆ -C ₄₀)	µg/L	20-100
BTEX	µg/L	1.0-5.0
PAH (standard 16)	µg/L	1.0
MBAS	mg/L	0.1
VOC/SVOC (standard)	µg/L	1.0
Metals (As, Cd, Cr(III), Cu, Pb, Ni, Zn)	mg/L	0.005-0.1
Hg	mg/L	0.0001
Cr(VI)	mg/L	0.01
OC/OP (standard 22)	µg/L	0.5-2.0
Total Nitrogen, Nitrate, Nitrite, Ammonia, Reactive Phosphorous, Total Phosphorous	mg/L	0.01

- 5.2. Be prepared, implemented and reported in accordance with the *PFAS NEMP* the National Environment Protection (Assessment of site contamination) Measure 1999 (ASC NEPM) and the gazetted Guideline for the *Assessment and management of contaminated sites (DWER contaminated sites guidelines)*.

OTHER REQUIREMENTS

6. The CEO may vary the requirements of this Notice, including the specified requirements and timeframes where they consider sufficient justification has been provided, and it can be demonstrated that such variation will not result in an unacceptable risk to human health, the environment or any environmental value.

Ruth Dowd
Executive Director Compliance and Enforcement
Department of Water and Environmental Regulation
for the Chief Executive Officer
under Delegation No. 143 dated 7 June 2019

28 September 2023

IMPORTANT INFORMATION:

A PERSON WHO IS BOUND BY THIS ENVIRONMENTAL PROTECTION NOTICE AND WHO DOES NOT COMPLY WITH THIS NOTICE COMMITS AN OFFENCE UNDER THE *ENVIRONMENTAL PROTECTION ACT 1986*.

Note that under section 118 of the *Environmental Protection Act 1986* that each person who is a director or who is concerned in the management of the body corporate may be taken to have also committed the same offence.

Under section 103 of the *Environmental Protection Act 1986*:

- a person who is aggrieved by a requirement contained in this Notice may within 21 days of being given this notice lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal; and
- any other person who disagrees with a requirement contained in this Notice may within 21 days of the making of that requirement lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal.

PENDING THE DETERMINATION OF AN APPEAL REFERRED TO ABOVE, THE RELEVANT REQUIREMENTS CONTAINED IN THIS NOTICE CONTINUE TO HAVE EFFECT.

PURSUANT TO REGULATION 31(1)(C) OF THE CONTAMINATED SITES REGULATIONS 2006, A MANDATORY AUDITOR'S REPORT IS TO BE PROVIDED TO THE CEO WITH EVERY REPORT CONTAINING INFORMATION AS TO, OR WHICH WILL BE RELEVANT TO, THE INVESTIGATION, ASSESSMENT, MONITORING OF A SITE PROVIDED TO THE CEO FOR THE PURPOSE OF COMPLYING WITH A REQUIREMENT OR CONDITION (BY WHATEVER NAME CALLED) IMPOSED UNDER ANOTHER WRITTEN LAW).

APPENDIX 1:

DEFINITIONS

In this Notice, unless the contrary intention appears –

‘Act’ means the *Environmental Protection Act 1986* (WA);

‘ASC NEPM’ means the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (Cth) available at <https://www.legislation.gov.au/Details/F2013C00288>

‘CEO’ means Chief Executive Officer, Department of Water and Environmental Regulation;

‘CEO’ for the purposes of correspondence means;

Chief Executive Officer
Department of Water and Environmental Regulation
Locked Bag 10
JOONDALUP DC WA 6919
Telephone: (08) 6364 7000
Email: compliance@dwer.wa.gov.au

‘DWER contaminated sites guidelines’ means the Guideline for the Assessment and management of contaminated sites (DWER, 2021) available at <https://www.wa.gov.au/government/publications/guideline-assessment-and-management-of-contaminated-sites>

‘Emission’ for the purposes of this Notice means a discharge of waste to groundwater or surface water including but not limited to per- and polyfluoroalkyl substances (PFAS) and including Perfluorooctane sulfonic acid (PFOS) or any other contaminant which poses, or has the potential to pose a risk of pollution, harm to human health, the environment or any environmental value

‘PFAS NEMP’ means the PFAS *National Environment Management Plan* (Cth) available at <https://www.dcceew.gov.au/environment/protection/publications/pfas-nemp-2>

‘PFAS’ means per- and polyfluoroalkyl substance;

‘Suitably qualified and experienced’ has the definition provided in Schedule B9 of the ASC NEPM.