

Prevention Notice



HOLCIM (AUSTRALIA) PTY LTD
ABN 87 099 732 297 ACN 099 732 297
PO BOX 5697
WEST CHATSWOOD NSW 1515

Attention: Mr Luke Edminson

Notice Number 1578985
File Number SF18/23944
Date 08-Aug-2019

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Why is the EPA writing to you?

The Environment Protection Authority ("EPA") reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at the HOLCIM (AUSTRALIA) PTY LTD ("Holcim") concrete batching plant located at Kite Street, Emu Plains ("the premises"). The EPA has issued you with this Prevention Notice to address its concerns in relation to activities being undertaken at the premises. Further information is set out in the notice below.

What are you required to do?

Please read this notice carefully and carry out the prevention action specified in this notice by the date required. If you have any queries about this matter, please contact Mark Hanemann on 02 9995 6845.

BACKGROUND

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997* ("the Act") and associated regulations.
- B. Holcim is the occupier of the premises, in that Holcim has management and control of the premises for the purposes of s 96(2)(a) of the Act.
- C. Under clause 92 of the Protection of the Environment Operations (General) Regulation 2009, the EPA is the appropriate regulatory authority for activities undertaken at the premises.
- D. Activities undertaken at the premises include concrete batching and storage of sand and aggregates.
- E. The EPA understands that in November 2018 Holcim took over management of the premises from PF Concrete (NSW) Pty Ltd.

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- F. Holcim is currently trading as PF Concrete (ABN 87 009 732 297).
- G. The EPA inspected the premises on 13 December 2017, and raised concerns about surface water management at the premises with PF Concrete(NSW) Pty Ltd representatives during the inspection. PF Concrete (NSW) Pty Ltd subsequently undertook a range of site improvements to help address the EPA's concerns.
- H. On 23 August 2018 the EPA inspected the premises as part of a wider compliance program targeting concrete batching plants in Sydney. EPA officers observed that several improvements had been made to stormwater management at the site, but observed that not all of the EPA's previously-communicated concerns had been adequately addressed. In a letter dated 26 September 2018, the EPA advised PF Concrete (NSW) Pty Ltd that "the EPA considers that management of dust and stormwater at the plant is inadequate". In the letter, the EPA advised PF Concrete (NSW) Pty Ltd that it was intending to issue a Prevention Notice to PF Concrete (NSW) Pty Ltd to address the identified inadequacies.
- I. During the inspection on 23 August 2018, PF Concrete (NSW) Pty Ltd representatives advised the EPA that Holcim had purchased the PF Concrete business, that the premises was in the process of transitioning to Holcim management, and that Holcim was planning further upgrades to the premises.
- J. Following discussions between the EPA and Holcim in late 2018, it was agreed to postpone the issuing of the Prevention Notice until such time as the acquisition of the premises by Holcim was complete, and the upgrades planned by Holcim had been completed.
- K. The EPA inspected the premises on 3 April 2019, to determine if there was still a need to issue the previously proposed Prevention Notice.
- L. During the inspection on 3 April 2019:
 - a. EPA officers observed, and were advised by Holcim representatives, that the areas in front of the materials storage bays, and the back corner of the premises, are concreted, and that the area in the middle of the materials storage bays is not concreted, but is bare earth.
 - b. EPA officers observed significant amounts of sediment in the area near and around the materials storage bays, and observed vehicles travelling over and across the sediment. The EPA officers determined that the source of the observed sediment is the large area of bare earth, approximately the size of a tennis court, in the middle of the materials storage bays.
 - c. The EPA officers determined that there is a risk that:
 - i. the observed sediment will be mobilised and possibly discharged from the premises during heavy rains; and
 - i. the observed sediment may become airborne and be discharged from the premises as dust during dry, windy weather.
 - d. Holcim representatives advised the EPA officers that Holcim has installed a speed hump to direct stormwater from the materials storage bays area to a wedge pit, which is designed to capture sediment prior to the discharge of stormwater from the premises. The EPA officers

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observed that the wedge pit appeared to be inadequate to effectively manage the size of the catchment and the significant amounts of sediment generated by the bare-earth section of the premises.

- e. Holcim representatives advised the EPA officers that Holcim has installed sprinklers/ water cannon to help prevent the generation of dust in the area of the materials storage bays. However, the EPA officers observed that the sprinklers/ water cannon do not service all of the materials storage bays area, and therefore appear to be inadequate to prevent the emission of dust from this area.
 - f. The EPA officers determined that an ongoing risk of water and dust pollution from the premises exists, due to ongoing generation of sediment in the materials storage bays area. The EPA officers communicated this verbally to Holcim representatives during the inspection.
- M. The EPA therefore considers that activities being undertaken at the premises are not being carried on by such practicable means as may be necessary to prevent, control or minimise pollution, and are therefore likely to cause a pollution incident.
- N. Based on the above, the EPA considers that activities at the premises are being carried out in an environmentally unsatisfactory manner, as defined under section 95 of the POEO Act.
- O. Under section 95 of the Act and for the purposes of Part 4.3 of the Act, an activity is carried on in an environmentally unsatisfactory manner if:
- a. it is carried on in contravention of, or in a manner that is likely to lead to a contravention of, this Act, the regulations or a condition attached to an environment protection licence (including a condition of a surrender of a licence) or an exemption given under this Act or the regulations, or
 - b. it causes, or is likely to cause, a pollution incident, or
 - c. it is not carried on by such practicable means as may be necessary to prevent, control or minimise pollution, the emission of any noise or the generation of waste, or
 - d. it is not carried on in accordance with good environmental practice”.
- O. The Dictionary to the Act defines:
- a. “Pollution incident” as an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.
 - b. “Pollution” as including water pollution and air pollution.
- P. Section 96 of the POEO Act enables the EPA to issue a Prevention Notice where it reasonably suspects an activity has been or is being carried on in an environmentally unsatisfactory manner.

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- Q. The EPA reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at the premises in that:
- a. There is a risk that sediment will be mobilised from the area of bare earth near the materials storage bays during heavy rains, and that the existing surface water management infrastructure at the premises is inadequate to effectively prevent a discharge of sediment-laden water from the premises; and
 - b. There is a risk that sediment will be mobilised from the area of bare earth near the materials storage bays during dry, windy weather, and that the existing dust mitigation measures employed at the premises are inadequate to prevent the mobilised sediment being discharged from the premises as dust.
- R. In early May 2019 the EPA drafted a Prevention Notice to address the EPA's concerns as noted above. On 9 May 2019 the EPA provided the draft Prevention Notice to Holcim for comment. Holcim provided comment on the draft Notice to the EPA on 4 June 2019. Holcim's comments included a proposal for improving the management of dust and surface water at the premises.
- S. On 6 June 2019 the EPA requested further information from Holcim in relation to the proposal being put forward by Holcim. Holcim provided the requested further information to the EPA on 10 July 2019.
- T. The EPA has taken into consideration Holcim's comments on the draft Prevention Notice and the further information provided by Holcim. The EPA has drafted this Prevention Notice to ensure regulatory oversight of the proposal put forward by Holcim.
- U. The EPA is directing you to take action as specified in this notice because you are the occupier of the premises and you have management and control of the premises.

DIRECTION TO TAKE PREVENTIVE ACTION

The EPA directs Holcim to take the following prevention action:

1. Immediately ensure that the handling, movement and storage of materials at the premises is undertaken in a manner that minimises the generation of water-borne sediment and dust, in and around the materials storage bays at the premises.
2. By 5 pm on 9 September 2019:
 - a. Cease all discharges and overflows of water from the wedge pit servicing the materials storage bays area at the premises.
 - b. Install an automated pumping system to transfer water from the wedge pit to the recycled water management system at the premises.
 - c. Modify the existing water spray system servicing the materials storage bays area by bracing the waterbird sprays with steel upright sections, to improve the efficiency and coverage of the sprays.

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- d. Duplicate the existing sprinkler system on the walls of the northern materials storage ground bins.
 - e. Ensure that the new and modified sprinkler systems are operated via an automated timer rather than relying on manual operation.
3. By 5 pm on 16 September 2019, advise the EPA of completion of the actions required above in writing, at:
- Director Sydney Industry
PO Box 668
Parramatta NSW 2124
- OR
- By email at: metro.regulation@epa.nsw.gov.au
4. On any day after 9 September 2019 during which rainfall at the premises exceeds 20 mm, provide to the EPA copies of photographs taken on that day of any water pooled in or near the materials storage bays area.
 5. The photographs referred to above must be provided to the EPA via email at: metro.regulation@epa.nsw.gov.au
 6. The photographs referred to above must be provided to the EPA within 48 hours of being taken.

FEE TO BE PAID

- You are required by law to pay a fee of \$550 for the administrative costs of issuing this notice. An invoice for the fee has been attached to 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.

A handwritten signature in blue ink, appearing to read 'Craig Flemming', with a long horizontal stroke extending to the right.

.....
Craig Flemming



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Unit Head

Metropolitan - Sydney Industry

(by Delegation)

WARNINGS AND INFORMATION ABOUT THIS PREVENTION NOTICE

- This notice is issued under section 96 of the Act.
- It is an offence against the Act not to comply with this notice.
- Details provided in this notice will be available on the Public Register in accordance with section 308 of the Act.

Penalty for not complying with this notice

- The maximum penalty that a court may impose for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues. The maximum penalty that a court may impose for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

Appeals against this notice

- You can appeal to the Land and Environment Court against this notice. The deadline for lodging your appeal is 21 days after you were served with the notice.

When this notice begins to operate

- This notice operates from the day the notice is given, unless a later date is specified in the notice.

If an appeal is made against the notice, and the Land and Environment Court directs that the notice is stayed, the notice does not operate until the stay ceases to have effect, or the Land and Environment confirms the notice, or the appeal is withdrawn (whichever occurs first).

Continuing obligation

Under section 319A of the Act, your obligations to comply with this notice continues until the notice is complied with in full, even if the due date for compliance is passed.

Occupier's duty

- If you are given this notice as the occupier of the Premises but you are not the person carrying on the activity giving rise to this notice, this notice is taken to require you to take all available steps to cause the action to be taken.

Deadline for paying fee

- The fee must be paid by **no later than 30 days after the date of this notice unless you appeal** to a court against the notice, or unless the EPA extends the time for payment of the fee or waives the fee. If you do appeal this notice the fee does not have to be paid unless and until the court confirms the notice.

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 extension of time to pay/waive the fee

- Any application for an extension of time to pay the fee, or for the fee to be waived must be made in writing to the EPA. The application should set out clearly why you think your application should be granted.

Other costs

- The 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 required to pay these other costs and expenses you will be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

Variation or revocation of this notice

- The requirements of this notice may only be varied or revoked by written notice issued by the EPA.