

Prevention Notice

NATIONWIDE OIL PTY LTD
ABN 95 066 383 364 ACN 066 383 364
PO BOX 6213
WETHERILL PARK NSW 2164

Attention: Scott McLeod

Notice Number 1580491
File Number EF13/3355
Date 03-Jul-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 6 Davis Road, Wetherill Park NSW ("the premises"). The EPA has issued you with this Prevention Notice. 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 Alexander Spaller on 02 9995 5894.

BACKGROUND

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997* ("the POEO Act").
- B. NATIONWIDE OIL PTY LTD ("the licensee") is the holder of Environment Protection Licence No 854 ("the licence") issued under the POEO Act. The licence authorises the carrying out of scheduled activities (recovery of waste oil and non-thermal treatment of hazardous and other waste) at the premises.
- C. The licensee is the occupier of the premises at which waste oil recovery is occurring in that the licensee has management and control of the premises for the purposes of s 96(2)(a) of the POEO Act.
- D. The EPA is the appropriate regulatory authority for licensed premises per s 6 of the POEO Act.
- E. On 28 March 2019, the licensee provided the EPA with results of a stack emission test undertaken by Stephenson Environmental Management Australia on 15 February 2019 for the Thermal Oil Heater ("TOH") at the premises. The result for total suspended particulates failed to comply with the

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licence concentration limit when the reference oxygen correction factor of 3% was applied (as required by the *Protection of the Environment Operations (Clean Air) Regulation 2010*).

- F. On 1 May 2019, the EPA issued a notice to provide information and records (Notice No. 1578977) to the licensee to investigate the circumstances surrounding the emissions from the TOH exceeding the solid particles concentration limit on 15 February 2019.
- G. On 16 May 2019, the licensee furnished information and records to the EPA in response to Notice No. 1578977. The response and additional stack test carried out on 17 May 2019 did not identify the reason as to why emissions from the TOH exceeded the concentration limit for solids particles.
- H. There has been a long history of local residents alleging offensive odour emissions from the premises.
- I. Since April 2019, the EPA has received complaints from local residents alleging offensive burning rubber odours in the area.
- J. On 16 May 2019, EPA officers had discussions with 3 x businesses at Kellaway Place, Wetherill Park who alleged that they had been exposed to offensive that they described as burning rubber / oil odours that occurred approximately on a weekly basis from the direction of the premises.
- K. On 29 May 2019, EPA officers detected offensive burning rubber-like odours at a location approximately 100 m to the SSE of the premises emanating with the prevailing wind in the direction of the premises. The EPA officers did not detect any odours along Wenblan Place and Davis Road. The EPA officers then inspected the premises and detected similar burning rubber-like odours in the vicinity of the propane de-asphalting vessel (V140 vessel) on the premises.
- L. Under section 129 of the POEO Act, the occupier of any licensed premises must not cause or permit the emission of any offensive odour from the premises to which the licence applies.
- M. On 13 June 2019, EPA officers had discussions with 4 x business surrounding the premises at Davis Road and Wenblan Place, Wetherill Park who all alleged that they had been exposed to offensive burning rubber and oil odours that occurred from the direction of the premises. The general consensus was that offensive odours occurred approximately on a weekly basis, in the mornings and from the evenings.
- N. 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. Pursuant to s 95 of the POEO Act and for the purposes of Part 4.3, 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, the POEO Act, its 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.
- F. The Dictionary to the POEO 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

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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, air, noise or land pollution.
- c. "Air pollution" as the emission into air of any impurity.
- d. "Air impurity" as including smoke, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, mists, odours and radioactive substances.

- G. The EPA reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at the premises by the licensee in that:
 - a. Businesses surrounding the premises have alleged that they are exposed to offensive burning rubber / oil odour emissions from the direction of the premises;
 - b. EPA officers detected offensive burning rubber-like odours beyond the boundary of the premises on 16 May 2019 and the subsequent investigation found that the odours were likely generated from the waste oil recovery activity at the premises, in contravention of s 129 of the POEO Act;
 - c. The TOH failed to meet the emissions concentration limit for total suspended particulates set on the licence on 15 February 2019, in contravention of s 64 of the POEO Act.
- H. The EPA is directing you to take action specified in this notice because you are the occupier of the premises and you are the person carrying out waste oil resource recovery at the premises.

DIRECTION TO TAKE PREVENTIVE ACTION

- 1. The EPA directs the licensee to take the following prevention action:
- 2. **By no later than 12 July 2019**, the licensee must engage an independent and suitably qualified expert ("the consultant") that is capable of fulfilling the requirements of this notice.
- 3. The consultant must prepare an Air Quality and Odour Impact Assessment (AQOIA) of the premises.
- 4. The AQOIA must:
 - be prepared in accordance with the requirements of the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (2016)*;
 - make appropriate reference to the *Assessment of Management of Odour from Stationary Sources in NSW: Technical Framework (2006)* and *Management of Odour from Stationary Sources in NSW: Technical Notes (2006)*; and
 - consider the requirements of the *Protection of the Environment Operations (Clean Air) Regulation 2010* as applicable.
- 5. The AQOIA must, at a minimum:
 - a. Identify all potential sources of odours at the premises including but not limited to all plant and equipment associated with the dehydration process, propane de-asphalting, flaring, treatment of distillation gases (low oil vapours and contaminate gases) and the storage and loading of chemicals;

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- b. Conduct field odour surveys to assist in determining the source(s) of odours from the premises;
 - c. Investigate the cause(s) of odours around the propane de-asphalting process;
 - d. Prioritise and rank each of the identified odour sources;
 - e. A review of the effectiveness of existing air emissions controls at the premises; and
 - f. Investigate best practice odour control options including the evaluation of likely odour reductions.
6. The AQOIA must recommend an action plan to control or prevent all identified potential sources of odours from the premises.
7. **By no later than 30 September 2019**, provide a report of the AQOIA demonstrating compliance with the directions in this notice listed above to the EPA via email at hazardous.materials@epa.nsw.gov.au.

FEE TO BE PAID

- You are required by law to pay a fee of \$563 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 fees.

A handwritten signature in black ink, appearing to read 'Erwin Benker'.

Erwin Benker

Manager Hazardous Materials

Hazardous Materials, Chemicals & Radiation

(by Delegation)

WARNINGS AND INFORMATION ABOUT THIS PREVENTION NOTICE

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

Penalty for not complying with this notice

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- 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 s 319A of the POEO 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.

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.

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