

19 February 2021

The Hon. Daniel Mookhey, MLC
Chair
Public Works Committee
NSW Legislative Council
Parliament House, Macquarie Street
SYDNEY NSW 2000

Our ref: HAK
Matter no: 9624832

Dear Mr Mookhey

**Inquiry into the Costs for Remediation of Sites Containing Coal Ash Repositories
Delta Electricity response to questions on notice**

We refer to the above Inquiry, including the public hearings held in 2020. We act for Howard Recycling Services Pty Ltd, which was previously engaged by Delta Electricity in relation to the ash dam management at the Vales Point Power Station.

We note that final report for the Inquiry is due on 31 March 2021 and we are instructed to write to the Committee to correct an erroneous representation made in relation to our client.

We have had the opportunity to review the Transcript of the hearing for the Inquiry dated 1 September 2020 (**Transcript**), and Delta Electricity's Answers to Questions on Notice, dated 8 September 2020 (**Post-hearing Response**).

We refer to page 18 of the Transcript where the Committee is asking questions of Mr Justin Flood, Executive Manager Sustainability – Delta Electricity, in relation to compliance of the Vales Point Power Station and Ash Dam, specifically inter-alia:

The CHAIR: *Have you been subjected to any fines, any enforcement action, any prosecutions by the EPA or other regulators in respect to coal ash in the last five years?*

Mr FLOOD: *There is a current clean-up order for Vales Point ash dam.*

The CHAIR: *When was that put into effect?*

Mr FLOOD: *In 2018. The incident happened in late 2018 and we reported that to the EPA.*

Ms ABIGAIL BOYD: *Is this the asbestos in the capping?*

Mr FLOOD: *That is right.*

The CHAIR: *Is that the only one?*

Mr FLOOD: *That is the only one.*

...

The CHAIR: *Is the order public? Not necessarily the—*

Mr FLOOD: *Each clean-up order is public.*

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The CHAIR: *Do you mind providing that on notice?*

Mr FLOOD: *Sure.*

In the Post-Hearing Response, Mr Flood, provided Clean Up Notice number 1570966 dated 12 October 2018 issued to Sunset Power International Pty Ltd t/as Delta Electricity (**Clean Up Notice**). Mr Flood also provided numerous variations of clean up actions, including a Variation of Notice of Clean-Up Action number 1571208 which purports to be addressed to our client, dated 16 October 2018 (**Variation**).

We draw the following to the attention of the Committee in relation to the Clean Up Notice and Variation:

- All notices issued under the *Protection of the Environment Operations Act 1997 (POEO Act)* by the Environment Protection Authority are publicly available on the POEO Register on the EPA website.
- The notices provided in the Post-Hearing Response by Delta Electricity are all unsigned, including the Variation.
- The Variation provided by Delta Electricity purports to be in relation to Clean Up Notice 1570967.
- Our client was issued with Clean Up Notice 1570967 dated 12 October 2018. This Clean Up Notice did not specifically require any clean up actions and was more appropriately characterised as a Prevention Notice under the POEO Act. The EPA revoked Clean Up Notice 1570967 on 30 October 2018. Please see **enclosed** Revocation of Clean Up Notice.
- A final and signed clean up notice has since been issued to Delta Electricity, being Clean Up Notice 1592298 dated 13 October 2020.

Accordingly, we request that the Inquiry's record be correct with respect to the Variation and clean up notice purported to have been issued to our client.

We thank you for your consideration of this matter and await the final report of the Inquiry.

Yours faithfully
Hunt & Hunt

Hasti Kalarostaghi
Partner
Sydney

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Revocation of Clean-Up Notice



HOWARD RECYCLING SERVICES PTY LTD

ABN 92 169 695 201 ACN 169 695 201

LOT 150 RUTLEYS ROAD

MANNERING PARK NSW 2259

Attention: Mr John and Ms Jodie Howard

Notice Number 1571740

File Number

Date 30-Oct-2018

REVOCATION OF NOTICE OF CLEAN-UP ACTION

BACKGROUND

- A. Howard Recycling Services Pty Ltd was issued with Clean Up Notice 1570967 ("the Notice").
- B. On 23 October 2018 the EPA received correspondence from Hunt and Hunt Lawyers representing Howard Recycling Services Pty Limited. This correspondence sort to confirm that requirements contained within the Notice are in fact requirements of a Prevention Notice. The Environment Protection Authority ("the EPA") generally concurs with this view and accordingly revokes the Notice.

REVOCATION OF NOTICE OF CLEAN-UP ACTION

The EPA revokes Clean-up Action No. 1570967 dated 12 October 2018.

Mark Hartwell
Unit Head
North - Hunter
(by Delegation)

Revocation of Clean-Up Notice



INFORMATION ABOUT THIS NOTICE

- Details provided in this notice will be available on the EPA's Public Register in accordance with section 308 of the Protection of the Environment Operations Act 1997.
- This notice is issued under section 110 of the Protection of the Environment Operations Act 1997.
- This notice operates from the date of issue of this notice unless a later date is specified in this notice.