

# Notice of Approved Voluntary Management Proposal



Section 17 of the *Contaminated Land Management Act 1997*

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To: Ms Julie Richards  
Group Leader, Landscape Services Centre  
Crown Lands – NSW Department of Planning, Industry and Environment  
PO BOX 2185  
DANGAR NSW 2309

Attention: The Proper Officer

Notice No. 20211707; Declaration No. 20171108; Area No. 3409

## Why is the EPA writing to you?

The Environment Protection Authority (EPA) has issued this Notice of Approved Voluntary Management Proposal to notify you of approval of the voluntary management proposal (Proposal) submitted by you, subject to the conditions set out in this Notice. Further information is set out below.

## What are you required to do?

Please read this Notice carefully and comply with its conditions. If you have any queries about this matter, please contact Giselle Goloy at [giselle.goloy@epa.nsw.gov.au](mailto:giselle.goloy@epa.nsw.gov.au) or 02 9995 6936.

## BACKGROUND

- A. The EPA is responsible for administration and enforcement of the *Contaminated Land Management Act 1997* (Act) and has issued this Notice under s 17(3) of the Act.

### Land to which this Notice applies

- B. The Proposal relates to land described as the Former Arsenic Poisons Factory at Duke Street, Manor Street, and Ballandean Street, Jennings NSW in the LGA of (Land).
- C. The Land is described as Lot 114 in DP 751490, Part Lots 4 and 5 Section 12 in DP 758540, Lots 6 and 7 Section 12 in DP 758540.
- D. The Proposal, dated 18 June 2021, was submitted by the Crown Lands – NSW Department of Planning, Industry, and Environment (Approved Party).

### Appropriate Terms of Proposal and other Considerations

- E. Prior to approval of the Proposal, the EPA has been satisfied that the terms of the Proposal, as modified by the conditions of this Notice, are appropriate.

## NOTICE OF APPROVED VOLUNTARY MANAGEMENT PROPOSAL

The EPA approves the Proposal relating to the Land and submitted by the Approved Party, subject to the following conditions.

1. The Proposal, as submitted by the Approved Party, is approved in the terms set out in Annexure A (Approved Proposal).
2. The Approved Party is to comply with each undertaking or term of *Part 2 Undertakings* of the Approved Proposal.
3. The Approved Party is to complete or otherwise comply with each feature, milestone, reporting or other term of *Part 3 Performance Schedule* of the Proposal by the date specified in the Approved Proposal.
4. A failure to satisfactorily complete any term of the Approved Proposal by the due date may be taken as a failure to carry out the terms of the Approved Proposal for the purposes of s 17(6) of the Act.
5. The Approved Party must make available for inspection by any person, free of charge, and provide a copy to any person for a reasonable fee, any document required to be prepared and submitted to the EPA under the Approved Proposal. It is not necessary to disclose:
  - (a) any information contained in those documents that relates to any manufacturing, industrial or commercially sensitive information, or working processes; or
  - (b) any personal information, within the meaning of the *Privacy and Personal Information Protection Act 1998*, contained in those documents.
6. Any report submitted to the EPA to comply with the Approved Proposal must be prepared, or reviewed and approved, by a consultant certified by an EPA recognised scheme. A personalised electronic seal providing evidence of certification must be affixed alongside the certified person's details in the quality information section of a report. Further information, and a list of contaminated land consultant certification schemes recognised by the EPA is available on the EPA's website at <http://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated-land/engaging-consultant>.
7. Where the Approved Proposal requires an Approved Party or any other person to give a document to the EPA, that document may be given to the EPA by:

**Email**     [RegOps.MetroRegulation@epa.nsw.gov.au](mailto:RegOps.MetroRegulation@epa.nsw.gov.au)

or

**Post**        Director  
Regulatory Operations – Metro North  
NSW Environment Protection Authority  
Locked Bag 5022  
PARRAMATTA NSW 2124



**Andrew Hawkins**  
**Unit Head – Regulatory Operations Metro North**  
**NSW Environment Protection Authority**

(by delegation)

Date of this Notice: 25 June 2021

### **Further Information about this Notice**

#### **Continuing Offences**

Under s 108A of the Act, a Notice made under the Act that specifies a time by which, or period within which, a direction or other requirement in the Notice must be complied with continues to have effect until the direction or requirement is complied with. Where a time is not specified, the direction or requirement continues to have effect until it is complied with.

#### **Cost Recovery**

Section 34 of the Act allows the EPA to recover its costs in connection with assessing and settling the terms, monitoring actions under, or seeking compliance with an approved voluntary management proposal. The EPA may also recover the costs of any other matter associated with, or incidental to these matters, or other matters prescribed by the regulations.

#### **Information recorded by the EPA**

Section 58 of the Act requires the EPA to maintain a public record. A copy of this Notice 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(1)(c) of the Act requires the EPA to inform the relevant local Council as soon as practicable after this Notice of Approved Voluntary Management Proposal has been served. Pursuant to s 59(2)(c) of the Act, Land being the subject to an approved voluntary management proposal 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* (EP&A Act). The EPA is required to inform the relevant Council as soon as practicable when the Notice is withdrawn or completed (s 59(1)(c) Act). Pursuant to s 59(3) of the Act, if a Council includes advice in a planning certificate regarding a Notice that no longer applies to the Land the subject of that Notice, it is to make it clear on the planning certificate that the Notice no longer applies.

#### **Relationship to other regulatory instruments**

This Notice 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.

#### **Guidelines made or approved under s 105 of the Act**

All the investigation or remediation works must be carried out in accordance with guidelines made or approved under s 105 of the Act. See <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>.

**Amendment or Repeal**

This Notice may be amended or repealed by subsequent notices. Under s 44 of the Act, the subsequent notice must state the reasons for the amendment or repeal.

**Cessation of the approved voluntary management proposal**

This Notice will cease if the EPA serves a notice in writing on an approved party or approved parties, stating that it is satisfied that the terms of the Approved Proposal have all been carried out, or stating that it withdraws its approval of the proposal, at the time specified in the Notice or if no time is specified, at the time the EPA notifies each approved party of the cessation of the Approved Proposal.

**Management Order**

Under s 17(6) of the Act, the EPA may serve a management order in relation to significantly contaminated land the subject of an approved voluntary management proposal on an approved party to the proposal, if in the opinion of the EPA, the terms of the approved proposal are not carried out, or the management order relates to a matter that is not adequately addressed by the proposal, or its approval of the proposal was given on the basis of false or misleading information.

**ANNEXURE A**  
**APPROVED VOLUNTARY MANAGEMENT PROPOSAL**

Dated: 25 June 2021

# VOLUNTARY MANAGEMENT PROPOSAL UNDER THE CONTAMINATED LAND MANAGEMENT ACT 1997

## Part 1

### Preliminary Details

#### 1. Proponent's Details

*(a) Name and contact details*

If a registered company, company name:

Trading as: *NSW Department of Planning, Industry and Environment – Crown Lands*  
ABN: *72 189 919 072*

If not a registered company, your full name(s):

Trading as:

ABN:

Phone:

Fax:

Email:

Postal address:

Postcode:

EPA licence number (if applicable):

*(b) Who the EPA should contact with technical enquiries about the proposal*

Name: *Julie Richards*

Employer/Company: *NSW Department of Planning, Industry and Environment – Crown Lands*

Position title: *Group Leader, Landscape Services Centre*

Type of business: *Government Department*

Phone (business): *(02) 6883 5431*

Phone (after hours): *0437 581 795*

Email: *julie.richards@crownland.nsw.gov.au*

**Proponent: NSW Department of Planning, Industry and Environment – Crown Lands**

**Site: Former Arsenic Processing Plant, Jennings NSW**

**Proposal Date: June 2021**

## 2. Site to which proposal applies

The site to which the proposal applies (“the site”) is the former Jennings Arsenic Processing Plant and adjacent lands. The Regulated Area (being land subject to this VMP), as identified in Figure 1, Attachment A, is situated between Duke, Manor, Robinson, Ballandean and King Streets, Jennings NSW and is formally identified as Lot 114 in DP751490, Lots 6, 7, Part Lots 4, 5 and 8, of Section 12 in DP 758540 and the road reserve for the extension of Gladstone Street.

## 3. The contamination

*On 7 April 2018, the NSW Environment Protection Authority (EPA) declared that the site is contaminated with arsenic. A summary of the contamination detected with the Regulated Area is provided below:*

### **Soils and Sediment**

Surface and shallow soils at most locations sampled in the Regulated Area contain arsenic at concentrations in excess of the human health (open space – HIL-C) direct contact screening criteria. Elevated concentrations of arsenic in soils are generally delineated at off-site and Non-Regulated Area locations. Vertically, arsenic impacts are present within the former operational area footprint, within fill and residual soils, generally up to the interface with underlying bedrock.

A Human Health and Ecological Risk Assessment (HHERA) was undertaken to assess the site and public open space off-site areas. The HHERA identified the potential for unacceptable risks to be present for future recreational and current/future intrusive maintenance worker human receptors, and terrestrial ecological receptors due to direct contact with soils contaminated with arsenic and carcinogenic PAHs.

Bonded fragments of asbestos containing material (ACM) were observed at isolated locations on the ground surface and in the subsurface fill materials, however no asbestos fines or free fibres have been reported from surface soils assessed. The current site perimeter fence and site management plan provides suitable mitigation for the potential direct contact exposure risks and potential ACM risks in the short- to medium-term.

### **Groundwater**

Arsenic has been reported within shallow groundwater above adopted human health (drinking water) and ecological screening criteria within the Regulated Area. The HHERA identified the potential for unacceptable risks to be present for current/future intrusive maintenance worker human receptors due to direct contact with arsenic contaminated groundwater. The level of impact in shallow groundwater is delineated beyond the site boundary in the direction of groundwater flow, and deeper groundwater is not impacted to the same extent.

Other substances of concern in groundwater which appear to be related to historical site activities include beryllium, chromium, cadmium, cobalt, copper, manganese, nickel and zinc. These metals were also reported in groundwater at concentrations above the adopted screening criteria at multiple locations across the site.

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**Site: Former Arsenic Processing Plant, Jennings NSW**

**Proposal Date: June 2021**

## **Surface Water**

Surface water sampling locations within the Regulated Area reported arsenic at concentrations which exceed the nominated irrigation (long term), livestock, human health (drinking water) and ecological (freshwater 95%) screening values. The HHERA identified the potential for unacceptable risks to be present for future recreational and current/future intrusive maintenance worker human receptors due to direct contact with arsenic contaminated surface water. The level of impact in surface water is delineated beyond the site boundary in the direction of surface water flow.

Copper and zinc are present in all surface waters at concentrations above the nominated ecological screening criteria however these are considered to partly be related to background conditions, with some contribution from the historical site activities.

See below for site investigation and management reference documents.

## **4. The management proposal**

The management proposal (“the proposal”) comprises:

- a) the information set out above;
- b) the actions, works and other components set out in the following documents:
  - *ERM (2001), Environmental Site Assessment - Former Jennings Arsenic Factory, Jennings NSW, for the NSW Department of Land and Water Conservation, Reference 501017*
  - *ERM (2004), Supplementary Sampling - Former Jennings Arsenic Factory, Jennings NSW, for the NSW Department of Land and Water Conservation, Reference 0019305*
  - *NSW Soil Conservation Service (SCS) (2015), Jennings Site Management Plan, for NSW Crown Lands, prepared by SCS October 2015 (18/11/2015)*
  - *ERM (2017), former Arsenic Processing Plant, Jennings, Conceptual Site Model and Data Gaps Assessment, prepared for the NSW Department of Industry – Crown Lands, June 2017*
  - *ERM (2019), Detailed Site Investigation, former Arsenic Processing Plant, Jennings NSW, prepared for the NSW Department of Industry – Crown Lands, April 2019*
  - *ERM (2020a) Supplementary Detailed Site Investigation, former Arsenic Processing Plant, Jennings NSW, prepared for the NSW Department of Industry – Crown Lands, May 2019*
  - *ERM (2020b) Winter 2020 Surface Water and Groundwater Monitoring Event, Former Arsenic Processing Plant, Jennings NSW, prepared for NSW Department of Industry, Planning and Environment – Crown Lands, August 2020*
  - *ERM (2020c) Human Health and Ecological Risk Assessment, Jennings NSW, prepared for the NSW Department of Industry – Crown Lands, November 2020*
  - *ERM (2020d), Remedial Action Plan - former Arsenic Processing Plant, Jennings NSW, for the NSW Department of Planning, Industry and Environment – Crown Lands, December 2020*
- c) the undertakings set out in Part 2 of this document; and
- d) the performance schedule set out in Part 3 of this document.

**Proponent: NSW Department of Planning, Industry and Environment – Crown Lands**

**Site: Former Arsenic Processing Plant, Jennings NSW**

**Proposal Date: June 2021**

## Part 2

### Undertakings Included in Voluntary Management Proposal

#### THE PROPOSAL INCLUDES THE FOLLOWING UNDERTAKINGS:

##### General

1. All works or activities carried out in connection with the proposal, including sampling and preparation of associated reports (“the activities”), will be carried out in accordance with applicable provisions of *State Environmental Planning Policy 55 – Remediation of Land* and any requirements imposed under it in relation to the activities.
2. All matters listed as relevant to a remediation action plan by the EPA’s *Guidelines for Consultants Reporting on Contaminated Sites* (1997) will be taken into account in the carrying out of the activities.
3. All the activities will be carried out consistently with guidelines made or approved under section 105 of the CLM Act.  
(See [www.epa.nsw.gov.au/clm/guidelines.htm](http://www.epa.nsw.gov.au/clm/guidelines.htm))
4. All the activities will be carried out in compliance with applicable NSW environmental legislation, and in particular:
  - i) All the activities, including:
    - (1) the processing, handling, movement and storage of materials and substances used to carry out the activities; and
    - (2) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activitieswill be carried out in a competent manner;
  - ii) All plant and equipment installed at the site or used in connection with the activities:
    - (1) will be maintained in a proper and efficient condition; and
    - (2) will be operated in a proper and efficient manner.
5. All the activities at the site will be carried out in a manner that prevents or minimises the emission of dust, odour and noise from the site.
6. Waste generated or stored at the Site will be assessed and classified in accordance with the EPA’s *Waste Classification Guidelines Part 1: Classifying Waste*.  
(See [www.epa.nsw.gov.au/wasteregulation/classify-guidelines.htm](http://www.epa.nsw.gov.au/wasteregulation/classify-guidelines.htm))
7. All waste transported from the Site that is required by the *Protection of the Environment (Waste) Regulation 2005* to be tracked must be tracked using the EPA’s on-line tracking system or an alternative tracking system approved in writing by the EPA.  
(See [www.epa.nsw.gov.au/owt/aboutowt.htm](http://www.epa.nsw.gov.au/owt/aboutowt.htm))
8. The proponent will make this voluntary management proposal available to the public free of charge and consents to the EPA placing this proposal on its public website.

**Proponent: NSW Department of Planning, Industry and Environment – Crown Lands**

**Site: Former Arsenic Processing Plant, Jennings NSW**

**Proposal Date: June 2021**

9. The proponent will make all documents referred to in, and required to be prepared under, this voluntary management proposal available to the public free of charge, unless the proponent identifies commercial-in-confidence or private/personal information (including information relating to a third party) within those documents. In these cases, the proponent will remove such information from the documents to make the documents suitable for public release.
10. The proponent will:
  - i) prior to the implementation of the proposal provide for the EPA's approval a strategy for communicating about that implementation, particularly the actual management works, with members of the public who are likely to have a real interest in or be affected by that implementation; and
  - ii) implement the strategy as approved in writing by the EPA.

### **Monitoring, Record Keeping & Reporting**

11. At least until the EPA has notified the proponent that the EPA no longer considers that the contamination is significant enough to warrant regulation under the *Contaminated Land Management Act 1997*, record and retain all monitoring data and information and provide this record to the EPA at any reasonable time if so requested by the EPA and as specifically provided under the proposal.
12. The EPA will be informed in writing within 7 days of the proponent becoming aware of information or data indicating a material change:
  - a) in conditions at the site, or
  - b) in its surrounding environment,which could adversely affect the prospects of successful management of the site or result in harm to the environment.
13. The EPA will be informed in writing within 7 days of the proponent becoming aware of any failure, either by the proponent or any other person, to comply with any term of the proposal.
14. The EPA will be informed in writing as soon as practicable of any notification by the proponent, its employees or its agents to an appropriate regulatory authority other than the EPA of any pollution incident at the site within the meaning of the *Protection of the Environment Operations Act 1997*.

(See <http://www.epa.nsw.gov.au/licensing/dutytonotify.htm>)

### **Performance Schedule**

15. The performance schedule which is in Part 3 of this document will be adhered to.

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# Part 3

## Performance Schedule

### 1. Objectives of the proposal

O1. The key objective of the VMP is to manage the contamination onsite and offsite so that it does not pose an unacceptable risk of harm to human health and/or the environment.

Specific objectives of the Proposal are:

O2. To maintain communication with stakeholders and the Environment Protection Authority (EPA) such that they are kept apprised of latest understanding of nature and extent of impacts and how the risks associated with those impacts are to be managed;

O3. To produce planning documents to direct remedial works in accordance with the site Remedial Action Plan (RAP) and satisfy the approval process under Part 5 of the Environmental Planning and Assessment Act (EP&A Act);

O4. To undertake remediation works and validation activities to manage the potential risks to human health and the environment and render the site suitable for the intended future public open space use.

O5. To provide a framework for long-term management of the site post-remediation, including site constraints, ongoing monitoring and reporting requirements.

O6. Engage a Site Auditor accredited under the CLM Act to certify that:

- The completed remediation works are appropriate for managing/mitigating potentially unacceptable risks to human health and the environment for future public open space use of the land.
- That the terms of the approved VMP have been complied with.

### 2. Principal features of the proposal

The principal features of the Stage 3 VMP include, but are not limited to:

#### P1. Stakeholder engagement and communications

- Discuss the RAP and define the roles that will be required for each party in order to see successful implementation of the RAP, including further site assessment and planning documentation, remediation works and long term environmental management of the site.
- Maintain communications with the various stakeholders (residents and regulators), including notice of the upcoming remediation works via a briefing note to the Tenterfield Shire Council in accordance with the SEPP 55 requirements for notice of Category 2 remediation works.

#### P2. Remediation works

- Complete remediation works at the site in accordance with the Detailed Design, including:

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- Installation and maintenance of erosion and sediment controls;
- Targeted excavation of impacted materials, placement at area to be capped and backfilling of excavations;
- Installation of hydraulic barrier upgradient of placed impacted material;
- Construction of capping layer with approved imported material, above the impacted material;
- Development of final landform characteristics and revegetation, necessary to manage storm water run-off, and erosion and sediment control at the site.

### P3. Future Public Open Space Use

- Prepare a Validation Report of the site that demonstrates validation in accordance with the RAP and the requirements of the Detailed Design.
- Prepare a Long Term Environmental Management Plan (LTEMP) to demonstrate that potential residual impacts may be adequately managed to mitigate risks to potential receptors and render the site suitable for the intended future public open space use. The LTEMP will include provisions for post-remediation monitoring and periodic review by nominated project stakeholders.
- Submission of all interim audit advice prepared by the Site Auditor following the review of the Validation report and LTEMP to the EPA.
- Submit a Site Audit Statement (SAS) and accompanying Site Audit Report to the EPA to demonstrate that:
  - The completed remediation works are appropriate for managing/mitigating potentially unacceptable risks to human health and the environment for future public open space use of the land and for off-site receptors.
  - That the terms of the approved VMP have been complied with.
- Details of the site contamination, future land use restrictions and notification of the Site Audit Statement will be documented on the Section 10.7 Planning Certificate for relevant land parcels based on the outcomes from the Validation Report.

**Proponent: NSW Department of Planning, Industry and Environment – Crown Lands**

**Site: Former Arsenic Processing Plant, Jennings NSW**

**Proposal Date: June 2021**

### 3. Key milestones for investigation, remediation and other actions

All works set out in the proposal must be completed by the deadlines specified below:

<b>Works</b>	<b>Deadline</b>
T1. Stakeholder engagement	Ongoing
T2. Develop Detailed Design and Construction Quality Assurance Plan (CQA) and submit for Site Auditor review	17 December 2021
T3. Develop CEMP and submit for Site Auditor review	1 February 2022
T4. Commence remediation works	6 June 2022
T5. Complete remediation works, site validation, post-remediation baseline monitoring event	4 November 2022
T6. Submit the Validation Report for Site Auditor review	24 February 2023
T7. Submit the LTEMP for Site Auditor review	24 February 2023
T8. Provide interim audit advice (Detailed Design, CEMP, LTEMP, Validation Report)	31 March 2023

### 4. Reporting requirements and timeframe for submission of reports

The EPA must be provided with the following reports by the deadlines specified below:

<b>Report</b>	<b>Deadline</b>
R1. Detailed Design and CQA Plan	4 February 2022
R2. Construction Environmental Management Plan	1 April 2022
R3. Long Term Environmental Management Plan	26 May 2023
R4. Validation Report	26 May 2023
R5. Site Audit Statement and Report	30 June 2023

**Proponent: NSW Department of Planning, Industry and Environment – Crown Lands**

**Site: Former Arsenic Processing Plant, Jennings NSW**

**Proposal Date: June 2021**

# Signature of proponent

This application for approval of this voluntary management proposal may only be signed by a person(s) with the legal authority to sign it. The various ways in which the application may be signed, and the people who may sign the application, are set out in the categories below.

Please tick (✓) the box next to the category that describes how this application is being signed.

If the proponent is:		The application must be signed and certified by one of the following:
an individual	<input type="checkbox"/>	the individual.
a company	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	the common seal being affixed in accordance with the <i>Corporations Act 2001</i> , or two directors, or a director and a company secretary, or if a proprietary company that has a sole director who is also the sole company secretary – by that director.
a public authority other than a council	<input checked="" type="checkbox"/> <input type="checkbox"/>	the chief executive officer of the public authority, or by a person delegated to sign on the public authority's behalf in accordance with its legislation (Please note: a copy of the relevant instrument of delegation must be attached to this application).
a local council	<input type="checkbox"/> <input type="checkbox"/>	the general manager in accordance with s.377 of the <i>Local Government Act 1993</i> ('LG Act'), or the seal of the council being affixed in a manner authorised under the LG Act.

**I/We (the proponent):**

- **apply for approval of the voluntary management proposal set out in this proposal and in any documents referred to in Part 1.4 of this proposal**
- **declare that the information in this proposal form (including any attachment or document referred to in Part 1.4 of this proposal) is not false or misleading.**

Signature		Signature	
Name (printed)	Melanie Hawyes	Name (printed)	
Position	Deputy Secretary, Crown Lands	Position	
Date	18/6/2021	Date	

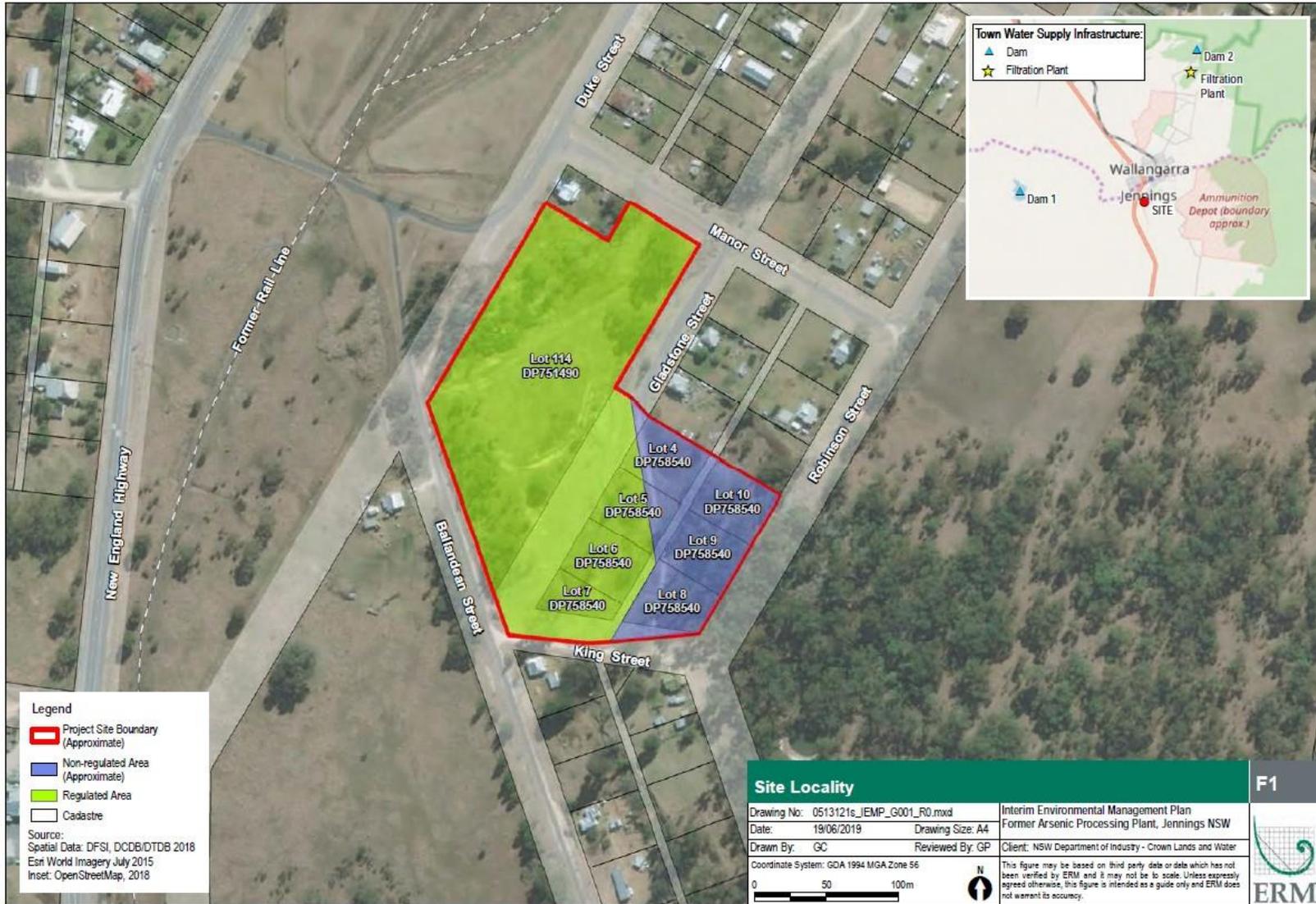
Seal (if signing under seal):

**Proponent: NSW Department of Planning, Industry and Environment – Crown Lands**

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Attachment A: Site Figure



Proponent: NSW Department of Planning, Industry and Environment – Crown Lands

Site: Former Arsenic Processing Plant, Jennings NSW

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