

# Clean-Up Notice

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Licence - 20607



Enviro Recycling Pty Ltd  
Trading as Enviro Recycling  
ABN 77 169 091 230 ACN 169 091 230  
PO Box 362  
CONDELL PARK NSW 2200

Attention: Mr Bruce Fordham

Notice Number      1540623  
File Number        EF15/7655  
Date                 30-May-2016

## NOTICE OF CLEAN-UP ACTION

### BACKGROUND

- A. The Environment Protection Authority ("EPA") is reasonable for the administration of the *Protection of the Environment Operations Act 1997* ("the POEO Act") and the *Protection of the Environment Act (Waste Regulation) 2014* ("Waste Regulation").
- B. Enviro Recycling Pty Ltd ("Enviro Recycling") operates a waste storage and resource recovery facility at 37-51 Violet Street, Revesby NSW 2212 being Lot 168 DP7866, Lot 169 DP7866, Lot 2 DP519053 ("the Premises") under environment protection licence no. 20607 ("the Licence"). Enviro Recycling as the Licence holder is the deemed occupier of the Premises.
- C. On 12 April 2016, the EPA conducted an inspection of the Premises and observed aggregate stockpiles of suspected asbestos containing material in the Processing Shed as labelled in Attachment 1. During the inspection, EPA Officers were informed that the internal dust suppression sprinkler system within the Processing Shed had failed and that the system should be fixed the following day. EPA Officers noted that waste sorting activities were still occurring in this area and dust created as particles could be seen to be hanging in the air.
- D. Authorised Officers of the EPA ("EPA Officers") obtained two samples of suspected asbestos containing material from a stockpile containing brick, tiles, terracotta piping and concrete in aggregate form. This material appeared to have been put through a crusher and screening process. These samples were confirmed to contain asbestos (including chrysotile, amosite, anthrophyllite) using a calibrated asbestos identification instrument. These samples are labelled PN3 and PN4 in Attachment 1.
- E. EPA Officers also observed aggregate material being loaded into a Ghossayn truck which created airborne dust. This material was being loaded from the product bay in the north-west corner of the Premises in the Product Storage Bays as labelled in Attachment 1.

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- F. On 10 May 2016, EPA Officers conducted an inspection of the Premises and observed a number of stockpiles of various material types suspected of containing asbestos containing material. The dust suppression system within the Processing Shed was operational at the time of the inspection when EPA Officers first arrived. No dust suppression measures were seen to be operating in any area outside of the Processing Shed at the Premises.
- G. EPA Officers obtained 28 samples suspected to contain asbestos from various stockpiles of material at the Premises. These were sent to the EPA Laboratories for forensic analysis. The results confirmed the presence of asbestos in eighteen (18) samples. The location of the confirmed asbestos samples are labelled in red in Attachment 1. Sample location labelled SP21 was confirmed to contain synthetic mineral fibre and no asbestos.
- H. Samples taken from stockpiles labelled SP2, SP3, SP4, SP5 SP9, SP11, SP19, SP20, SP21 and PB appeared to have been put through a crushing, screening or sorting process.
- I. It is noted that the material within stockpiles labelled SP2, SP3, SP4 and SP5 was processed aggregate of varying sizes from <10-20mm aggregate. The EPA understands that these bays are used for the storage of product to be sent off site for re-use in accordance with a resource recovery order and exemption. The material stockpiled in the bays and stockpile/s from which samples SP2, SP3, SP4, SP5, SP9, SP11 were obtained, could not comply with any resource recovery order or exemption as this material is known to contain asbestos.
- J. The EPA reasonably suspects Enviro Recycling has caused or permitted asbestos waste to be re-used or recycled in contravention of Clause 81 of the Waste Regulation.
- K. 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 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*".
- L. The POEO Act defines land pollution as:
- "land pollution or pollution of land means placing in or on, or otherwise introducing into or onto, the land (whether through an act or omission) any matter, whether solid, liquid or gaseous:***
- (a) that causes or is likely to cause degradation of the land, resulting in actual or potential harm to the health or safety of human beings, animals or other terrestrial life or ecosystems, or actual or potential loss or property damage, that is not trivial, or***
- (b) that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter..."***
- M. Clause 109 of the *Protection of the Environment General Regulation 2009* also notes that the definition of ***land pollution*** also includes placing more than 10 tonnes of asbestos waste on land.
- N. The EPA reasonably suspects that a land pollution incident has occurred in that significantly more than 10 tonnes of asbestos waste has been stockpiled at the Premises.
- O. The EPA reasonably suspects that a land pollution incident has occurred in that asbestos waste has allegedly been transported to and disposed of on a premises not permitted to receive asbestos waste. The extent of this pollution incident is currently unknown to the EPA.

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- P. The EPA reasonably suspects that an air pollution incident has occurred at the Premises, in that Enviro Recycling has processed and stored waste outside the Processing Shed without proper dust controls in place, causing the emission of dust, being air pollution.
- Q. The EPA reasonably suspects Enviro Recycling has caused and is causing the pollution incidents referred to above in that it received, stored and recycled asbestos waste for re-use at the Premises in the manner set out above.
- R. The EPA also reasonably suspects Enviro Recycling is the occupier of the Premises at which the pollution incidents referred to above have occurred and are occurring.
- S. The EPA is the appropriate regulatory authority for the activities at the Premises.
- T. On 20 May 2016, Enviro Recycling was provided with a draft copy of this notice for clean-up action for comment. On 23 and 26 May 2016, Minter Ellison Lawyers acting on behalf of Enviro Recycling Pty Ltd, submitted comments to the EPA.
- U. The comments referred to above have been taken into account by the EPA in finalising this notice.

## DIRECTION TO TAKE CLEAN-UP ACTION

1. The Environment Protection Authority (EPA) directs Enviro Recycling Pty Ltd to take the following clean-up action:
  - i. **Immediately** cease all sorting, moving, processing or disposing of any waste at the in the areas outlined in orange in Attachment 1 except moving any waste that falls on the boundaries of the areas that must be fenced as per direction ii. This action must continue until such time as Enviro Recycling receives written advice from the EPA.
  - ii. **Immediately** restrict access to the areas highlighted in orange in Attachment 1 with fencing and appropriate asbestos signage. This action must be installed in a manner that allows the completion of action 1.iv. This action must also continue until such time as Enviro Recycling receives further written advice from the EPA.
  - iii. By no later than **4pm, Wednesday 1 June 2016** provide the Senior Manager Waste Compliance, EPA, PO Box A290 Sydney South NSW 1232 with photographic evidence of the measures taken to restrict access with fencing and appropriate signage.
  - iv. **Immediately** apply water to the areas outlined in orange in Attachment 1 and continue to keep any stockpile/s damp to prevent the emission of dust.
  - v. **Immediately** notify and seek consent from the relevant persons and arrange for the pick-up, transport and lawful disposal of all material transported from the stockpiles labelled SP2, SP3, SP4, SP5 SP9, SP11, SP19, SP20 and SP21 in red in Attachment 1 since 10 May 2016, if the material has been transported to a place other than an appropriately licensed landfill.
  - vi. By no later than **4pm, Monday 6 June 2016** provide the Senior Manager Waste Compliance, EPA, PO Box A290 Sydney South, NSW 1232 with a Clean-Up Action Report to ascertain the extent of the alleged pollution incident referred to in paragraph "O" above and of the actual or likely resulting pollution from the land application of the material transported from stockpiles SP2, SP3, SP4, SP5, SP9, SP11, SP19, SP20 and SP21 in red in Attachment 1 since 10 May 2016. This report must include the following:

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- a. the address and contact details for the appropriate persons at the disposal location (other than a licensed landfill);
- b. the date(s) of any pick-up of such material for transport to the disposal location;
- c. the tonnage of material pick-up and transported from Enviro Recycling to the disposal location (other than a licensed landfill);
- d. the name of the person/s or company, including the vehicle registration responsible for the transport of such material, including the drivers name, ABN and contact phone number;
- e. the sampling results and certificates of compliance in accordance with the relevant resource recovery order for the material transported from Enviro Recycling.
- f. a record of the notification required by direction v. including the date, time and name and phone number of the person who received the notification.
- g. the disposal receipts for the material lawfully disposed in accordance with section v. above.

## FEE TO BE PAID

- You are required by law to pay a fee of \$506 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 black ink, appearing to read 'Ruth Owler'.

**Ruth Owler**

**Unit Head**

**Waste & Resources - Waste Management**

(by Delegation)

## INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This notice is issued under section 91 of the Protection of the Environment Operations Act 1997.
- It is an offence against the Act not to comply with a clean-up notice unless you have a reasonable excuse.

## Penalty for not complying with this notice

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

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## Cost recovery from the person who caused the incident

- If you comply with this clean-up notice but you are not the person who caused the pollution incident to which the notice relates, you have a right to go to court to recover your costs of complying with the notice from the person who caused the incident.

## Deadline for paying the fee

- The fee must be paid by **no later than 30 days after the date of this notice**, unless the EPA extends the time to pay the fee, or waives the fee.

## 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 an extension of time to pay/waive the fee

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

## Other costs

- The Protection of the Environment Operations 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 going to be required to pay these costs and expenses you will later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses").

## Continuing obligation

- Under section 319A of the Act, your obligation to comply with the requirements of this notice continues until the notice is complied with, even if the due date for compliance has passed.

## Variation of this notice

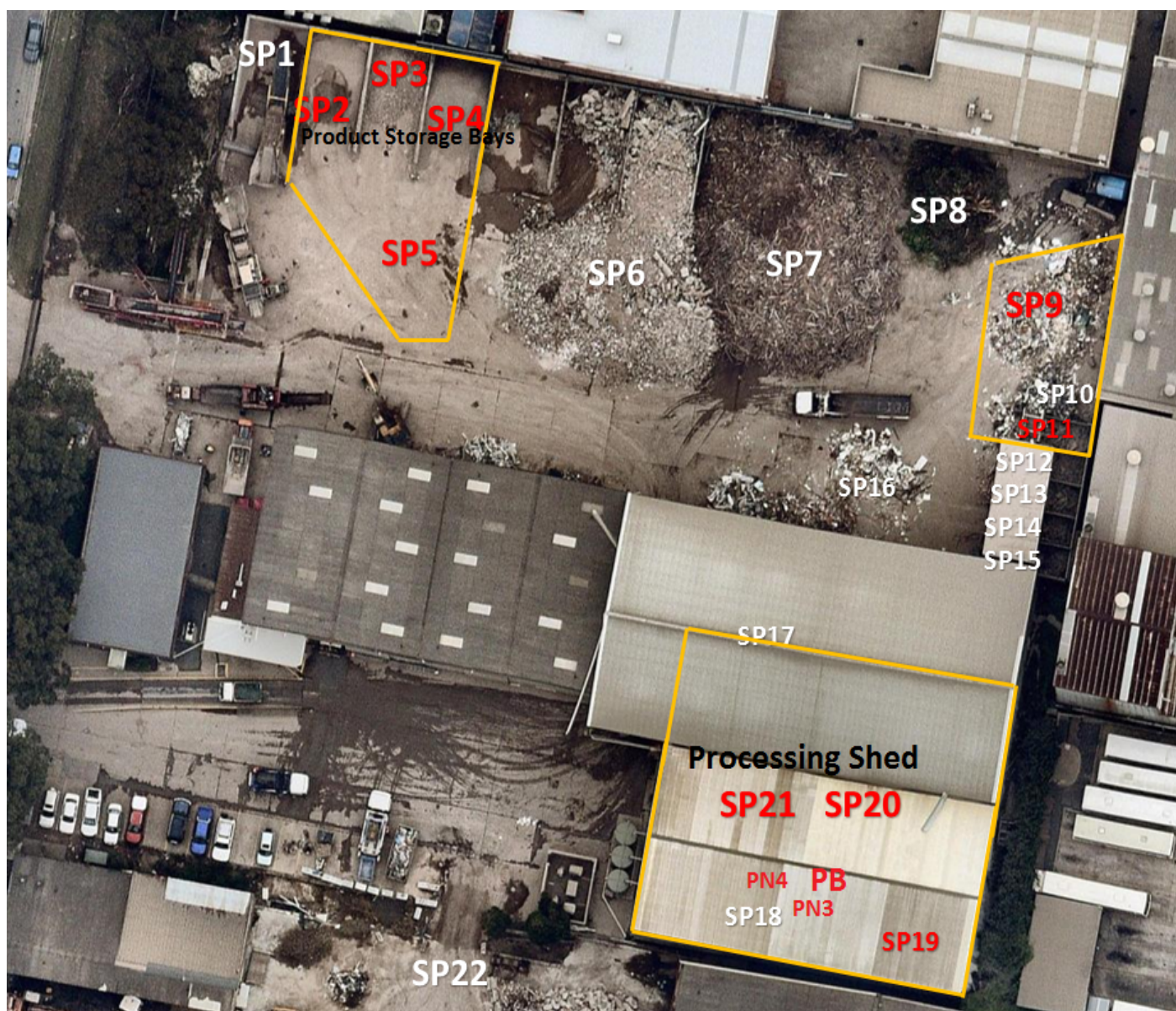
- This notice may only be varied by subsequent notices issued by the EPA.



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## Attachment 1 - Site Layout and Sampling Locations



Key: **SP** – represents asbestos detection **PB** – represents picker bin in which asbestos was detected.