

Notice

Environmental Protection Act 1994

Environmental Evaluation

Notice to conduct or commission an environmental evaluation (Amended)

This notice to conduct or commission an environmental evaluation is issued by the administering authority pursuant to section 326B of the Environmental Protection Act 1994, and in accordance with the provisions of section 24AA of the Acts Interpretation Act 1954, to advise you of a decision requiring you to take the stated actions.

Poolsea Pty. Ltd. A.C.N. 061 743 315
C/O SDE Audit and Corporate
Level 1, 9 Mill Street
NAMBOUR QLD 4560

Your reference: 58 Ninderry Road, Yandina

Our reference: CR95121; 101/0013934; STAT-E-100008446

Thursday, 16 April 2020

Tuesday 2 June 2020

Take notice: that under the *Environmental Protection Act 1994* (the Act) a notice to conduct or commission an environmental investigation is issued to Poolsea Pty Ltd A.C.N. 061 743 315 (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The notice to conduct or commission an environmental investigation is issued in respect of the activities of storage, burning and disposing of waste on land described as 58 Ninderry Road, Yandina identified as Lot 4 on plan SP237007 (the premises).

Take further notice that an environmental evaluation for this matter has also been issued to Rodney William KUPFER as the landowner of the premises. With respect to any duplicate requirements, these may be met by the submission of a joint response, where relevant.

Take further notice that the original notice issued 16 April 2020 has been amended in accordance with the provisions of section 24AA of the *Acts Interpretation Act 1954* to extend the following due dates:

- Part B. Requirements, item 2 from 2 June 2020 to 2 July 2020;
- Part B. Requirements, item 2 (a) from 16 June 2020 to 16 July 2020;
- Part B. Requirements, item 3 from 2 October 2020 to 2 November 2020;
- Part B. Requirements, item 4 from 2 November 2020 to 2 December 2020; and
- The environmental report which was to be submitted to the department on or before: Friday, 2 October 2020 must now be submitted to the department on or before Monday 2 November 2020.

The extension of times requested was considered reasonably on the basis of delays associated due to impacts associated with COVID 19 and for the works being undertaken on the site to comply with the requirements of the Office of Industrial Relations, Workplace Health and Safety.

Notice to conduct or commission an environmental evaluation

Accordingly, this notice dated 2 June 2020, replaces the previous notice dated 16 April 2020 and is to be taken as the original decision. New text in this amended notice is shown as underlined and deletions are shown as strikethrough.

A. Grounds

The notice to conduct or commission an environmental investigation is issued on the following grounds:

1. an activity or proposed activity is causing, or is likely to cause environmental harm.

The facts and circumstances forming the basis for these grounds are:

2. On 14 November 2019, the department was notified by Sunshine Coast Regional Council of potential unlicensed activities being undertaken at the premises.
3. During the department's inspection on 18 December 2019 authorised persons under the Act (authorised persons) observed the following at the premises:
 - a. Construction and demolition (C&D) waste had been received, dismantled, sorted and stockpiled.
 - b. A large pile, approximately 509 m² in area and 4.5m high, of C&D waste was observed which appeared to be stockpiled in preparation for burning. The material in the pile was observed to include waste building wood (both treated and painted), cardboard, plastic sheeting, bricks, ply board sheeting, cement, corrugated iron, various metals, fibreglass and plastics.
 - c. A second pile of burnt C&D waste was observed as hot and smouldering at the time of the inspection. An industrial blower was placed facing toward the burn pile.
 - d. On a portion of the premises, it was identified that C&D waste mixed with fill material was being used to fill a naturally occurring gully. The waste appeared to be being placed in the gully as a means of disposal. The gully was vegetated, and officers observed that trees were slowly being smothered with waste and some trees had been knocked over. The waste observed included bricks, plaster board, plastic pipes, wood, cement and gravel.
4. During the inspection on 18 December 2019 authorised persons took samples of ash, fill and soil from the premises for analysis. These samples were labelled and analysed at a National Association of Testing Authorities (NATA) accredited laboratory and the results were received on 14 January 2020.
5. The waste delivered to the premises was derived from commercial operations under the management of the company Poolsea Pty Ltd.
6. The sample results were interpreted by the department which demonstrated that the results show that Friable Asbestos (FA) and Asbestos Fines (AF) are present at the premises at concentrations above *National Environment Protection (Assessment of Site Contamination) Measure 1999* (NEPM) health screening levels for all site(s) (i.e. residential through to industrial). Asbestos FA and AF was reported as high as 0.05% weight per weight (w/w), which is 50 times the NEPM health screening level of 0.001% w/w.
7. Elevated metal concentrations of copper, chromium and arsenic (CCA) have been identified (i.e. above the control site results), indicating that CCA treated timber may have been burnt at the premises.
8. The department has identified that several exceedances have been observed that require further investigations and potentially remedial works.
9. On 18 November 2019, departmental officers also observed that C&D waste had been dumped/deposited into a gully that has been mapped as a high ecological significance (HES) wetland due to presence of gallery rainforest (notophyll vine forest) (Regional Ecosystem (RE) 12.3.1). Trees in the gully had been smothered at root level and a number had been knocked down.
10. On 24 January 2020, departmental officers attended the premises with officers of the Office of Industrial Relations (OIR), Workplace Health and Safety Queensland. OIR officers identified friable and non friable

Notice to conduct or commission an environmental evaluation

asbestos in various locations over the premises. The resulted in OIR issuing Poolsea Pty. Ltd. with a Prohibition Notice and two Improvement Notices for the premises.

11. The department has assessed the sample results and has concluded that:
 - a. Results from this preliminary study show that concentrations of asbestos and arsenic on the site exceed NEPM health investigation levels (HILs) and the concentrations of arsenic, copper and zinc exceed NEPM ecological investigation levels (EILs).
 - b. It is recommended that if a more thorough investigation is undertaken, that lead, mercury, total recoverable hydrocarbons and phenols are tested for.
 - c. In addition, the pH of the soil containing burnt waste should be monitored and impacts associated with the soil becoming alkaline should be assessed.
12. The department considers activities conducted by you have resulted in or likely to cause environmental harm to public safety, land, water and vegetation. An investigation is required to identify the extent of environmental harm and appropriate remediation.

B. Requirements

The report on the environmental investigation must address the following relevant matters:

1. As soon as practicable but no later than 5pm on 5 May 2020 you must secure the services of a suitably qualified person(s) (SQP) for the purposes of overseeing the actions listed below. The SQP must demonstrate skills and experience in technical fields such as soil and groundwater contamination assessment, waste characterisation, with particular skills relevant to the assessment and management of asbestos containing materials, heavy metals and organics. Evidence that this action has been taken by you must be sent by email to sunshinecoast.esr@des.qld.gov.au on or before the aforementioned time and date.
2. As soon as practicable but no later than 5pm on 2 ~~June~~ July 2020 you must develop and submit a sampling, analysis and quality plan (SAQP) to the department to characterise the nature and extent of contamination at the premises to meet all of the requirements of this notice. The SAQP plan must address all relevant contaminants of concern for the premises and be prepared by a SQP. The plan must take into account preliminary investigations, sampling and analysis conducted by the State (OIR and the department). The following is also required:
 - a) Comments provided to you by the department by 16 ~~June~~ July 2020 (if any) must be incorporated in the sampling and analysis plan before conducting further monitoring; and
 - b) Evidence that this action has been taken by you must be sent by email to sunshinecoast.esr@des.qld.gov.au on or before the aforementioned time and date.
3. As soon as practicable but no later than 5pm on 2 ~~October~~ November 2020 you must have implemented the SAQP to accurately delineate the current nature and extent of uncontrolled fill¹ at the premises and any contamination of soil and groundwater that may have arisen from the storage, burning and disposal of waste at the premises. You must have undertaken the following:
 - a) As a minimum, the sampling program must:
 - i) Quantify the volume of waste disposed at the premises; and
 - ii) Determine the nature and extent of any contamination arising from the waste disposal. This determination must include sampling and analysis for all relevant matrices (i.e. including waste, underlying soil and potentially groundwater and surface water) for all contaminants of potential concern in the current and established area of impact; and

¹ Heterogenous fill obtained from unknown or uncontrolled sources

Notice to conduct or commission an environmental evaluation

- iii) Determine the severity of the contamination event(s) and harm caused; the potential fate of the contamination, including stored waste, ash waste and waste disposal; and the potential to cause additional environmental harm (e.g. via leaching); and
 - iv) Identify pathways and receptors including, but not limited to, the premises, surface waters, drainage lines, stormwater infrastructure, groundwater, etc. in the vicinity of the premises; and
 - v) Reference all relevant environmental screening levels, health screening levels and management limits and assessment criteria as outlined in NEPM; and
 - b) Ensure that sampling is undertaken in accordance with the *Queensland Monitoring and Sampling Manual 2009, Version 2, July 2013* (or more recent version if available) and reported with details of how the sampling was carried out; and
 - c) Include the Global Positioning System (GPS) coordinates of the locations where samples were collected, where the waste is located, and an appropriately scaled map showing the sample locations; and
 - d) Include analytical results of all monitoring activity(s), including the original certificates of analysis as received and Quality Assurance/Quality Control data; and
 - e) An environmental report, as evidence that these actions has been taken by you, must be sent by email to sunshinecoast.esr@des.qld.gov.au on or before the aforementioned time and date.
4. As soon as practicable but no later than 5pm on 2 ~~November~~ December 2020, having regard to the outcomes of **Requirement 3**, the SQP must develop and submit to the department a program of works/remedial action plan to recover all waste; remediate any identified contamination; and suitably remove, and when required, dispose of waste and contaminated material. The SQP must provide the likely timeframes to complete the work. The program of works/remedial action plan must include, but not be limited to, the following:
- a) The identification of options to remove or reduce the concentration of on-site (i.e. at the premises) and off-site contamination to ensure the:
 - i) Risk to human health, is at acceptable levels as described in NEPM Schedule B4: Guideline on Site-Specific Health Risk Assessment Methodology; and
 - ii) Restoration and ongoing protection of the environmental values of the receiving environment within and beyond the boundary of the site; and
 - b) Laboratory analysis requirements to characterise material for suitable disposal and removal; and
 - c) Include a description of all anticipated remediation works and predicted costs; and
 - d) Include a description of the anticipated implementation timeframes for the required remediation works; and
 - e) Based on the established extent of the release of contaminants, describe all relevant remediation options before recommending a preferred option. Remediation options must ensure all contaminants are suitably remediated and the ongoing protection of the environmental values of the receiving environment and human health; and
 - f) Evidence that the above actions have been undertaken by you must be sent by email to sunshinecoast.esr@des.qld.gov.au on or before the aforementioned time and date.
5. The remediation action plan listed in **Requirement 4**:
- a) Must be provided to the department for review on the suitability of the plan and compliance with the Requirement 4; and
 - b) Comments provided to you by the department by 16 ~~October~~ November 2020 (if any) must be incorporated into the remediation action plan before commencing the works.

Notice to conduct or commission an environmental evaluation

6. The environmental investigation must be carried out by, and an environmental report and remedial action plan prepared, by an SQP.

Definitions

'environmental harm' is defined in section 14 of the Act as:

- (1) Environmental harm is any adverse effect, or potential adverse effect (Whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.
- (2) Environmental harm may be caused by an activity —
 - (a) whether the harm is a direct or indirect result of the activity; or
 - (b) whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

'environmental value' is defined in section 9 of the Act as:

- (a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
- (b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

'precursor' means a substance from which another substance is transformed

'suitably qualified person' (SQP) means

- (a) a person who is a SQP pursuant to Part 3, section 564 of the Act; and
- (b) a person or persons who has demonstrated professional qualifications, training, skills or experience relevant to PFAS and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

'waters' includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water, natural or artificial watercourse, bed and bank of any waters, dams, non-tidal, or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater runoff, and groundwater and any part thereof.

**The environmental report must be submitted to the department on or before: ~~Friday, 2 October 2020~~
Monday 2 November 2020**

As the recipient of this notice, you are also required to provide a statutory declaration in the form attached, to accompany the environmental report submitted to the department.

The suitably qualified person who prepares the environmental report must also provide a statutory declaration in the form attached to the environmental report submitted to the department.

Copies of the template statutory declarations can also be accessed from the Queensland Government website at www.qld.gov.au, using the publication number as a search term:

1. Statutory declaration environmental evaluation for recipient ([ESR/2016/1997](#))
2. Statutory declaration for suitably qualified person ([ESR/2016/2266](#))
3. Statutory declaration environmental evaluation for auditor ([ESR/2016/2265](#))

Notice to conduct or commission an environmental evaluation

Take notice:

1. The requirements of the notice to conduct or commission an environmental investigation take effect immediately upon service of this notice;
2. This notice remains in force until further notice from the department; and
3. You are responsible for meeting the costs of conducting or commissioning the environmental evaluation, preparing the environmental report and providing any further information as requested by the department. Where applicable, the costs may be shared by you and Rodney William KUPFER for any duplicate requirements detailed in your respective notices pursuant to this matter.

C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act.

A person who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must:

- be made within 10 business days of the decision being notified to the person;
- be supported by enough information to enable the department to decide the application for review; and
- be made using the application form, Application for review of original decision ([ESR/2015/1573](#)) available on the Queensland Government website at www.qld.gov.au, using the publication number (ESR/2015/1573) as a search term.

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet, Internal review and appeals ([ESR/2015/1742](#)) available on the Queensland Government website at www.qld.gov.au, using the publication number (ESR/2015/1742) as a search term.

The information sheets are available on the Queensland Government website at www.qld.gov.au, using the publication number as a search term.

You may have other legal rights or obligations and should seek your own legal advice.

D. Penalty

Failure to comply with a notice to conduct or commission an environmental evaluation is an offence.

1. The maximum penalty for an individual is 300 penalty units, totalling \$40,035.00.
2. The maximum penalty for a corporation is 1500 penalty units, totalling \$200,175.00.

Should you have any queries in relation to this notice, please contact Rod Garner of the department on telephone number 07 5459 6132.

Notice to conduct or commission an environmental evaluation



Signature

2 June 2020

Date

Liz Clarke
Manager(Compliance)
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

Enquiries:
Sunshine Coast Compliance
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