Notice

Environmental Protection Act 1994

Clean-up Notice

This clean-up notice is issued by the administering authority pursuant to section 363H of the Environmental Protection Act 1994 to advise you of a decision requiring you to take the stated action in regard to a contamination incident.

Cloncurry Shire Council
19 – 21 Scarr Street
CLONCURRY QLD 4824
[By email: council@cloncurry.qld.gov.au]

Your reference: STAT1104
Our reference: CA43575, 101/0008801

23 January 2017

Take notice: that under section 363H of the *Environmental Protection Act 1994* (the Act) a Clean-up Notice is issued to Cloncurry Shire Council by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

The clean-up notice is issued in respect to a compliance inspection carried out by environmental officers from the department on 05 December 2016. The inspection identified a significant quantity of drums, many with their contents spilled on the ground, at the Cloncurry waste disposal facility at land described as Lot 159 CP867187, Burke Development Road Cloncurry (the premises).

A. Grounds

The clean-up notice is issued on the following grounds:

1. A contamination incident has occurred that the department is satisfied has caused, or is likely to cause, serious or material environmental harm.
2. Cloncurry Shire Council is considered a prescribed person for a contamination incident pursuant to section 363G of the Act because it is the occupier of the premises at which the incident is happening or has happened.

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

1. Cloncurry Shire Council operates a waste disposal facility on Lot 159 CP867187 which is authorised by Environmental Authority EPPR00789613, formerly IPDE00070104D46 (the EA), and is the occupier of the premises.
2. Condition Waste 3 of the EA states:
   'Waste acceptance: Notwithstanding any condition of this approval, the following waste materials are not permitted or allowed to be deposited in the landfill unit:
   a) Liquid or semiliquid waste other than liquid or semiliquid waste which has been produced in carrying out the ERA'

ABN 46 640 294 485

3. On 5 December 2016 EHP officers conducted an inspection of the premises and noted a significant quantity of drums deposited at the premises. Many of the drums had part of their contents spilled on the ground and the material spilled appeared to be waste oil.
4. As indicated by the photographs in Attachment 1, the area where the drums had been placed had been contaminated.
5. EHP officers have formed a view that at least some of the spilled contaminants are hydrocarbons.
6. The cost of completely cleaning up the drums and contamination would be expected to exceed the $5 000 threshold for material environmental harm.
7. It is considered that given the quantity of drums and resultant contamination of soil, that a contamination incident has occurred as defined in section 363F of the *Environmental Protection Act 1994*.
8. The contaminants observed meet the definition of a contaminant pursuant to section 11 of the Act.
9. The full spatial extent of the contamination has not been determined and the potential for biodegradation is unknown.
10. The contaminants pose a risk of contamination to groundwater.
11. There is a potential for the contaminants to be released to surface waters.
12. The contamination of soil and potential contamination of surface waters and groundwater aquifers is likely to impact the environmental values of surface and groundwater and may cause environmental harm that will persist until remediated.

B. Requirements

You are required to do the following:

1. By **close of business 28 February 2017:**
   a) Unlabelled drums (that have contents which cannot be identified) must be placed into one or more impermeable receptacles (eg skip bins) capable of containing the liquid waste
   b) Labelled drums (which do have identifiable contents) must be emptied into one or more impermeable receptacles (eg tanks) capable of containing the liquid waste.
   c) Implement steps to prevent the release of contaminants to waters.
2. You must prevent the ingress of rainfall into the tanks mentioned in item 1.
3. By **10 March 2017** remove the drums and the liquid waste from the premises and transport these items to a facility authorised to receive them using a transporter authorised to transport the waste.
4. By **17 March 2017** provide written evidence to the administering authority that requirements 1 to 3 have been satisfied.
5. By **17 February 2017** erect signage directing that liquid wastes cannot be accepted at the premises and take measures to identify persons who do not comply with the direction (e.g. install cameras to record vehicle registration numbers).

Note:

- The requirements of the clean-up notice take effect immediately upon service of the notice.
- This notice remains in force until further notice from the administering authority.

C. Appeal rights

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act. Internal review of the decision to issue a clean-up notice is not available. If you are dissatisfied with the decision to issue this clean-up notice, you may apply to the relevant court for a stay of the decision to issue the clean-up notice.

A person who is dissatisfied with the decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the 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 appeal to the Planning and Environment Court (EM1866)[1].

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

D. Penalties

Failing to comply with a clean-up notice is an offence unless you have a reasonable excuse.

- The maximum penalty for an individual for wilfully contravening a clean-up notice is 6250 penalty units, totalling $736,250.00 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening a clean-up notice is 31,250 penalty units, totalling $3,681,250.00.
- The maximum penalty for an individual contravening a clean-up notice is 4500 penalty units, totalling $530,100.00.
- The maximum penalty for a corporation contravening a clean-up notice is 22,500 penalty units, totalling $2,650,500.00.

If you do not comply with the clean-up notice, an authorised person may also take any of the actions stated in the notice and the department may recover from you the costs incurred in taking the actions.

Should you have any queries in relation to the notice, please contact Kirsten Wright on telephone number 4722 5362.

T. B—

Signature

23 January 2017

Date

Tim Brain
Manager (Compliance)
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

Enquiries:
Kirsten Wright
Department of Environment and Heritage Protection
Level 10 Verde Tower, 445 Flinders Street
PO Box 5391
TOWNSVILLE QLD 4810
Ph: (07) 4722 5362
Email: kirsten.wright@ehp.qld.gov.au

[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.ehp.qld.gov.au.

Attachment 1: Photos taken on 5 December 2016 at the premises by EHP officers.







