Notice

Environmental Protection Act 1994

Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Terrence James Munroe
PO Box 885
NUNDAH QLD 4012

AND HAND DELIVERED

Your reference: Evergreen Waste Solutions Pty Ltd; EPSX03606015

Our reference: STAT1244

25 May 2018

Dear Mr Munroe

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Terrence James Munroe (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science, formerly the Department of Environment and Heritage Protection, (the department).

The EPO is issued in respect to the activities of Evergreen Waste Solutions Pty Ltd (ACN 606 767 962) (EWS) at 65 Telford Street, 39 Ullswater Street and 33 Ullswater Street, Virginia; on land described as Lots 44, 45, 46 RP26037 respectively (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. To secure compliance with the general environmental duty pursuant to section 358(d)(i) of the Act. The General Environmental Duty is detailed in section 319 of the Act which states the following:

   *A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practical actions to prevent or minimise the harm (the **general environmental duty**).*

2. To require you as the related person to take reasonable requirements pursuant to section 363AD of the Act.

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

ABN 46 640 294 485

1. On 2 March 2017 authorised officers from the department inspected the premises and determined that environmentally relevant activities were being carried out at the premises, including the storage of regulated wastes. The department considers that the waste was transported to the premises between March 2016 and – August 2016 and that the storage was ongoing.
2. On 2 March 2017 authorised officers observed containers of regulated waste which had spilled onto the land, were leaking, corroded and not within covered or bunded areas.
3. The storage of large volumes of regulated waste can pose a significant risk to the environment. In the event of a leak the impacts can result in contamination of the soil, groundwater and surface waters. As a result, authorised officers considered that all reasonable and practicable measures were not being taken to prevent or minimise the environmental harm.
4. Environmental authority EPSX03606015 (EA) for regulated waste transport (environmentally relevant activity 57) is held by EWS. Condition 7 of the EA requires that regulated waste must not be removed or released from any vehicle other than at a facility that can lawfully receive the regulated waste.
5. The department considers that EWS have transported regulated wastes to the premises and stored regulated wastes at the premises in contravention of Condition 7 of the EA as there was no environmental authority to store, recycle, reprocess or dispose of regulated wastes. By not complying with condition 7 of the EA, not all reasonable and practicable actions to prevent or minimise the harm were undertaken.
6. No approval of a resource exists for an end of waste approval under the *Waste Reduction and Recycling Act 2011*. Therefore, regulated waste transported to the premises is a regulated waste and not a resource.
7. On 2 March 2017, authorised officers took samples from the premises which have been analysed at a NATA accredited laboratory. The results of this samples confirm the existence of regulated wastes at the premises, some of which are included in Note[1] below.
8. Under section 363AD of the Act, an EPO may be issued to related person of high risk company and may impose a requirement on the related person that could be imposed on the high risk company.
9. A high risk company is defined in section 363AA of the Act as a company that is an externally-administered body corporate within the meaning given by the *Corporations Act* section 9.
10. On 12 October 2017 authorised officers of the department conducted an ASIC search which identified that EWS is in external administration, with a liquidator appointed on 22 September 2017. The department is satisfied that EWS is a high risk company on this basis.
11. Under section 363AB(1)(d) of the Act, a person is a related person of a company if the administering authority decides under section 363AB of the Act that the person has a relevant connection with the company.
12. Under section 363AB(2) of the Act, the administering authority may decide a person has a relevant connection with the company if satisfied:
    a. The person is capable of significantly benefiting financially, or has significantly benefited financially, from the carrying out of a relevant activity by the company; or
    b. The person is, or has been at any time during the previous 2 years, in a position to influence the company's conduct in relation to the way in which, or the extent to which, the company complies with its obligations under the Act.

13. The relevant activities include the regulated waste transport, regulated waste storage and transport and storage of regulated waste.
14. The department has decided that you have a relevant connection to EWS for the following reasons:
    - An Australian Securities and Investment Commission's (ASIC) database search for the company details of EWS identified that were a director of EWS between 30 June 2015 and 22 September 2017;
    - You have significantly benefited financially from the carrying out of a relevant activity by EWS (storage of regulated waste at the premises) for a period longer than in transit;
    - You had a financial interest in EWS, including income and revenue. Financial benefit incudes profit, income, revenue and an advantage whether direct or indirect that is received, obtained, preferred or enjoyed by you. During interview of 15 March 2017 with authorised officers you advised that your income was paid by EWS; and
    - During the previous two (2) years, you have been in a position to influence the conduct of EWS in relation to the way in which, or extent to which, EWS complies with its obligations under the Act. In particular, on 15 March 2017 you advised:
        - In 2015 you started up EWS;
        - You were at that time managing director of EWS and had 4 employees directly reporting to you;
        - You were aware of the EWS EA conditions; and
        - You understood the need to ensure EWS has an EA authorised to accept the particular waste prior to sending that waste to the facility.
15. On 26 July 2016 you sent an email to Enviro Site Demolition Pty Ltd including a dropbox link to waste manifest for the waste which had been taken to the premises, including reference to a discussion you had have with Myron Lichtnauer the week previously in relation to the matter.
16. On 1 August 2016 you were sent an email which included invoicing for the disposal and storage of regulated waste activities at the premises in relation to Enviro Site Demolition Pty Ltd, providing an opportunity for you to be aware of the regulated waste arrangements that had occurred at the premises.
17. Wastes (including non-regulated wastes which are wastes other than those defined in Note[1]) have been taken to the premises in quantities exceeding the minimum threshold for carrying out an environmentally relevant activity for waste transfer station operation (of 30t or 30m^3 of waste on any day) as specified under schedule 2 of the *Environmental Protection Regulation 2008* (the Regulation) and without the appropriate environmental authority authorising this activity. This has occurred on 14 April 2016, 19 April 2016 and 20 May 2016 by EWS and/or transporters sub-contracted to undertake transport for EWS.
18. On 15 March 2017 you advised that you authorised only glue and asbestos to go to the premises with the glue being for 'beneficial reuse' so you didn't consider the requisite waste tracking provisions applied. Glue and asbestos are regulated wastes, for which the waste receiver did not hold the appropriate environmental authority to receive, recycle, reprocess or store regulated waste and so the waste tracking provisions applied.
19. The department has considered section 363ABA(b) of the Act and determined that you did not take all reasonable steps as the director of EWS, to ensure that EWS complied with its obligations under the Act.

20. The department considers that you were aware of and participated in the arrangements made for the disposal of regulated waste to the premises, which was not limited to glue and asbestos.
21. There is a departmental guideline for "Issuing 'chain of responsibility' environmental protection orders under Chapter 7, part5, Division 2 of the *Environmental Protection Act 1994"* which has been prescribed under the Regulation and took effect on 27 January 2017, relevant to provisions in force under section 548A of the Act to which the Department must have regard in making this decision. This department has considered that guideline in making this decision.
22. On 23 January 2018 you requested a doubling (and subsequently in that discussion tripling) of the initial proposed timeframe for the complete removal of waste which was initially proposed for 2 months. Your current circumstances has been taken into consideration and 4 months is considered to be a reasonable timeframe for the waste removal.

B. Requirements

In accordance with this EPO, you are required to do the following:

1. By 8 June 2018 you must:
   a) Assess the containers of both regulated waste[1] and non-regulated waste which have been taken to the premises by EWS (including by persons working for EWS, such as vehicles sub-contracted to undertake the transport on behalf of EWS); and
   b) Describe the waste including:
      I. photos of the waste container; and
      II. the waste type (whether or not it is regulated waste (see note [1]) and for non-regulated waste a generic description of the waste); and
      III. how the container is labelled and the state of the container (ie. damaged, corroded); and
      IV. whether the waste is a solid or liquid; and
      V. whether or not it is stored within a covered and bunded area; and
      VI. approximate volume or weight of the waste within the container.
2. By 15 June 2018 you must submit records to the department demonstrating compliance with requirement 1(a) and 1(b); and
3. By 29 June 2018 you must have commenced removal of waste from the premises which has been taken to the premises by EWS (including persons working for EWS, such as vehicles sub-contracted to undertake the transport on behalf of EWS); and
4. By 28 September 2018 you must remove from the premises all regulated waste which has been taken to the premises by EWS (including persons working for EWS, such as vehicles sub-contracted to undertake the transport on behalf of EWS); and
5. By 28 September 2018 you must remove all non-regulated wastes from the premises which has been taken to the premises by EWS (including persons working for EWS, such as vehicles sub-contracted to undertake the transport on behalf of EWS) above the 30t or 30m^3 threshold of waste received at the premises on any day; and
6. All regulated and non-regulated waste removed from the premises must be transported to a facility lawfully able to accept that waste; and

7. By 29 June 2018 and every week thereafter until you have complied with requirements 3, 4 and 5 of this notice, you must submit to the department a weekly summary containing:
   a) the containers of waste and regulated waste removed from the premises and a written correlation against the assessment undertaken at requirement 1. b); and
   b) the vehicle registration details used to transport the waste; and
   c) the details of the facility the waste is being transported to, who can lawfully accept the waste.
8. You must submit the required documentation outlined in requirements 2 and 7 to:

   ESComplianceBrisbaneMoreton@ehp.qld.gov.au; **and**

   Department of Environment and Science
   Attn: Nadine Cooper
   PO Box 808
   CABOOLTURE QLD 4150

Please note that you still required to submit the required waste tracking documentation to the department for the movement of any trackable waste as listed in Schedule 2E of the Regulation.

Note[1] Regulated waste includes any waste listed in Schedule 7 Part 1 of the Regulation. For the purposes of this notice, following is a reduced list of wastes that are regulated waste (see attached photos 1 – 24):

- acidic solutions, including milky white substance in blue drums labelled (sodium hydroxide) containing liquid with a pH of 2.6;
- basic solutions and bases in solid form; maxi foam; lime;
- chromium compounds (drum labelled chrome waste);
- containers contaminated with a regulated waste (empty IBC's with residues inside ie. paints);
- hydrocarbons and water mixtures or emulsions, including oil and water mixtures or emulsions;
- inorganic sulphides (sulphur prill);
- mercury and mercury compounds (containing fluorescent tubing);
- organic solvents;
- sewage tank sludges and residues (night soil/septic tank sludge);
- surface active agents (surfactants) 'forest pine" which also had a pH of 12.7 therefore is also a basic solution;
- paint;
- plasticisers, glues or other adhesives (such as PVA);
- clinker (potentially if it contains a regulated waste such as fly ash etc).

C. Obligations

If you propose to dispose of the place or business to which the EPO relates, you **must** advise the buyer of the existence of this EPO.

If you cease to carry out the activity to which this EPO relates, you **must** give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity.

Take notice:

- the requirements of this order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

- The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $788,437.50 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3 942,187.50.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $567, 675.00
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $2 838 375.00

Failure to provide written notice to the buyer is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $6,307.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.50.

Failure to provide written notice within 10 business days of ceasing the activity to the department is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $6,307.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.50.

Section 3 of the *Penalties and Sentences Regulation 2015* prescribes the monetary value of a penalty unit.

E. Reviews and appeals

The provisions regarding review of decisions and appeals may be 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 for review of an original decision form (ESR/2015/1573).[1]

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.

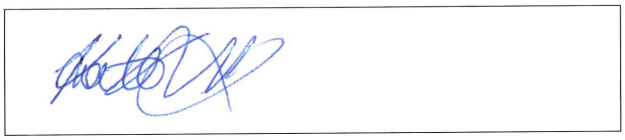
[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.ehp.qld.gov.au>.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able 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 appeal to the Planning and Environment Court (ESR/2015/1572). You may have other legal rights or obligations and should seek your own legal advice.

Should you have any queries in relation to the notice, please contact Nadine Cooper on telephone number 53168407.



Signature

25 May 2018

Date

Kate Harbert

Program Manager Compliance

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

Enquiries:

Brisbane Moreton Compliance

Nadine Cooper

Ph: (07) 53168407

Email:ESComplianceBrisbaneMoreton@ehp.qld.gov.au

EHP Reference STAT1244
File No. 101/0020683;

Attachment 1: Inspection of 65 Telford Street, Virginia
Conducted on 2 March 2017 by officers of the Department of Environment and Heritage Protection



Photo 1: Milky white substance, drum labelled sodium hydroxide

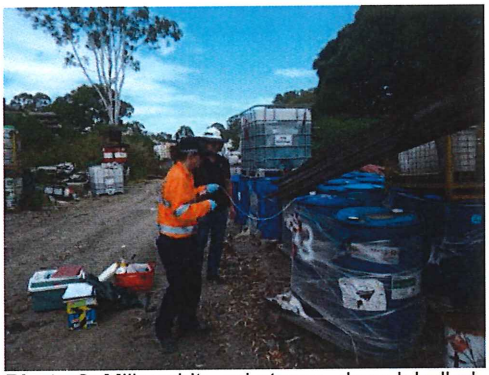


Photo 2: Milky white substance, drum labelled sodium hydroxide



Photo 3: Milky white substance, drum labelled sodium hydroxide



Photo 4: Maxi foam



Photo 5: Labelled chromium compounds, waste rags, gloves with strong solvent odour



Photo 6: Labelled chromium compounds, waste rags, gloves with strong solvent odour



Photo 7:



Photo 8: drums labelled tar, contents of IBC spilled on land

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File No. 101/0020683;

Attachment 1: Inspection of 65 Telford Street, Virginia
Conducted on 2 March 2017 by officers of the Department of Environment and Heritage Protection



Photo 9: Contents of IBC spilled on land



Photo 10: drums labelled mercury contaminated, containing crushed fluorescent bulbs



Photo 11: drums labelled mercury contaminated, containing crushed fluorescent bulbs



Photo 12: IBC's Forest Pine



Photo 13: IBC's Forest Pine



Photo 14: IBC's including solvents and hydrocarbons



Photo 15: IBCs including Forest Pine, septic and night soil



Photo 16: Drums with labelling of used paint and thinners

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Attachment 1: Inspection of 65 Telford Street, Virginia
Conducted on 2 March 2017 by officers of the Department of Environment and Heritage Protection



Photo 17: Sulphur (prill)

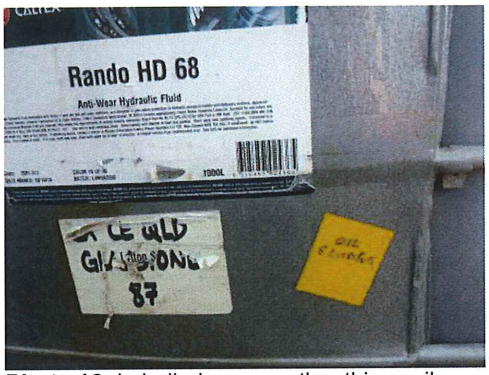


Photo 18: Labelled among other things oil sludge



Photo 19: labelled solvent

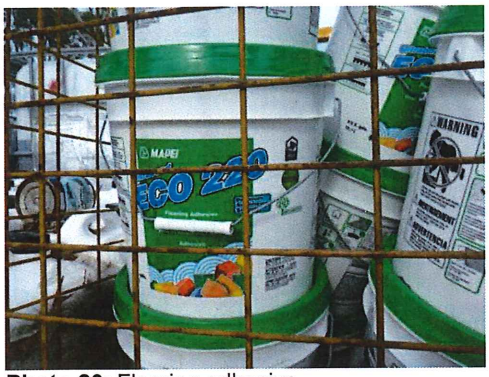


Photo 20: Flooring adhesive



Photo 21: Flooring adhesive not contained



Photo 22: Flooring adhesive on land



Photo 23: Empty regulated waste containers containing residue for example paint