

Prevention Notice



VE RESOURCE RECOVERY PTY LTD
79 656 004 983
PO BOX 228
NARELLAN NSW 2567

Attention: The Proper Officer

Notice Number 3508002
Reference Number REG-4758
Date 25-01-2024

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Why is the EPA writing to you?

The Environment Protection Authority (EPA) reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at 761 The Northern Road BRINGELLY NSW 2556 (Premises). The EPA has issued you with this Prevention Notice. Further information is set out in the notice below.

What are you required to do?

Please read this notice carefully and carry out the preventative action specified in this notice by the date required. If you have any queries about this matter, please contact Peter Bloem on (02) 4224 4117.

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Who is subject to the Notice?

VE Resource Recovery Pty Ltd is the occupier of premises at 761 The Northern Road, Bringelly described as Lot 102 DP 746955 (Premises).

VE Resource Recovery Pty Ltd holds Environment Protection Licence No 11233 (Licence), which authorises the scheduled activities of composting, waste storage and recovery of waste at the Premises.

As the holder of the Licence, VE Resource Recovery Pty Ltd is the occupier of the Premises for the purposes of s 96(2)(a) of the Act.

Background

- A. The EPA understands that the Premises is known as the Greenlife Resource Recovery Facility (Greenlife), which is a business name registered to a partnership associated with Domenic Vitocco, who is also an alternate director of VE Resource Recovery Pty Ltd.
- B. The EPA is aware that mulch products are produced at the Premises and supplied by Greenlife.
- C. The EPA is investigating mulch used for landscaping at various sites which has been tested and found to contain fragments of foreign materials, some of which have tested positive for bonded asbestos.

These sites include:

- i) the Rozelle Parklands, which have been created as part of the M4-M8 motorway tunnel link and Rozelle Interchange project,
 - ii) the Prospect Highway Upgrade Project at Prospect, and
 - iii) the Sydenham to Bankstown Railway corridor.
- D. The EPA understands that the mulch used at each of these sites was supplied by Greenlife and sourced from the Premises.
 - E. On 15 January 2024, the EPA attended the Premises to collect samples of mulch.
 - F. On 24 January 2024, the EPA received further information from Transport for NSW about the placement of mulch at the three sites above and which identified the source of that mulch to be the Premises.

Environment Protection Law

- G. The EPA is the appropriate regulatory authority in respect of activities carried on at a premises defined in an environment protection licence, including the Premises.
- H. Section 96 of the Act enables the EPA to issue a Prevention Notice where it reasonably suspects an activity has been or is being carried on in an environmentally unsatisfactory manner. Pursuant to s 95 of the Act and for the purposes of Part 4.3, an activity is carried on in an environmentally unsatisfactory manner if:
 - a. it is carried on in contravention of, or in a manner that is likely to lead to a contravention of, this Act, the regulations or a condition attached to an environment protection licence (including a condition of a surrender of a licence) or an exemption given under this Act or the regulations, or
 - b. it causes, or is likely to cause, a pollution incident, or
 - c. it is not carried on by such practicable means as may be necessary to prevent, control or

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minimise pollution, the emission of any noise or the generation of waste, or
d. it is not carried on in accordance with good environmental practice.

I. The Dictionary to the 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.
- b. "Pollution" as including land pollution, where "Land pollution" 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,

but does not include placing in or on, or otherwise introducing into or onto, land any substance excluded from this definition by the regulations.

J. Clause 133 of the Protection of the Environment Operations (General) Regulation 2022 provides that the following matters are prescribed for the purposes of paragraph b) of the land pollution definition:

- a. Hazardous waste,
- b. Restricted solid waste,
- c. More than 10 tonnes of asbestos waste,
- d. More than 5 tonnes of waste tyres or more than 500 waste tyres.

K. Asbestos waste is defined in the Act to mean any waste that contains asbestos.

L. The EPA reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at the Premises in that:

- A. Mulch supplied from the Premises has been found to contain fragments of bonded asbestos (and can therefore be classified as asbestos waste) and has been placed on land outside the Premises,
- B. More than 10 tonnes of asbestos waste has been applied to land outside the Premises in the form of mulch containing bonded asbestos fragments, which meets the definition of land pollution under the Act,
- C. The ongoing production and supply of mulch at the Premises may cause a pollution incident outside the Premises and could lead to a contravention of the Act.

M. The EPA is directing you to take the action specified in this notice because you are the occupier of the Premises.

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DIRECTION TO TAKE PREVENTIVE ACTION

The EPA directs VE RESOURCE RECOVERY PTY LTD to take the following preventative action:

1. Immediately, on receipt of this notice:
 - a. cease any production of mulch products at the Premises;
 - b. cease exporting any mulch products from the Premises
 - c. do not move any existing stockpiles of mulch products at the Premises until directed otherwise in writing by the EPA.

FEE TO BE PAID

- You are required by law to pay a fee 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.



Julian Thompson
Manager Regional Operations
(by Delegation)

WARNINGS AND INFORMATION ABOUT THIS PREVENTION NOTICE

- This notice is issued under section 96 of the Act.
- It is an offence against the Act not to comply with this notice.
- Details provided in this notice will be available on the Public Register in accordance with section 308 of the Act.
- If this notice is issued to a corporation and the notice is not complied with by the date specified, the EPA may, under s 96A(2) of the Act, issue a supplementary prevention notice to a current or former director or manager, or a related body corporate, directing them to carry out, or ensure the carrying out of, preventative action specified in the supplementary notice.

Penalty for not complying with this notice



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

Appeals against this notice

- You can appeal to the Land and Environment Court against this notice. The deadline for lodging your appeal is 21 days after you were served with the notice.

When this notice begins to operate

- This notice operates from the day the notice is given, unless a later date is specified in the notice.
- If an appeal is made against the notice, and the Land and Environment Court directs that the notice is stayed, the notice does not operate until the stay ceases to have effect, or the Land and Environment confirms the notice, or the appeal is withdrawn (whichever occurs first).

Continuing obligation

- Under section 319A of the Act, your obligations to comply with this notice continue until the notice is complied with in full, even if the due date for compliance has passed.

Occupier's duty

- If you are given this notice as the occupier of the Premises but you are not the person carrying on the activity giving rise to this notice, this notice is taken to require you to take all available steps to cause the action to be taken.

Deadline for paying fee

- The fee must be paid by **no later than 30 days after the date of this notice unless you appeal** to a court against the notice, or unless the EPA extends the time for payment of the fee or waives the fee. If you do appeal this notice the fee does not have to be paid unless and until the court confirms the notice.

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 extension of time to pay/waive the fee

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

Other costs

- The 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 required to pay these other costs and expenses you will be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

Variation or revocation of this notice

- The requirements of this notice may only be varied or revoked by written notice issued by the EPA.