



Licence 11233

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

Attention: The Proper Officer

Notice Number           3508037  
Reference Number       REG-4782  
Date                       02-02-2024

## Clean-up Notice

### Why is the EPA writing to you?

The Environment Protection Authority (EPA) reasonably suspects that VE Resource Recovery Pty Ltd has contributed to a pollution incident that has occurred or is occurring on land that forms part of the Rozelle Interchange project at Rozelle NSW 2039 and the Prospect Highway Upgrade at Blacktown NSW 2148. The EPA has issued you with this Clean-up 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 clean-up 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.

### BACKGROUND

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997* (Act).
- B. VE Resource Recovery Pty Ltd holds Environment Protection Licence No 11233, which authorises the scheduled activities of composting, waste storage and recovery of waste to be carried out at 761 The Northern Road, Bringelly (Premises).
- C. The EPA understands that the Premises is known as the Greenlife Resource Recovery Facility, 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 (VE Resource Recovery).

- D. The EPA understands that recycled mulch is produced by VE Resource Recovery at the Premises and is supplied under the name Greenlife Resource Recovery or Greenlife Fertilisers (Greenlife).
- E. The EPA is investigating recycled mulch used for landscaping at the Rozelle Parklands and adjacent areas, being areas created as part of the Rozelle Interchange project. This recycled mulch has been tested and found to contain fragments of foreign materials, some of which have tested positive for bonded asbestos.
- F. The EPA is aware that recycled mulch was also used for landscaping on land that forms part of the Prospect Highway Upgrade between Reservoir Rd Prospect and St Martins Crescent, Blacktown NSW. The EPA has collected samples from this site which have undergone laboratory analysis. The testing has confirmed the recycled mulch contains construction and demolition waste and some samples include asbestos.
- G. The EPA understands that the recycled mulch used at these sites was produced at the Premises occupied by VE Resource Recovery.

### **Environment Protection Law**

- H. Section 91(1)(c) of the Act provides:

*“The appropriate regulatory authority may, by notice in writing, do 1 or more of the following -*

*(c) direct a person who is reasonably suspected by the authority of contributing, to any extent, to a pollution incident,*

*to take such clean-up action as is specified in the notice and within such period as is specified in the notice.”*

- I. Section 91(2) of the Act provides: *“The EPA may, if it considers that it is necessary to do so because of an emergency, give the clean-up notice even if it is not the appropriate regulatory authority with respect to the pollution incident.”*

- J. The Dictionary to the Act defines:

- *“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.
- *“Pollution”* as including land, water, and air pollution.
- *“Air pollution”* means the emission into the air of any air impurity.
- *“Land pollution”* or *“pollution of land”* as the 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—
  - i. that causes or is likely to cause degradation of the land, resulting in actual or potential harm to
  - ii. the health or safety of human beings, animals or other terrestrial life or ecosystems, or actual or
  - iii. potential loss or property damage, that is not trivial, or
  - iv. 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 regulation.
- *“Clean-up action”*, in relation to a pollution incident, includes—
  - a. action to prevent, minimise, remove, disperse, destroy or mitigate any pollution resulting or likely to result from the incident, and

- b. ascertaining the nature and extent of the pollution incident and of the actual or likely resulting pollution, and
- c. preparing and carrying out a remedial plan of action.

It also includes (without limitation) action to remove or store waste that has been disposed of on land unlawfully.

- K. 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.

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

**A pollution incident has occurred, is occurring and is likely to occur**

- M. The EPA reasonably suspects that a pollution incident has occurred or is occurring on the land that forms part of the Rozelle Interchange project at Rozelle and the Prospect Highway Upgrade at Blacktown, namely because:

- a. More than 10 tonnes of asbestos waste has been applied to land in the form of recycled mulch containing asbestos, meeting the definition of land pollution under the Act.

- N. The EPA has identified that Greenlife supplied recycled mulch to various sites and entities between 1 March 2023 and 31 December 2023.

- O. The EPA considers that the supply of recycled mulch with asbestos containing materials constitutes a health risk that is more than a remote chance or possibility.

**The EPA reasonably suspects VE Resource Recovery Pty Ltd has contributed to the pollution incident**

- P. On 12 January 2024, the EPA issued Dominic Vitocco (an alternate director of VE Resource Recovery Pty Ltd) and Adrian Runko with notices to Provide Information and Records (Notices SR-1955 and SR-1956) in relation to its investigation.
- Q. On 15 January 2024, the EPA received responses to Notices SR-1955 and SR-1956. The response identified that between 1 March 2023 and 31 December 2023, various sites and entities received recycled mulch produced at the Premises, including for the purposes of the Rozelle Interchange Project and the Prospect Highway Upgrade.
- R. On 24 January 2024, the EPA received information from Transport for NSW, which also identified the source of the mulch supplied to the Rozelle Interchange Project and the Prospect Highway Upgrade to be the Premises.
- S. The EPA has collected samples from recycled mulch at the Rozelle Interchange Project and the Prospect Highway Upgrade sites, which have undergone laboratory analysis. The testing has confirmed the recycled mulch contains fragments of foreign materials, some of which has tested positive for bonded asbestos.
- T. On the basis of this information, the EPA reasonably suspects that VE Resource Recovery has contributed to the pollution incident for the purposes of s 91(1)(c) of the Act.

U. The EPA is concerned that recycled mulch produced at the Premises and supplied to other sites may also contain asbestos.

**The EPA considers it is necessary to issue this Clean-Up Notice in response to an emergency**

V. The EPA considers that the pollution incident constitutes an emergency due to the risk of harm to the environment and human health that would be caused by the resulting pollution to land. On this basis, under the provisions of section 91(2) of the Act, the EPA considers that it is necessary to issue this Clean-Up Notice.

**The EPA is directing VE Resource Recovery to take clean-up action**

W. The EPA is directing VE Resource Recovery to take the clean-up action specified in this Notice because the EPA reasonably suspects VE Resource Recovery of contributing to the pollution incident.

**DIRECTION TO TAKE CLEAN-UP ACTION**

The EPA directs VE RESOURCE RECOVERY PTY LTD to take the following clean-up action:

1. By 5pm on 9 February 2024 contact all the persons who received recycled mulch from VE Resource Recovery between 1 March 2023 and 31 December 2023 and provide them with a copy of Schedule 1 to this Notice.
2. By 5pm on 16 February 2024, provide to the EPA evidence of the notification.
  - Evidence of the notification must include the following information:
    - o company name,
    - o details of the person contacted,
    - o date and method of contact,
    - o copy of any response received from recipient.
  - Evidence must be provided to the EPA via email to [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)

**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.



**Peter Bloem**  
**Manager Regulatory Operations**

(by Delegation)

#### **WARNINGS AND INFORMATION ABOUT THIS CLEAN-UP NOTICE**

- This notice is issued under section 91 of the Act.
- It is an offence against the Act not to comply with a clean-up notice unless you have a reasonable excuse.
- 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 91A(2) of the Act, issue a supplementary clean-up 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, clean-up action specified in the supplementary notice.

#### **Penalty for not complying with this notice**

- 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.

#### **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.

#### **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 in full, even if the due date for compliance has passed.

#### **Cost recovery from the person(s) who caused or contributed to the incident**

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



# Clean-Up 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 an 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 later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

## Variation of this notice

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



# Clean-Up Notice

---

## SCHEDULE 1

The NSW Environment Protection Authority (**EPA**) is currently investigating the sources of bonded asbestos found in areas at the Rozelle Interchange and the Prospect Highway Upgrade where recycled mulch produced at our premises was used. Please contact the EPA on 131 555 if you are concerned about the recycled mulch you have received from our premises. The EPA can arrange for the mulch to be tested.

The EPA requests that you advise the persons or entities to whom you sold or supplied the recycled mulch to also contact the EPA if they have any concerns.