POLLUTION ABATEMENT NOTICE
No. 2018/02

(Issued pursuant to section 77 of the Waste Management and Pollution Control Act)

Issued to: DWD Project Pty Ltd (ACN 601 276 108)
Address: 6 Carey Street,
Darwin NT 0801
Email Address: michael@rapidformsystems.com

In relation to the “premises”:

Lot 5280 Town of Darwin, also known as
4 Mavie St, Darwin City NT 0800; and

North-western corner of Lot 10176 Town of Darwin, also known
as 41 Stokes Hill Rd, Darwin City NT 0800; and

Northern end of Lot 10177 Town of Darwin, also known as
2 Stokes Hill Rd, Darwin City NT 0800.

Reasons:

I, Dr Paul Vogel, Chair of the Northern Territory Environment Protection Authority (NT EPA)
pursuant to Section 77 of the Waste Management and Pollution Control Act (“the Act”),
believe on reasonable grounds that:

1. The “premises” for the purposes of this notice and as depicted in Attachment 1
   comprises:
   i. Lot 5280 Town of Darwin, also known as 4 Mavie St, Darwin City NT 0800; and
   ii. North-western corner of Lot 10176 Town of Darwin, also known as 41 Stokes
       Hill Rd, Darwin City NT 0800; and
   iii. Northern end of Lot 10177 Town of Darwin, also known as 2 Stokes Hill Rd,
        Darwin City NT 0800;
2. DWD Project Pty Ltd is the owner and occupier of Lot 5280 Town of Darwin, also
   known as 4 Mavie St, Darwin City NT 0800;
3. Michael Adrian Anthony (Mr Anthony) is the sole director of DWD Project Pty Ltd;
4. DWD Project Pty Ltd took ownership of Lot 5280 (also known as 4 Mavie St, Darwin
   City NT 0800) on 20 October 2015;
5. DWD Project Pty Ltd has occupied the north-western corner of Lot 10176 Town of
   Darwin (also known as 41 Stokes Hill Rd, Darwin City NT 0800) without permit or
   consent;
6. DWD Project Pty Ltd has occupied the northern end of Lot 10177 Town of Darwin
   (also known as 2 Stokes Hill Rd, Darwin City NT 0800) without permit or consent;
7. Lot 10176 Town of Darwin (also known as 41 Stokes Hill Rd, Darwin City NT 0800) is
   vacant Crown Land under the control of the Department of Infrastructure, Planning
   and Logistics;
8. Lot 10177 Town of Darwin, also known as (2 Stokes Hill Rd, Darwin City NT 0800) is
   vacant Crown Land under the control of the Department of Infrastructure, Planning
   and Logistics;
9. DWD Project Pty Ltd has conducted waste and contaminant deposition and disposal activities at the premises from a date between 20 October 2016 and 15 July 2017 until 27 April 2018;
10. On 24 April 2018, authorised officers (officers) under the Act attended the premises following a public pollution report received by the NT EPA on its Pollution Hotline;
11. At the premises, officers observed significant quantities of waste material consistent with construction and demolition waste that had been partially landscaped to form a flat surface;
12. Construction and demolition waste falls within the definition of waste under the Act;
13. Waste and contaminants were observed to be varied in type, amount, colour and make up and incorporated steel and steel mesh, concrete blocks, tiles, plastic and concrete waste and other materials;
14. Waste and contaminants were observed to form the entire land boundary between the land and sea portions (Darwin Harbour) of the premises;
15. Officers estimated the height of the waste and contaminants forming the land boundary to be in excess of 100 metres in length and 6 metres in depth;
16. Officers observed a bulldozer operating across the premises and observed the bulldozer pushing waste over the edge of the land portion of the premises into the intertidal zone and into Darwin Harbour;
17. At approximately 1500 hours on 24 April 2018 officers were approached by a man who identified himself as Mr Anthony, the owner of the premises;
18. Mr Anthony informed officers he was depositing ‘fill’ on the premises to reclaim the land and extend the land boundary of the premises into Darwin Harbour;
19. Mr Anthony informed officers that the ‘fill’ had come from multiple demolition sites around Darwin over the past six to eight months;
20. On 26 April 2018 in an interview under caution with officers at the premises, Mr Anthony confirmed that he had arranged for the deposition of the ‘fill’ at the premises to reclaim the land and extend the land and that the ‘fill’ had come from multiple demolition sites around Darwin;
21. On 27 April 2018 officers directed Mr Anthony of DWD Project Pty Ltd, to immediately prevent the further deposition/disposal of waste or other materials used in land reclamation at the premises;
22. On 30 April 2018 officers attended the premises and conducted indicative pH tests of wastes from separate areas at the premises;
23. Two of the samples of waste that were tested had the visible characteristics and consistency of concrete waste;
24. pH tests of both these waste samples indicated that each had a pH of 11 (highly basic/alkaline);
25. Under Schedule 2 of the Waste Management and Pollution Control (Administration) Regulations, basic solutions or bases in solid form are considered as a listed waste;
26. Basic solutions or bases in solid form also fall within the definition of a contaminant under the Act;
27. A chronology of aerial photographs taken of the premises between 13 April 2013 and 24 June 2018 and depicted in Attachment 1 confirms significant land reclamation has occurred as a result of the deposition of waste and contaminants, with significant changes to the land boundary at the premises occurring since June 2016;
28. There are no historic or current approvals, licences or authorisations issued under the Act for the disposal of waste material at the premises;
29. There are no historic or current permits or approvals issued under the Planning Act for land filling or land reclamation at the premises;
30. There are no historic or current licenses, permits or approvals issued under the Crown Lands Act for land occupation, land filling or land reclamation at the premises;
31. The exact nature, extent and the level of waste and contaminants deposited and buried at the premises remains unknown and poses a risk to the Darwin Harbour environment;
32. Waste and contaminants deposited and buried at the premises has the potential for environmental harm or risk of future environmental harm or adverse impact on the environment, including environmental harm and impacts to Darwin Harbour, and hence on reasonable grounds officers are of the view that Mr Anthony has committed offences under section 83 of the Act;

33. Mr Anthony has failed to comply with the general environmental duty pursuant to section 12 of the Act by failing to prevent or minimise the pollution or environmental harm by depositing waste and contaminants at the premises and into Darwin Harbour without any appropriate environmental approvals, environmental controls or environmental assessment of the waste or contaminant material;

34. Mr Anthony is the owner and/or occupier of land that is polluted;

35. The issuing of this Pollution Abatement Notice (PAN) has been issued to fulfil compliance with the requirements of section 79 (1) (a), (c) and (d) of the Act; and

36. That the issuing of this PAN is in accordance with the NT EPA Compliance and Enforcement Policy.

Requirements of Pollution Abatement Notice

Waste Removal

1. By 15 December 2018, all wastes and contaminants that have been used to fill and/or reclaim land at the premises since 20 October 2015 must be removed;

2. By 15 December 2018 the land/sea boundary of the premises must be returned to the boundary identified (in red) in aerial imagery from 30 June 2016 (Attachment 2);

3. By 31 October 2018 you must provide a waste removal management plan (the 'removal plan') to the NT EPA prepared or approved by a qualified and experienced environmental consultant or practitioner;

4. The removal plan must include (but not be limited to):
   a. detailed methodology/method statements for the methods proposed to be used to remove the wastes;
   b. an erosion and sediment control plan for the premises during waste removal and transport;
   c. specific detail of the measures to be taken to prevent dust and noise during waste removal;
   d. all additional measures that you will take to ensure the waste removal does not cause environmental harm in light of the proximity of all works to Darwin Harbour;
   e. details of the documented review process of the removal plan you will take during waste removal to ensure its efficacy in preventing environmental harm;

5. The general suitability of the removal plan will be assessed by NT EPA officers hence no removal of waste or contaminants is to commence until the removal plan is endorsed by NT EPA officers;

Waste Sampling and Classification:

6. All waste and contaminants must be sampled and classified in accordance with the NSW Waste Classification Guidelines (2014) before being removed from the premises;

7. As a minimum, waste and contaminants sampled at the premises must be analysed for the following parameters:
   a. Per- and poly-fluoroalkyl substances (PFAS) – (28 analyte suite)
   b. Arsenic
c. Cadmium  
d. Copper  
e. Chromium VI  
f. Lead  
g. Mercury  
h. Nickel  
i. Zinc  
j. Manganese  
k. pH  
l. Total Phenolics  
m. Total Recoverable Hydrocarbons (TRH)  
n. Benzene  
o. Toluene  
p. Ethylbenzene  
q. Xylene  
r. Polycyclic Aromatic Hydrocarbons (PAH)  
s. Polychlorinated Biphenyls (PCB)  
t. Organochlorine pesticides (OCP)  
u. Organophosphate pesticides (OPP)  
v. Asbestos  
w. Acid Sulfate Soils;  

8. Quality Assurance and Quality Control for all waste classification and validation sampling events must be undertaken in accordance with the requirements of the *National Environmental Protection (Assessment of Site Contamination) Measures 1999 as amended;*  
9. By 31 October 2018 you must provide a waste sampling, classification and disposal plan (the 'classification plan') to the NT EPA prepared or approved by an environmental consultant or practitioner qualified and experienced in contaminated site investigations;  
10. The classification plan must include (but not be limited to):  
   a. a sampling and quality assurance protocol;  
   b. detailed methodology for how all waste removed from the premises will be sampled and classified (with particular reference and justification as to frequency of samples) in light of the highly varied and heterogeneous nature of the wastes;  
   c. detailed methodology for the proposed disposal or of all waste from the premises dependent on classification;  
   d. the taking of sufficient samples to accurately classify the nature and quantity of the waste and contaminants at the premises;  
11. All identified listed wastes removed from the premises must be transported by a licensed waste contractor and disposed of at a licensed waste facility;  
12. The NT EPA encourages the beneficial re-use of materials that would ordinarily be defined as wastes. Should re-use any of waste currently at the premises be proposed you must provide to the NTEPA for each location of re-use and before any re-use:  
   a. the exact location of the re-use;  
   b. the exact purpose of the re-use;  
   c. a qualified engineers report as to the engineering suitability of the waste for its intended re-use;  
   d. a report provided by an environmental consultant or practitioner qualified and experienced in contaminated sites as to the environmental suitability of the waste for its intended re-use at that location;  
   e. signed legal documentation from the land owner acknowledging that waste is to be re-used on their land, that the landowner is aware of the exact purpose
of the re-use and the full nature of amount and types of wastes being re-used on their land and authorising that specified re-use; and
f. copies of all the required licenses, permits or approvals from any other regulatory agencies that may be required for the re-use of waste at each location;

13. **Note:** At any time for the life of this PAN the NT EPA may require an accredited site auditor (with either New South Wales or Victoria accreditation) to be engaged by you to provide an independent review of your plans, your works and/or to assess the potential risks to the environment from your waste removal process, and/or the suitability of your waste classification and waste disposal plans and/or the suitability of any or all of your waste re-use;

**Risk mitigation requirements:**

14. To ensure that all plans and methods are followed and that the removal processes are not causing environmental harm you must ensure that documented daily checks of all environmental controls are conducted and records included in a log book for the duration of all works related to the removal of the waste and contaminants;

15. Before waste is transported off the premises and before you commence activities at the premises you must ensure that a documented best practice erosion and sediment control plan and dust management and control plan is in place and is being followed;

16. You must ensure that all waste and contaminants removed from the premises are secured and contained during transport;

17. You must ensure that during the removal and transport of the waste and contaminants from the premises no dust is emitted which may cause environmental nuisance, or impact the amenity of nearby neighbours or to Darwin Harbour;

18. No sediment or sediment laden water can be discharged from the premises during works related to the removal of waste and contaminants;

**Regulatory requirements:**

19. Prior to conducting any works to achieve the requirements of this PAN on Lot 10176 or Lot 10177, you must consult and obtain an occupation licence from Crown Land Estate issued under section 90 of the *Crown Lands Act*; and

20. Any requirements of an occupation licence issued to you under section 90 of the *Crown Lands Act* to achieve the requirements of this PAN on Lot 10176 or Lot 10177 will also form requirements of this PAN;

**Reporting Requirements**

21. The log book referred to in requirement 14 must include the recording of all waste removed from the premises and must be kept and updated daily and be made available for inspection upon the request of authorised officers;

22. The log book must include details for every vehicle removing waste from the premises including:
   a. transport vehicle details, vehicle driver, vehicle owner and vehicle capacity;
   b. time and date of waste transport;
   c. volume and weight of waste being transported;
   d. classification(s) of all wastes being transported;
   e. exact destination(s) for wastes being transported;
   f. whether the waste(s) is for disposal, recycling or re-use
   g. name of person completing the log book entries; and
   h. date and time of log entries;
23. You must obtain and keep documentation including receipts from all end user destinations of the waste and contaminants and reconcile these with the entries in the log book referred to in requirement 14 on a daily basis;

24. All documentation and receipts for the waste and contaminants removed from the premises must be retained and produced for inspection upon request by NT EPA officers;

25. By 30 March 2019, you must provide to the NT EPA a report from a qualified surveyor, or other suitably qualified person to confirm that the land border of the premises is at that time consistent with the land border from June 2016;

26. By 30 March 2019, you must provide to the NT EPA a report from an environmental consultant or practitioner qualified and experienced in contaminated sites that the requirements of this PAN have been met and that all wastes used to fill and/or reclaim land at the premises since 20 October 2015 have been removed; and

27. By 30 March 2019, you must provide to the NT EPA a report from the an environmental consultant or practitioner qualified and experienced in contaminated sites which details the quantity of waste and contaminants removed from the premises, the waste classification and the destination of all waste removed, and provides all receipts for waste removed from the premises.

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Notice Issued By:

[Signature]

Dr Paul Vogel 4 / 10 / 18
Chairman Date Time
NT Environment Protection Authority

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Important Notice

Failure to comply with this notice is an offence under section 80 of the Waste Management and Pollution Control Act and may incur significant penalties and/or other statutory action.

This notice takes effect on the date on which it is served upon you. Pursuant to section 108 of the Waste Management and Pollution Control Act, you have the right to apply for a review of the decision to issue you with this Pollution Abatement Notice. If you intend to apply for a review, YOU MUST MAKE AN APPLICATION NOT LATER THAN 7 DAYS after the date you were served with this notice. For information on how to lodge an application for review, contact the Northern Territory Environment Protection Authority, telephone 8924 4218.

Pursuant to section 112 of the Waste Management and Pollution Control Act the person issued with this notice must fulfil certain obligations before selling, leasing, sub-leasing, giving or exchanging land, premises, a vehicle or business which is the subject of this Notice.
Attachment 1: Chronology of aerial imagery of the “premises” for the purposes of this notice between 13 April 2013 and 24 June 2018 at:

- Lot 5280 Town of Darwin (also known as 4 Mavie St; Darwin City NT 0800); and
- North-western corner of Lot 10176 Town of Darwin (also known as 41 Stokes Hill Rd, Darwin City NT 0800); and
- Northern end of Lot 10177 Town of Darwin (also known as 2 Stokes Hill Rd, Darwin City NT 0800).
Attachment 2: Aerial imagery depicting the land boundary/water line on 30 June 2016 (red line) and 24 June 2018 (yellow line) at:

- Lot 5280 Town of Darwin (also known as 4 Mavie St, Darwin City NT 0800); and
- North-western corner of Lot 10176 Town of Darwin (also known as 41 Stokes Hill Rd, Darwin City NT 0800); and
- Northern end of Lot 10177 Town of Darwin (also known as 2 Stokes Hill Rd, Darwin City NT 0800).