

NOTICE TO CARRY OUT ENVIRONMENTAL AUDIT PROGRAM

Issued pursuant to section 48 of the *Waste Management and Pollution Control Act*

Issued to: Darwin Port Corporation
ABN 89 545 720 710
Port Administration Building
Darwin Business Park
BERRIMAH NT 0828

TAKE NOTICE THAT I, William John Freeland, authorised delegate of the Chief Executive Officer (“CEO”) for the purposes of section 48 of the *Waste Management and Pollution Control Act* (“the Act”), have reason to believe that:

- A. The Darwin Port Corporation is a body corporate established by section 6 of the Darwin Port Corporation Act.
- B. The Darwin Port Corporation is the owner of an estate in fee simple in NT Portion 5987 which comprises the land upon which the East Arm Wharf and Port are situated (“Premises”).
- C. In 2006, Development Permit DP06/0165 (“DP06/0165”) was issued pursuant to the *Planning Act*. This approved the use and development of the Premises for the purpose of an interim quarantine waste treatment facility (“the Incinerator”) in accordance with specified conditions and endorsed plans.
- D. By way of two variations to DP06/0165, the use of the Incinerator was extended until 30 November 2012.
- E. The Darwin Port Corporation continues to use the Incinerator to treat sealed quarantine wastes received at the Premises (“the Activity”).
- F. Condition 3 of DP06/0165 requires the Darwin Port Corporation to have an Environmental Monitoring Plan that includes an air monitoring program for the duration of the life of the Incinerator (“EMP”).
- G. Section 7.1.2 of the EMP requires that air monitoring is reported annually to the EPA.
- H. As a result of successive changes to the Administrative Arrangements Order, the responsibility for the areas or activities previously administered by the EPA, now rests with the Environment Protection Agency, Department of Lands, Planning and the Environment (“EPA-DLPE”).
- I. The most recent data provided to the EPA-DLPE indicates dioxin emissions of 0.71 η g TEQ/m³ which are in excess of the Northern Territory (NT) draft guideline identified in the EMP (Attachment 1) and in excess of the *Environment Protection and Heritage Council National Dioxins Program – National Action Plan for Addressing Dioxins in Australia*, October 2005, guideline emission levels for dioxins.
- J. The Activity is generating emissions of dioxins and furans that are likely to cause pollution resulting in environmental harm.

- K. Darwin Port Corporation conducts an activity that causes or is likely to cause pollution resulting in environmental harm or that generates or is likely to generate waste and has a duty under section 12 of the Act to take all measures that are reasonable and practicable to prevent or minimise the pollution or environmental harm and reduce the amount of waste.

AND I HEREBY REQUIRE, for the reasons specified above and pursuant to section 48 of the Act, Darwin Port Corporation to conduct the environmental audit program specified below:

Environmental Audit Program

An evaluation of the types, amount, distribution or mobility of dioxins and furans in the environment resulting from or in any way connected with the Activity or the use of the Incinerator in accordance with the Notice Conditions.

Notice Conditions

1. Darwin Port Corporation must develop a detailed Audit Plan to evaluate the types, amount, distribution or mobility of dioxins and furans in the soil and sediments (“the Plan”).

The Plan must be developed:

- 1.1. by or in conjunction with the auditor appointed to perform the Environmental Audit Program;
 - 1.2. in accordance with the requirements for a *Monitoring Report* identified on pages 12-21 of the document: *Guidelines for Consultants Reporting on Environmental Issues* available from:
http://www.nretas.nt.gov.au/data/assets/pdf_file/0009/14031/consultants_reporting_environmental_issues.pdf (“Guidelines”); and
 - 1.3. in consideration of available emission modelling data, including the data provided in the *Darwin Port Corporation Report for Quarantine Waste Treatment Facility Public Environmental Report, August 2006* and emissions monitoring data for the Activity including the data contained in Attachment 1.
2. The section of the Plan detailing the sampling and analysis plan and sampling methodology, must (without limiting any other requirements set out in the Guidelines) include details of:
 - 2.1. soil and sediment sampling locations within and at the boundary of the potential area of impact around the Incinerator and at identified control sites; and
 - 2.2. steps which will be taken to provide for further sampling and analysis where initial sampling and analysis indicates that dioxins or furans are present in soil and sediments likely to be attributable to the Incinerator may extend beyond the boundary of the potential area of impact described in 2.1. It is noted that the Plan will need to be amended to account for the steps described.
 3. Prior to conducting sampling and analysis described in the Plan, the Plan must be:
 - 3.1. reviewed and endorsed by the auditor;
 - 3.2. submitted, by the 9 November 2012, with the auditor’s review and endorsement described in 3.1, to the CEO for approval; and approved by the CEO in writing noting that the CEO may require Darwin Port Corporation to revise, amend and or resubmit the proposed Plan prior to this approval.

4. The Darwin Port Corporation must commence conduct of the sampling and analysis described in the Plan within 5 Business days of the date the Plan is approved by the CEO.
5. Any proposed amendments to the Plan must be submitted to, and approved by the CEO prior to them being implemented into the Environmental Audit Program noting that the CEO may require Darwin Port Corporation to revise, amend and or resubmit the proposed amendment or the Plan
6. The results of the Environmental Audit Program must be submitted to the CEO by 18 January 2012 in the form of an environmental audit report ("the Report").

The Report must at a minimum:

- 6.1. be prepared in accordance with the requirements for a *Monitoring Report* in the Guidelines;
 - 6.2. identify environmental risks that may occur as a result of the observed level of dioxins and/or furans in the soil and sediments;
 - 6.3. identify other risks that may be associated with emission to air of dioxins and furans at levels likely to result in the observed level of dioxins and furans in the soil and sediments; and
 - 6.4. where it is determined that dioxin or furan levels indicate potential environmental risks include recommendations to prevent or minimise potential environmental harm.
7. All submissions to the CEO required as a condition of this notice are to be provided in electronic and hard copy to the following address:


Environment Protection Agency

Department of Lands, Planning and the Environment

Street address: Darwin Plaza Level 2, 41 Smith Street Mall, Darwin NT 0801.

Postal address: PO Box 496, Palmerston NT 0831.

Email: environmentops.nretas@nt.gov.au.



22/10/12

William John Freeland

Date

Delegate for the Chief Executive Officer

Department of Lands, Planning and the Environment

Important Notice

1. Failure to comply with a notice to conduct an environmental audit is an offence under section 51(1) of the Act and may incur significant penalties and/or other statutory action.
2. You will not be taken to have submitted the results of the environmental audit program required by this Notice until the requirements of section 51(2) of the Act have been satisfied.
3. Additional offences specific to the conduct of an environmental audit are established under section 52 of the Act.
4. Pursuant to section 67 of the Act, a person must not perform an environmental audit for the purposes of an environmental audit program unless the person is registered in a register established under section 68 of the Act or is specifically exempted from that requirement by Regulation. A current register of qualified persons is available from: http://www.nretas.nt.gov.au/environmentprotection/waste/register/qualified_persons or by contacting Environment Protection Agency on telephone (08) 8924 4218.
5. The Chief Executive Officer is as defined in the Act or their authorised Delegate.
6. This notice takes effect on the date on which it is served upon you.