

NOTICE TO CARRY OUT ENVIRONMENTAL AUDIT PROGRAM

(Issued pursuant to section 48(1) of the *Waste Management and Pollution Control Act 1998*)

ISSUED TO: City of Darwin ("You")

OF: 1 HARRY CHAN AVENUE
Darwin NT 0800

WHEREAS the Northern Territory Environment Protection Authority (NT EPA) is satisfied for the reasons stated in **Attachment A** to this notice that you are a person required to carry out an Environmental Audit Program in relation to the Shoal Bay Waste Management Facility (SBWMF) located on that part of Lot 03952 Town of Sanderson, Northern Territory as delineated in **yellow** in **Attachment C** (the premises), comprising an environmental audit, within the meaning of s47(a), (b), (c), (d) and (f) of the *Waste Management and Pollution Control Act 1998*, to evaluate:

- i. the ability of management systems to manage waste or prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution; and
- ii. the extent to which actions required to be undertaken, or results required to be achieved, for waste management or the prevention, reduction, control, rectification or clean-up of pollution or environmental harm resulting from pollution have been taken or achieved; and
- iii. the extent, nature and source of wastes generated by an activity, premises or process; and
- iv. the likelihood of waste management problems or pollution resulting in environmental harm occurring and the adequacy of safeguards in place to prevent their occurrence or limit their impact on the environment; and
- v. the types, amount, distribution and mobility of contaminants and wastes present in the environment at the premises that have the potential to cause environmental harm;

NOW TAKE NOTICE that you are required to comply with each of the requirements specified in **Attachment B** to this notice on and from the date of issue of this notice or such later date as may be specified in this notice.

ISSUE DATE: 27 October 2022



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AMY DENNISON
EXECUTIVE DIRECTOR
ENVIRONMENTAL REGULATION
DELEGATE OF THE NT EPA

Important Notice

Failure to comply with this notice is an offence under section 52 of the *Waste Management and Pollution Control Act 1998* (the 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 Act, **you have the right to apply for a review of the decision to issue you with this Notice to carry out an Environmental Audit Program. If you intend to apply for a review, YOU MUST MAKE AN APPLICATION WITHIN 28 DAYS after the day on which this notice of the decision was given.** For information on how to lodge an application for review, contact the Northern Territory Environment Protection Authority, telephone (08) 8924 4218.

Pursuant to section 112 of the 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 A
REASONS FOR ISSUING THIS NOTICE

1. City of Darwin (CoD) occupies and controls the parcel of land located at Lot 03952 Town of Sanderson plan(s) S 79/149A (the lot) delineated in **blue** in **Attachment C**;
2. Within this parcel is the Shoal Bay Waste Management Facility (SBWMF) delineated in **yellow** in **Attachment C** (the premises);
3. SBWMF commenced operation on 1 April 1987 and licensing under the *Waste Management and Pollution Control Act 1998* (the Act) commenced in 2001;
4. CoD have previously been issued Environment Protection Licences (EPLs): EPL188 from 1 July 2016 to 30 June 2021, with amendments EPL188-01 and EPL188-02);
5. CoD is currently operating the premises for the purpose of providing waste and recycling management services to the Greater Darwin region;
6. The lot contains and is surrounded by sensitive wetland habitats that are immediately adjacent to the premises including and described by:
 - a. Shoal Bay – Micket Creek nationally recognised wetland area (Directory of Important Wetlands in Australia NT032);
 - b. Shoal Bay Site of Conservation Significance; and
 - c. Darwin Area Primary Storm Surge Inundation Zone;
7. The premises is near to potentially sensitive receptors including but not limited to:
 - a. residential properties 0.6km to the southwest and within 2km to the northwest;
 - b. Darwin Harbour Region Declaration of Beneficial Uses and Objectives area;
 - c. Holmes Jungle Nature Park within 1km to the south; and
 - d. Buffalo Creek Management Area within 2km to the north;
8. While CoD has maintained control of the premises, a number of commercial operators have previously been issued EPLs to conduct licensed activities at the premises on behalf of CoD;
9. On 2 July 2021, EPL188-03 was issued to the CoD pursuant to section 34 of the Act and is set to expire on 1 July 2026;

10. Table 1 of EPL188-03 authorises the following activities involving listed wastes at the premises:

Table 1.

Listed Waste	Collection	Transport	Storage	Treatment	Recycling	Disposal
Animal effluent and residues	X	X	X	X	X	✓
Asbestos	X	X	X	X	X	✓
Clinical and related wastes	X	X	X	X	X	✓
Lead, lead compounds	X	X	✓	X	X	X
Sewage sludge and residues including nightsoil and septic tank sludge	X	X	X	X	X	✓
Soils contaminated with a listed waste	X	X	X	X	X	✓
Tyres	X	X	✓	✓	✓	✓
Waste from the production, formulation and use of inks, dyes, pigments, paints, lacquers and varnish	X	X	✓	X	X	X
Acidic solutions or acids in solid form	X	X	✓	X	X	X
Waste mineral oils unfit for their original intended use	X	X	✓	X	X	X

✓ Activity authorised by this licence

X Activity not authorised by this licence

11. EPLs issued for activities at the premises include requirements to undertake monitoring programs and submit reports, annual returns and audits to the Northern Territory Environment Protection Authority (NT EPA);

12. Reports submitted to the NT EPA (in accordance with EPL188-03 conditions) indicate some non-compliances with EPL188-03 conditions that can or have the potential to cause harm to the environment including:

- a. prior to March 2022 insufficient leachate management and storage capability;
- b. prior to January 2022 insufficient contaminated surface water management and/or storage capability; and
- c. prior to January 2022 insufficient measures to prevent contamination of groundwater and potentially surface water from the migration of leachate;

13. Annual returns submitted to the NT EPA in accordance with EPL188-03 detail CoD's non-compliances with licence conditions, including:

- a. prior to December 2021, some instances of failure to report non-compliances at all or within the required timeframe when non-compliances have been identified;

- b. prior to January 2022 failure to conduct a surface water quality monitoring program in accordance with licence condition requirements; and
 - c. prior to January 2022 failure to conduct appropriate groundwater quality monitoring in accordance with licence condition requirements;
14. As a result of CoD's non-compliance with its licence conditions, NT EPA have taken various compliance and enforcement actions to address some of the immediate and ongoing environmental concerns at the premises and to mitigate environmental harm;
15. The following issues at the premises give rise to concerns that historical activities are causing detrimental impacts at and beyond the premises:
- a. historically inadequate leachate management and storage systems;
 - b. suspected integrity issues of the landfill cell and/or pond lining systems built prior to 2015; and
 - c. suspected inadequate environmental risk assessment of cumulative impacts at and beyond the premises;
16. The full nature and extent of pollution and contamination at and beyond the premises is unknown;
17. The cumulative impacts from the operations at the premises are unknown and hence the environmental audit program will enable the cumulative impacts to be understood and assessed;
18. An Environmental Audit program will enable:
- a. any data deficiencies to be addressed, existing data consolidated and analysed resulting in an improved understanding of any environmental impacts as a result of current activities at the SBWMF;
 - b. a review of all current practices to ensure that they are sufficient to minimise any future environmental harm;
 - c. identification of targeted and risk based remediation actions as may be required; and
 - d. a detailed evidence-supported plan for SBWMF operations and activities for the medium and long term.

ATTACHMENT B
NOTICE REQUIREMENTS

1. Pursuant to section 48 of the *Waste Management and Pollution Control Act 1998* (the Act), the City of Darwin is required to carry out an environmental audit program (the program) at and beyond the premises (as delineated in **yellow** in **Attachment C**) to evaluate:
 - a. the ability of management systems to manage waste or prevent, reduce, control, rectify or clean up pollution or environmental harm resulting from pollution, including but not limited to:
 - i. a review of environmental systems, practices and procedures in place at the premises;
 - ii. a review of operational environmental management systems and procedures; and
 - iii. a review of service agreements with contractors in relation to operational management of the premises;
 - b. the extent to which actions are required to be undertaken, or results required to be achieved, for waste management or the prevention, reduction, control, rectification or clean-up of pollution or environmental harm resulting from pollution have been taken or achieved, including but not limited to:
 - i. an assessment of the extent and nature of pollution and environmental harm at and from the premises caused by operations at the premises;
 - ii. the environmental improvements necessary to comply with legislative and regulatory requirements including environment protection approval and licence conditions; and
 - iii. actions and timeframes for implementing environmental improvements;
 - c. the extent, nature and source of wastes generated by the activities at the premises;
 - d. the likelihood of waste management problems or pollution resulting in environmental harm occurring and the adequacy of safeguards in place to prevent their occurrence or limit their impact on the environment, including but not limited to:
 - i. an audit of the operations at the premises and comparison with best practice landfill management contained in the Victorian EPA publication 788.3 Siting, design, operation and rehabilitation of landfills; and
 - ii. an assessment of the viability and sustainability of the landfill operations at the premises in light of its location and future likely climate change and sea level rise considerations;
 - e. the types, amount, distribution and mobility of contaminants and wastes present in the environment at the premises that have the potential to cause environmental harm, including but not limited to:
 - i. the types, amount, distribution and mobility of landfill leachate present at and beyond the premises including surface waters and groundwater modelling; and
 - ii. the types, amount, distribution and mobility of landfill gases present at and beyond the premises including surface waters and groundwater;

2. The audit program must be performed by a qualified person registered under section 68 of the Act (the auditor);
3. By **22 November 2022**, you must engage the auditor(s), accredited under section 68 of the Act to undertake the program at the premises;
4. You must provide the details of the auditor commissioned to conduct the works to the NT EPA via email to pollution@nt.gov.au within **10 business days** of engagement;
5. By **13 January 2023**, you must submit to the NT EPA via email to pollution@nt.gov.au the scope of works for the program prepared by the auditor, prior to commencing the program;
6. By **12 May 2023**, you must submit to the NT EPA via email to pollution@nt.gov.au an Interim Environmental Audit Report prepared by the person referred to in requirement 3 above;
7. By **15 December 2023** you must submit to the NT EPA via email to pollution@nt.gov.au the results of the program in the form of an **Environmental Audit Report** prepared by the auditor;
8. The **Environmental Audit Report** must include an assessment of actual environmental harm and the potential risk of environmental harm from contaminants and wastes present in the environment at and beyond the premises;
9. The **Environmental Audit Report** must include an assessment of current management systems and the suitability of the management systems to mitigate environmental impacts;
10. The **Environmental Audit Report** must assess the actual and potential risk of environmental harm from activities conducted at the premises, as determined by:
 - a. review of systems, plans, procedures, monitoring programs, data, records, reports or information that is relevant to the scope of the audit as the auditor sees fit;
 - b. review of activities, processes, plant and equipment at the premises that is relevant to the scope of the audit as the auditor sees fit; and
 - c. collection and/or modelling of existing, available and any new data that is relevant to the scope of the audit as the auditor sees fit;
11. The **Environmental Audit Report** must:
 - a. consider all relevant guidance including, but not limited to:
 - i. the National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM) 1999 (amended 2013);
 - ii. the Northern Territory Contaminated Land Guideline (CLG) 2017;
 - iii. Victorian EPA publication number 788.3 – Siting, design, operation and rehabilitation of landfills;
 - iv. Victorian EPA publication number 1490.1 – Closed landfill guidelines;

- v. Victorian EPA publication number 1323.3 – Landfill licencing guidelines including but not limited to Appendix 6: Scope for audit of landfill operation;
 - vi. Victorian EPA publication number 952.5 – Guideline for the preparation of environmental audit reports on risk to the environment;
 - vii. Victorian EPA publication number 953.2 – Environmental auditor guidelines for conducting environmental audits;
 - viii. Victorian EPA publication number 1684 – Landfill gas fugitive emissions monitoring guideline;
 - ix. Victorian EPA publication number 840.2 – The clean-up and management of polluted groundwater; and
 - x. long term viability and sustainability of waste management operations at the premises;
- b. determine if the activities conducted at the premises have caused environmental harm or give rise to a potential risk of any possible harm or adverse impact to the environment;
 - c. recommend measures necessary to reduce the actual harm and risk of harm to an acceptable level where actual harm or risk of possible harm to the environment has been identified;
 - d. propose a timetable for the implementation of all recommended measures to address the findings of the Audit; and
 - e. identify the likely environmental monitoring requirements that will be required to manage the ongoing and future environmental impacts from the premises post the cessation of waste disposal at the premises.

ATTACHMENT C
THE PREMISES

