

POLLUTION ABATEMENT NOTICE

No. (2021/5)

(Issued pursuant to section 77 of the *Waste Management and Pollution Control Act 1998* ("the Act"))

ISSUED TO: Ecoflex NT Pty Ltd (ACN: 102 692 955)

OF: Unit 1, 613 Canterbury Road Surrey Hills VIC 3127.

WHEREAS the Northern Territory Environment Protection Authority ("NT EPA"), for the reasons stated in Attachment A to this notice believes on reasonable grounds that Ecoflex NT Pty Ltd:

- (i) has committed an offence against section 83(2) of the Act, namely polluting the environment by depositing waste, namely excess tyres, at 125 Golding Road, Acacia Hills NT 0822, resulting in serious environmental harm; and in addition and in the alternative
- (ii) has committed an offence under section 83(7) of the Act, namely permitting a waste, namely excess tyres, to be stored at a place from which it is reasonably likely that the waste could escape from storage into the environment and in escaping cause environmental harm; and in addition and in the alternative
- (iii) has contravened or failed to comply with section 12 of the Act, namely by conducting an activity, namely depositing excess tyres at 125 Golding Road, Acacia Hills NT 0822, that causes pollution resulting in environmental harm, and failing to take all measures that are reasonable and practicable to prevent or minimise the pollution or environmental harm or reduce the amount of waste; and in addition and in the alternative
- (iv) is the occupier of land that is polluted, namely 125 Golding Rd Acacia Hills NT 0822

at land situated at Section 01513 Hundred of Colton Plan(s) Lot 84/093 otherwise known as 125 Golding Road, Acacia Hills NT 0822 (the premises), as delineated in red highlight in **Attachment C:**

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: Issued on the 23rd day of November 2021.

AMY DENNISON

Executive Director Environmental
Regulation as delegate of the NT EPA

Important Notice

Failure to comply with this notice is an offence under section 80 of the *Waste Management and Pollution Control Act 1998* 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 1998*, **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 1998* 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 THE POLLUTION ABATEMENT NOTICE

1. Ecoflex NT Pty Ltd (Ecoflex) holds Environmental Protection Licence (EPL 212) issued on the 20 April 2017 under section 30 of the *Waste Management and Pollution Control Act 1998* ("the Act").
2. EPL 212 permits the collection, transport and storage of up to 500 tonnes of listed waste in the form of end of life tyres (tyres) at premises situated at Section 01513 Hundred of Colton Plan(s) Lot 84/093 otherwise known as 125 Golding Road, Acacia Hills NT 0822, the authorised premises where tyres can be stored in accordance with EPL212 (the premises).
3. In March 2019, authorised officers were informed in a meeting by Ecoflex that the amount of tyres stored at the premises exceeded 500 tonnes. Ecoflex advised it had been stockpiling tyres to accumulate sufficient volumes of tyres to facilitate a construction and operation of a waste to energy plant in the Northern Territory i.e. turning tyres into energy.
4. Ecoflex was advised during the meeting in March 2019 that an application to amend EPL212 was required to authorise storage of tyres in excess of 500 tonnes at the premises. An application was not submitted. Authorised officers attended the premises on the 27 November 2019 observing that the amount of tyres as waste stored on site had substantially exceeded the amount authorised under EPL 212 by several thousand tonnes. The storage of tyres in excess of 500 tonnes at the premises is a breach of condition 16 of EPL 212, and section 39 (1) of the Act.
5. In addition, the storage of tyres on the site was not in accordance with licence conditions specifically with respect to the length and height of each tyre stack and the distance between each tyre stack designed to mitigate the risk of the tyres becoming involved in a significant fire event.
6. A number of directions were given to Ecoflex including written directions dated the 31 March 2020 requiring it to:

Undertake immediate measures to reduce the volumes of tyres stored on the site to within those limits identified in the licence.
7. Authorised officers attended at the premises on the 13 May 2020 observing that the tyres as waste stored on site had not been reduced and the exceedance of the authorised amount remained.
8. On the 19 May 2020 authorised officers held discussions with the directors of Ecoflex and a subsequent email was sent requiring immediate fire mitigation strategies to be put in place. The primary direction given was to:

Reduce the total number of tyres stored at 125 Golding Road Acacia Hills to no more than 500 tonnes.
9. On 29 May 2020 authorised officers re-attended the site to monitor the fire risk and assess the appropriate mitigation strategies were being implemented. It was observed that the dimensions and separation of tyre stacks had been brought into conditional compliance which ameliorated the immediate fire risk, however there was no evidence of the excess tyres being reduced and Ecoflex therefore remained in breach of section 39 (1) of the Act.
10. On the 9 June 2020 Ecoflex was issued with a direction to provide a plan for demobilisation of the excess tyres at 125 Golding Road by the 11 June 2020. It submitted a plan of intent to transfer the tyres to an alternative premises which was not authorised to store tyres. Ecoflex was advised that the premises required

an environment protection licence prior to commencing storage of tyres at the premises.

11. On the 11 June 2020 Ecoflex was directed in writing as follows:
 1. *Place all but 500 tonnes of End of Life Tyres (EOLT) located at 125 Golding Road Acacia Hill, in fully sealed containers, and transport those containerised EOLT tyres to a premise in the NT licensed under the WMPC Act or to an appropriately licensed facility interstate.*
 2. *The EOLT referred to in 1, must be transported as directed by no later than 18 June 2020.*
 3. *Ecoflex must provide written notification to the NT EPA via email at waste.ntepa@nt.gov.au of the volumes and destination for the EOLT by COB 18 June 2020.*
12. No action was taken by Ecoflex in accordance with this or any of the other prior directions to remove the excess tyres from 125 Golding Road Acacia Hills NT. The removal of tyres was deferred by Ecoflex while steps were being taken to establish an alternative site to receive the tyres and retain a proprietary interest under another corporate entity affiliated by mutual directorship.
13. On 16 June 2021 EPL319-01 was issued to the affiliated company: NT Clean Energy Pty Ltd (NTCE) for the premises situated at Portion 07045 plan(s) S2009/211, 548 Arnhem Highway, Marrakai NT.
14. NTCE failed to meet conditional requirements of EPL319 at the outset which put it in notional breach of section 39 (1) of the Act; as such the alternative premises at Marrakai is not an authorised facility to store tyres.
15. Pending a decision to revoke EPL319-01, or the licensee bringing the licence into compliance, any tyres transferred to those premises would result in NTCE being in substantive breach of its licence and liable to prosecution under the Act.
16. On 28 July 2021, and as recently as 28 October 2021 authorised officers have attended 125 Golding Road and observed no reduction to the amount of tyres stored on the premises. Ecoflex continues to be in breach of section 39(1) of the Act due to exceeding the authorised amount of listed waste under EPL 212.
17. A quantity surveyor has assessed the total weight of the tyres stored on the premises to be 3,730 tonnes. This exceedance is deemed to be pollution constituting serious environmental harm and requiring the removal of the unauthorised waste tyres exceeding the 500 tonnes authorised under EPL212.

ATTACHMENT B

POLLUTION ABATEMENT NOTICE REQUIREMENTS

1. Removal from the premises of all tyres in excess of the 500 tonnes of tyres authorised by EPL212 to:
 - (a) an authorised facility in the Northern Territory that is licenced to store listed waste as tyres under the *Waste Management and Pollution Control Act 1998*; or
 - (b) an appropriately licenced interstate facility in accordance with the National Environment Protection (Movement of Controlled Waste Between States and Territories) Measure.
2. Removal of tyres under requirement 1 must commence within 14 days of the service of this notice.
3. The removal of tyres under requirement 1 must be completed within 90 days of the service of this notice.
4. Written notification of the amount of tyres removed and the destination of the tyres must be submitted to the NT EPA via email sent to waste@nt.gov.au on a weekly basis.
5. Notifications under section 4 are to be sent by 5pm on each Friday from the date that is 14 days following service of this notice until the premises are compliant with the conditions of EPL212.
6. For the avoidance of doubt, it is a requirement that requirement 1 be pursued by means of making arrangements other than transporting the tyres to the premises at NT Portion 07045 plan(s) S2009/211, 548 Arnhem Highway, Marrakai. Ecoflex NT Pty Ltd is on notice that the relevant licence holder for those premises, NT Clean Energy Pty Ltd is not an authorised facility to store tyres. Any tyres transferred to those premises will result in NT Clean Energy Pty Ltd being in substantive breach of its licence EPL319-01 and suspension or revocation of EPL319-01 is currently under consideration.

Note that the above requirements are requirements to:

- comply with the general environmental duty specified in section 12 by taking all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm or reduce the amount of waste;
- comply with section 39 of the Act to comply with the environmental protection licence issued to you, namely EPL212, which does not permit storage of more than 500 tonnes of tyres on the premises, and requires that all listed waste is delivered to a premises licenced under section 30 of the Act to receive that listed waste; and
- take remedial action to return polluted land as far as possible to a specified condition that the NT EPA thinks appropriate for the protection of the environment or the use of the land.

ATTACHMENT C

THE PREMISES

125 Golding Road, Acacia Hills NT / Section 1513 Hundred of Colton (175)

