

POLLUTION ABATEMENT NOTICE

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

Issued to: TOGA CONSTRUCTIONS NT PTY LIMITED (ACN: 087 887 189)

Name: Ervin and Allan Vidor, Directors
Address: Level 5, 45 Jones Street, ULTIMO, NSW 2007
Tel: (02) 9356 1000
Fax: (02) 9356 1073

In relation to premises: Part of Lot 8025, Town of Darwin, also known as 2 Stokes Hill Road (indicated as the pink highlighted area in Attachment A).

Reason:

I, William (Bill) Freeland, the Delegate of the Northern Territory Environment Protection Authority (NT EPA) pursuant to the *Waste Management and Pollution Control Act* ("the Act"), believe on reasonable grounds that:

1. The NT EPA received a report about the discharge of pollution in the form of sediment laden water from the premises into Darwin Harbour;
2. Toga Constructions NT Pty Limited are the occupier of the premises;
3. On 31 January 2014 authorised officers of the NT EPA undertook an inspection of the premises where they observed sediment laden water discharging from the premises into Darwin Harbour via the underground stormwater system located along Kitchener Drive (Attachment B);
4. Test results for water samples taken during the inspection, at the exit point on the premises and also at the discharge point into Darwin Harbour on 31 January 2014, show the presence of contaminants at levels that are substantially in excess of the *Australian and New Zealand Water Quality Guidelines for Fresh and Marine Water Quality* (ANZECC 2000) trigger levels (being levels that according to the guidelines indicate a risk of adverse impact is exceeded) (Attachment C);
5. By reason of the facts above:
 - a) Toga Constructions NT Pty Limited, has committed, and may commit, an offence against section 83(4) and 83(5) of the Act; and
 - b) Toga Constructions NT Pty Limited has contravened or failed to comply with section 12(1) of the Act (the general environmental duty).

Action Required

General Requirements

1. On and from the date of this notice, you must ensure that any discharges from the premises into the Darwin Harbour do not contain hydrocarbons, heavy metals or any other contaminants at levels that exceed the ANZECC 2000 trigger levels (i.e. table 3.4.1);
2. On and from the date of this notice, you must ensure that any discharges from the premises comply with the following water quality parameters:
 - a) pH: 6.5 - 8.5; and
 - b) Total Suspended Solids: less than or equal to 50 milligrams per litre;
3. On and from the date of this notice, you must minimise the area of the premises that is able to generate suspended material when water flows over it;
4. On and from the date of this notice, you must ensure that erosion and sediment control measures are implemented around all areas of the premises that are able to generate suspended material when water flows over it;
5. The erosion and sediment control measures referred to in requirement 4 must be appropriately designed and utilised to ensure that the offsite transport of suspended sediments and other pollutants is minimised;
6. On and from the date of this notice, you must ensure that stabilisation measures that provide a protective cover are implemented as soon as practicable in portions of the premises where construction activities have permanently ceased;
7. On and from the date of this notice, you must ensure that clean stormwater:
 - a) is divert around operational or active areas of the premises; and
 - b) is prevented from mixing with sediment laden water on the premises;
8. On and from the date of this notice, all erosion and sediment control measures installed on the premises must be inspected:
 - a) weekly during normal construction hours;
 - b) daily during periods of rainfall; and
 - c) within 24 hours of the cessation of a rainfall event causing runoff to occur on or from the premises;
9. On and from the date of this notice, you must record all inspections referred to in requirement 8, including observations and works undertaken to repair and/or maintain erosion and sediment controls measures;
10. On and from the date of this notice, erosion and sediment control measures that have been disabled, run-over, removed, damaged, or otherwise rendered ineffective, must be replaced or corrected immediately upon discovery;
11. On and from the date of this notice, all loaded vehicles leaving or entering the premises that could potentially be a source of dust emissions must have their loads covered;
12. On and from the date of this notice, all vehicles leaving the premises must be cleaned of dirt, sand and other materials that could be tracked onto public roads, before they leave the premises;

13. On and from the date of this notice, you must not cause or permit the emission of any offensive odour from the premises which:
 - a) is harmful to (or is likely to be harmful to) a person who is outside the premises; or
 - b) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises;
14. On and from the date of this notice, you must store all chemicals, fuels and oils used at the premises in appropriately bunded areas, in accordance with the requirements of any relevant Australian Standards;
15. On and from the date of this notice, you must carry out all operations and activities on the premises in a manner that will minimise the emission of dust from the premises;
16. On and from the date of this notice, construction activities undertaken on the premises shall be undertaken to ensure compliance with the NT EPA *Noise Guidelines for Development Sites*;
17. By 30 June 2014, you must provide to the NT EPA with up to date contact details of representatives who are authorised to speak on behalf of Toga Constructions NT Pty Limited and who can respond at all times to environmental incidents relating to the premises;

Reporting Requirements

18. By 30 June 2014, you must provide a report confirming that all stages of the premises have been assessed in accordance with the *National Environment Protection (Assessment of Contaminated Sites) Measure*;
19. The report referred to in requirement 18 must confirm the stages of the premises that have been approved for residential development and which (if any) have not been approved for residential development;
20. By 31 August 2014, you must submit to the NT EPA a site assessment report in accordance with *National Environment Protection (Assessment of Contaminated Sites) Measure* for any stage of the premises that has not been assessed or approved for its intended use;
21. By 30 June 2014, you must submit to the NT EPA a Construction Environmental Management Plan (CEMP) which has been reviewed by a qualified person registered under section 68 of the Act;
22. The CEMP referred to in requirement 21 must be accompanied by an audit report prepared by a qualified person registered under section 68 of the Act. The audit report must assess the measures and processes contained in the CEMP and must include, but not be limited to, the qualified person's findings, recommendations and conclusion as to whether or not the CEMP adequately manages the environmental risks at and from the premises;
23. The CEMP referred to in requirement 21 must be produced in accordance with *Best Practice Erosion and Sediment Control* (International Erosion Control Association 2008) and must cover the following:
 - a) erosion and sediment control plans;
 - b) site management;
 - c) site clearing (if applicable);

- d) soil and stockpile management;
- e) drainage control;
- f) erosion control;
- g) sediment control;
- h) site rehabilitation;
- i) site monitoring;
- j) site maintenance; and
- k) road works;

24. The CEMP referred to in requirement 21 must also include:

- a) a project description which includes the following:
 - i. a description of the nature of construction activities;
 - ii. a list of potential pollutants and their sources;
 - iii. a description of the intended schedule or sequence of activities that will disturb soils for major portions of the premises; and
 - iv. data describing the soil and the quality of any discharges from the premises;
- b) a detailed premises map (or maps) indicating the following:
 - i. drainage patterns and approximate slopes before, during and after major construction activities;
 - ii. areas where soil disturbance will occur;
 - iii. locations of all major structural controls, either planned or in place;
 - iv. locations where temporary or permanent stabilisation practices are expected to be used;
 - v. locations of construction support activities, including off-premises activities, such as material, waste, borrow, fill, or equipment storage areas;
 - vi. surface waters (including wetlands) either at, adjacent, or in close proximity to the premises, including any receiving waters that may be disturbed or that may receive discharges from disturbed areas on the premises;
 - vii. locations where stormwater discharges from the premises directly to a surface water body or a municipal stormwater system; and
 - viii. vehicle wash areas (if any);
- c) a description of construction and waste materials expected to be stored on the premises and a description of controls to minimise pollutants from these materials;
- d) a description of potential pollutant sources from areas other than construction (such as stormwater discharges from dedicated asphalt plants and dedicated concrete batch plants), and a description of controls and measures that will be implemented to minimise pollutants from these sources;
- e) audit, inspection and compliance assessment and reporting program for the CEMP;

- f) a protocol for periodic review of the CEMP, that is to occur every 3 months by a qualified person registered under section 68 of the Act;
 - g) a complaints management framework outlining procedures and feedback mechanisms for handling community complaints;
 - h) a reporting framework which outlines:
 - i. how incidents that may cause environmental harm or pollution (including stormwater discharges) will be reported; and
 - ii. how compliance with section 14 of the Act will be achieved;
 - i) a construction noise and vibration management plan that describes processes and procedures for ensuring how compliance with the Act is achieved; and
 - j) a dust management plan;
25. By 30 June 2014, you must make the CEMP referred to in requirement 21 publicly available on the Toga Group website;
26. To satisfy requirement 24(g) you must engage a qualified person registered under section 68 of the Act who has expertise in erosion and sediment control;
27. The qualified person referred in requirement 26 must prepare and submit an audit report to the NT EPA within 10 Business Days after reviewing the CEMP;
28. In preparing the audit report referred to in requirement 27 the qualified person must:
- a) refer to the CEMP;
 - b) refer to any relevant Work Method Statements (WMS) prepared in relation to the premises;
 - c) refer to the Best Practice Erosion and Sediment Control (International Erosion Control Association 2008);
 - d) consider the adequacy of erosion and sediment control measures for all locations within the premises;
 - e) identify non-conformances of the erosion and sediment control measures with the CEMP, WMS or Best Practice Erosion and Sediment Control (International Erosion Control Association 2008) as the case may be; and
 - f) recommend measures or actions to improve the environmental performance of construction activities on the premises, including where any non-conformances with erosion and sediment control measures have been identified;
29. Should you operate an ISO accredited Environmental Management System (EMS) and are of the view that the operation of the EMS can satisfy any requirements of this notice, then you can submit a report to the satisfaction of the NT EPA which demonstrates how the operation of the EMS meets the requirements of this notice. The NT EPA may in writing direct that the EMS can operate in lieu of some or all of the requirements in this notice.
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Notice Issued By:



Dr William Freeland

Chairperson

NT Environment Protection Authority

9/5/14

Date

1530

Time

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.

Office Use Only – Service of Notice

Personal or by Post: (Circle as appropriate)

If **Personal**: Served to: _____ at:

Date: / / Time: _____

By: Name: _____ Signature: _____

Agency: _____

If **Post**: Registered or certified mail no: 514888172013

Attachment A: Premises Map



Attachment B: Photographs



Stormwater
entry pit on
the
premises

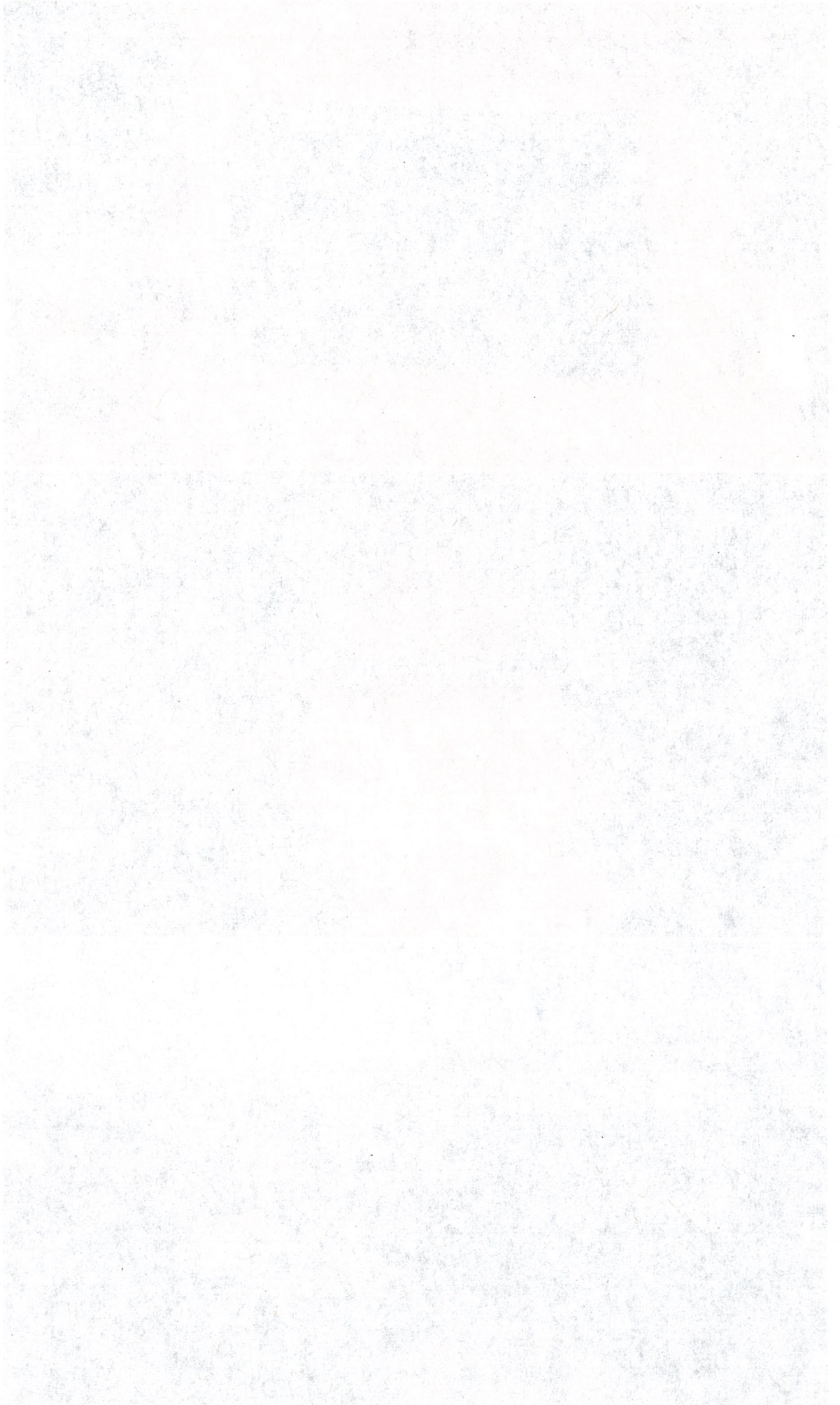


Discharge
into Darwin
Harbour
from the
premises



Discharge
into Darwin
Harbour

Attachment C: Laboratory Results





NT ENVIRONMENTAL
LABORATORIES

NORTHERN TERRITORY ENVIRONMENTAL LABORATORIES

CHEMICAL ANALYSIS REPORT

Environment Protection Authority

2nd Floor Darwin Plaza

41 Smith St Mall Darwin NT 0800

Australia

REPORT CODE: NT38821
Report Date: 14/02/2014
Samples Received: 31/01/2014
Number of Samples: 2

Purchase Order:
Project: TOGA 31/01/2014
Cost Code:

NTEL

ABN 32 008 787 237

PO Box 1382 Berrimah 0828

3407 Export Drive

Berrimah NT 0828

Ph: (08) 8947 0510

Fax: (08) 8947 0520

Report Distribution:

Rachael Davies / Daniel Spelchan

Tel: 08 8924 4218

Fax:

E-mail: pollution@nt.gov.au

Report Details:

NATA ACCREDITATION No: 14610

Test results only apply to samples received

Samples were analysed between 31/01/14 and 14/02/14

Water samples will be discarded one month from date of report

Comments:

Authorisation:


Fiona Dunbar-Smith



WORLD RECOGNISED
ACCREDITATION

Accredited for compliance with ISO/IEC
17025

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Standard Terms and Conditions of work

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NORTHERN TERRITORY ENVIRONMENTAL LABORATORIES

REPORT CODE: NT38821

Methodology:

Analysis	Analytical Method	Technique	Accuracy/ Precision +/-%	Detection Data Limit Units	
TSS	TSSTDS	GRAV	10	10	mg/L
Cd_T	W200M	ICPMS	10	0.02	µg/L
Co_T	W200M	ICPMS	10	0.01	µg/L
Cr_T	W200M	ICPMS	10	0.1	µg/L
Cu_T	W200M	ICPMS	10	0.01	µg/L
Mn_T	W200M	ICPMS	10	0.01	µg/L
Ni_T	W200M	ICPMS	10	0.01	µg/L
Pb_T	W200M	ICPMS	10	0.01	µg/L
Zn_T	W200M	ICPMS	10	0.1	µg/L

NORTHERN TERRITORY ENVIRONMENTAL LABORATORIES

REPORT CODE: NT38821

Project: TOGA 31/01/2014

Element:		TSS	Cd_T	Co_T	Cr_T	Cu_T	Mn_T	Ni_T	Pb_T	Zn_T
Sample ID	Method:	TSSTDS	W200M	W200M	W200M	W200M	W200M	W200M	W200M	W200M
	Units:	mg/L	µg/L	µg/L	µg/L	µg/L	µg/L	µg/L	µg/L	µg/L
DRAIN 1 31/1/14		420	0.50	4.90	24.4	47.3	144	10.6	115	223
2 STORM DRAIN 31/1/14		280	0.58	4.16	12.0	30.4	140	5.22	74.7	152