



*Section 73A
Environmental Protection Act 1986.*

PREVENTION NOTICE

Reference No: 202301

Persons to whom this prevention notice is issued:

Controlled Waste Disposals Pty Ltd ACN 163 120 803
'Barrington House', 283 Rokeby Road
SUBIACO WA 6008

AND

Mr Scott David Charsley
Director, Controlled Waste Disposals Pty Ltd
211 Keymer Street
BELMONT WA 6104

Premises to which this notice relates (the Premises):

The Premises, the subject of this section 73A *Environmental Protection Act 1986* (WA) Prevention Notice (**Notice**), is situated on:

Lot 717 on Plan 202731 as shown on Certificate of Title 1507/152 known as 252 Boomerang Road, OLDBURY 6121 (the **Premises**).

Reasons for which this Notice is issued:

This Notice is given because I reasonably suspect that waste has been or is being discharged from the Premises otherwise than in accordance with a works approval, licence or requirement contained in a closure notice or an environmental protection notice.

On 2 February 2023 *Inspectors* from the Department of Water and Environmental Regulation (the department) attended 252 Boomerang Road, OLDBURY 6121 and observed a large quantity of stored waste deposited within intermediate bulk containers (IBCs) and 205L drums (storage vessels) equating to approximately 800,000L. Approximately 65 of the IBC's were identified as compromised resulting in the discharge of approximately 35,000L of waste to the environment.

The department is aware of asbestos contamination within the Premises boundary however advice from the Department of Health indicates that the risk posed by levels of asbestos present on the site are extremely low and that it does not pose a serious or immediate risk to health.

I am satisfied that:

Controlled Waste Disposals Pty Ltd is the company who have deposited the waste on the Premises.

AND

Mr Scott Charsley as the Director of Controlled Waste Disposals Pty Ltd.

are the appropriate person/s to give this Notice to.

Requirements of this Notice:

Terms used in this Notice have the meaning defined in Appendix 1 to this Notice.

In accordance with section 73A(2)(a) of the Act, this Notice is subject to the following requirements to remove, disperse, destroy, dispose of or otherwise deal with the waste which has been or is being discharged from the Premises:

Requirements

1. From the date this Notice is given, the persons to whom this Notice is given must not, without written approval from the CEO, dispose or process any waste on the Premises and must not bring any additional waste onto the Premises for storage.
2. On the date this Notice is given, the person to whom this Notice is given must employ security personnel holding a current security licence issued by WA Police, to be present on a 24 hour, seven (7) day a week basis until all waste material has been removed for the purpose of preventing unauthorised access to, and vandalism of, storage vessels.
 - 2.1. Security personnel must be informed of all known or potential hazards on the Premises, which may reasonably be expected to arise whilst undertaking their specified functions.
3. Within 7 days from the date this Notice is given, the person to whom this Notice is given must recover all discharged waste from the compromised storage vessels, and secure this waste on the Premises until remediation works are undertaken in accordance with Requirement 7 of this Notice.
4. Within 7 days from the date this Notice is given, the person to whom this Notice is given must complete and record an inventory of the contents of all containers on the Premises recording the volume.
 - 4.1. Within 24 hours of completing the inventory required by Requirement 4, the persons to whom this Notice is given must provide a copy to the CEO by email to compliance@dwer.wa.gov.au
5. Within 28 days from the date this Notice is given, the person to whom this Notice is given must characterise all waste types by submission of samples to, and commissioning of analysis by, a NATA Accredited laboratory to inform authorised waste disposal.
 - 5.1. Within 24 hours of completing the characterisation required by Requirement 5, the persons to whom this Notice is given must provide a copy of all laboratory analysis results from the NATA Accredited laboratory to the CEO by email to compliance@dwer.wa.gov.au

6. Within 42 days from the date this Notice is given the person to whom this Notice is given must remove all waste and storage vessels from the Premises:
 - 6.1. All waste and storage vessels must be removed by a vehicle authorized as a controlled waste carrier under the *Environmental Protection (Controlled Waste) Regulation 2004*;
 - 6.2. All waste and storage vessels must be disposed of at a Licensed Premises under Part V Division 3 of the *Environmental Protection Act 1986* authorised to accept and dispose of the categorized waste determined by requirement 5.
 - 6.3. Within 24 hours of disposing of all waste material and storage vessels required by Requirement 6.2, the persons to whom this Notice is given must provide a copy of all waste disposal receipts to the CEO by email to compliance@dwer.wa.gov.au

7. Within 21 days of removing all waste and storage vessels, the person to whom this Notice is given must ensure all residual contamination resulting from the categorised waste has been removed from the Premises by:
 - 7.1. Characterising all residual contaminated material using a NATA Accredited laboratory for analysis of residual contaminated materials to inform *authorised* disposal requirements.
 - 7.2. Removal of all contaminated material in a *authorised manner*, by an *authorised carrier* to an *authorised facility*.
 - 7.3. Engage a suitably qualified *environmental consultant* to undertake validation sampling to confirm all residual contamination resulting from the categorised waste has been removed from the Premises.
 - 7.4. Within 14 days of completing the validation sampling required by Requirement 6.3, the persons to whom this Notice is given must provide a copy of laboratory analysis results confirming the absence of all contamination resulting from the categorized waste to the CEO by email to compliance@dwer.wa.gov.au

8. The timeframes stipulated in this notice may be amended by the CEO in writing on application with reasonable justification.

Duration

This Notice subsists until it is cancelled by written notice of the CEO.



Michelle Andrews
Chief Executive Officer
Department of Water and Environmental Regulation

06 February 2023

Important Information:

A PERSON WHO IS BOUND BY THIS PREVENTION NOTICE AND WHO DOES NOT COMPLY WITH THIS NOTICE COMMITS AN OFFENCE UNDER THE *ENVIRONMENTAL PROTECTION ACT 1986*.

Note that under section 118 of the Act that each person who is a director or who is concerned in the management of the body corporate may be taken to have also committed the same offence.

Section 103 of the Act provides that:

- a person who is aggrieved by a requirement contained in this Notice may within 21 days of being given this notice lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal; and
- any other person who disagrees with a requirement contained in this Notice may within 21 days of the making of that requirement lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal.

PENDING THE DETERMINATION OF AN APPEAL REFERRED TO ABOVE, THE RELEVANT REQUIREMENTS CONTAINED IN THIS NOTICE CONTINUE TO HAVE EFFECT.

Appendix 1: Definitions

In this Notice, unless the contrary intention appears –

‘**Act**’ means the *Environmental Protection Act 1986* (WA).

‘**Authorised Carrier**’ means a carrier authorised by law to transport the relevant items on a gazetted road, for example materials regulated by the *Environmental Protection (Controlled Waste) Regulations 2004*.

‘**Authorised Facility**’ means a facility holding the appropriate authorisations and/or regulatory approvals to receive the material.

‘**Authorised Manner**’ means in a manner as to not pose an unreasonable risk to human health, safety and the environment abiding by all necessary regulatory requirements to undertake such activity.

‘**CEO**’ means Chief Executive Officer, Department of Water and Environmental Regulation; and

‘**CEO**’ for the purposes of correspondence means;

Chief Executive Officer
Department of Water and Environmental Regulation
Locked Bag 10
JOONDALUP DC WA 6919
Telephone: (08) 6364 7000
Fax: (08) 6364 7001
Email: compliance@dwer.wa.gov.au

‘**Days**’ means all days including weekends.

‘**Department**’ means Department of Water and Environmental Regulation.

‘**Environmental Consultant**’ means a person to have qualifications and experience consistent with those described in Schedule B9 of the *National Environment Protection (Assessment of Site Contamination) Measure 1999* (the NEPM).

‘**Inspector**’ means a person appointed to be an inspector under section 88 of the Act, and includes the CEO.

‘**NATA**’ means the National Association of Testing Authorities, Australia.

‘**NATA Accreditation**’ means in relation to the analysis of a sample that the laboratory is NATA accredited for the specified analysis at the time of the analysis.

‘**Premises**’ refers to the Premises to which this Notice applies, as specified at the front of this Notice and as shown on the map in Appendix 2 to this Notice.

Storage Vessels means intermediate bulk containers and 205 litre drums and any other containment vessels used on the premises to store waste.

‘**Waste**’ has the same meaning given to that term under the Act.

Appendix 2: Map

