

OFFICIAL



Section 73A  
*Environmental Protection Act 1986.*

## **PREVENTION NOTICE**

Reference No: 202307-3

### **Persons to whom this Prevention Notice is issued:**

360 Organics (ABN 79 907 325 881)  
Also known as Bunbury Harvey Regional Council  
51 Stanley Road  
WELLESLEY, WA 6233

#### **And**

Chief Executive Officer City of Bunbury  
City of Bunbury Administration Building  
4 Stephen Street  
BUNBURY, WA 6230

#### **And**

Chief Executive Officer Shire of Harvey  
Shire of Harvey Administration Centre  
102 Uduc Road  
HARVEY, WA 6220

In its capacity as occupier of the **Premises** and holder of Licence L8746/2013/2 (**Licence Holder**) and controlling executive body of 360 Organics (also known as Bunbury Harvey Regional Council).

### **Premises to which this notice relates (the Premises):**

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

Wellington Group of Council Compost Facility Lot 81 Marginata Close, Crooked Brook, Western Australia (the **Premises**).

### **Reasons for which this Notice is issued:**

This Notice is issued because I reasonably suspect on the following grounds that the **Licence Holder** has failed to comply with condition 13 of Licence L8746/2013/2, and that a condition of pollution has arisen, or is likely to arise.

On 3 May 2023, 10 July 2023, 9 August 2023, and 19 September 2023, Department of Water and Environmental Regulation (the department) officers conducted inspections of the

**Premises** and identified waste, including partially processed compost stockpiles not stored in accordance with condition 13 of Licence L8746/2013/2.

I am satisfied that because:

Bunbury Harvey Regional Council is the **Occupier** of the **Premises** and person upon whom the requirements of Licence L8746/2013/2 are binding, that you are the appropriate person to whom to give this **Notice**.

### Requirements of this Notice:

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

In accordance with section 73A of the **Act**, this **Notice** is subject to the following requirements upon the person to whom the **Notice** is given.

### Requirements

1. By 31 August 2024, the person(s) to whom the notice is issued must construct a hardstand appropriately located at the green waste storage area, as labelled in appendix 2 of the **Premises** map. The hardstand must meet the controls for leachate barriers on hardstand surfaces as specified in the Better Practice Organics Recycling Guideline published by the department in December 2022, and must be bunded to ensure leachate does not discharge to the environment.
2. By 30 September 2024, the person(s) to whom the notice is issued, must provide to the issuing **Inspector** or **Authorised Person** by email to [compliance@dwer.wa.gov.au](mailto:compliance@dwer.wa.gov.au) a copy of a report prepared by a **suitably qualified engineer**, which must include an assessment of the existing limestone hardstand at the location labelled as limestone hardstand area in appendix 2 of the **Premises** map confirming it meets the permeability of  $\leq 1 \times 10^{-9}$  m/s and any measures required to ensure the on-going permeability is maintained.
3. By 31 August 2024, the person(s) to whom the notice is issued, must construct drainage channels capable of capturing all contaminated stormwater and leachate from hardstands specified in requirement one (1) and two (2). The drainage channels must be directed to the **Premises** Leachate/stormwater retention dam and must be lined to achieve a permeability of  $\leq 1 \times 10^{-9}$  m/s.
4. The person(s) to whom the notice is issued must by 31 August 2024, remove all non-conforming waste, including partially processed compost stockpiles and compost products not capable of being stored within the hardstand specified in requirement one (1) and two (2). This non-conforming waste must be removed from the **Premises** and taken to an appropriately licensed facility.
5. The issuing **Inspector** or **Authorised Person** must be notified by email to [compliance@dwer.wa.gov.au](mailto:compliance@dwer.wa.gov.au) no less than two (2) business days after the removal of material from the **Premises** in accordance with requirement four (4).

Notification after removal must include:

- 1.1. Confirmation of the facility, location, or entity receiving the material;
- 1.2. Evidence of weight (in tonnes) of the material removed from the **Premises** in accordance with requirements 4 and 5. This must be provided in the form of formal weighbridge dockets or records.
- 6 By 30 September 2024, provide the issuing **Inspector** or **Authorised Person** by email to [compliance@dwer.wa.gov.au](mailto:compliance@dwer.wa.gov.au) a copy of a report prepared by a **suitably qualified engineer**, detailing how specifications in requirements one (1) and (3) were met.
- 7 From the date this Notice is given, if any **non-conforming waste** is identified after arrival at the **Premises**, the person to whom this Notice is given must ensure it is removed from the **Premises** by the same delivery vehicle or, where that is not possible, the person to whom this **Notice** is given must ensure that it is stored in a designated storage area and that the designated storage area is completely cleared every 7 days.
- 8 The requirements and timeframes stipulated in this **Notice** may be amended by an **Inspector** or **Authorised Person** in writing, on application by Bunbury Harvey Regional Council or their authorised representative, with reasonable justification.

## Duration

This **Notice** subsists until it is cancelled by written notice from an **Inspector** or **Authorised Person** in writing.

**Inspector and Authorised Person**  
under section 87(1) and 88 of the  
*Environmental Protection Act 1986*

20 December 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 *Environmental Protection Act 1986* (EP 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 EP 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 Western Australian **Minister for Environment; Climate Action** 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 Western Australian **Minister for Environment; Climate Action** an appeal in writing setting out the grounds of that appeal.
- the construction of a hardstand covered under requirement 1 of this notice is exempt from the requirement to obtain a works approval, as per Division 3, Section 52 of the *Environmental Protection Act 1986*.

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)

**‘Approval’** for the purposes of complying with a requirement of this Notice, means written notification from an Inspector or Authorised person confirming approval of a document or thing required by this Notice.

**‘Authorised person’** means a person or member of a class of persons appointed under section 87(1) of the *Environmental Protection Act 1986*.

**‘Better Practice Organics Recycling Guideline’** means document publish by Department of Water and Environmental Regulation in December 2022 titled “Guideline Better Practice Organics Recycling” (<https://www.wa.gov.au/system/files/2022-11/Guideline-Better-practice-organics-recycling.pdf>)

**‘Discharge’** has the same meaning as the terms used by the *Environmental Protection Act 1986*.

**‘Conforming waste’** means a waste or material meeting the acceptance criteria stated in Licence L8746/2013/2.

**‘Days’** means all days including weekends and / or public holidays unless otherwise defined in the Notice.

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

**‘Environment’** has the same meaning as the terms used by the *Environmental Protection Act 1986*.

**‘Inspector’** means a person appointed to be an inspector under section 88 of the *Environmental Protection Act 1986*.

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

Senior Manager – Environmental Compliance  
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](mailto:compliance@dwer.wa.gov.au)

**‘Licence Holder’** means 360 Organics also known as Bunbury Harvey Regional Council.

**‘Non-conforming waste’** means a waste or material type which does not meet the acceptance criteria stated in Licence L8746/2013/2.

**'Person'** has the same meaning as the terms used by the *Environmental Protection Act 1986*.

**'Premises'** refers to the Premises to which this Notice applies, as specified at the front of this Notice.

**'Suitably qualified engineer'** means an engineer holding current registration, accreditation, or chartered engineer membership with, or recognised by, Engineers Australia and demonstrated experience working in the relevant discipline.

## Appendix 2: Premises map

