



9 June 2017

Media Statement

Peter Dolan
Director Regulation

EPA issues Whyalla City Council with Clean Up Order

The EPA has issued the Whyalla City Council with a Clean Up Order following the detection of asbestos in garden mulch distributed from its landfill.

The Order, issued under the *Environment Protection Act 1993*, requires the Council to take immediate action to prevent further environmental harm and ensure the community's health is not compromised.

The Council must cease supply of the contaminated garden mulch, contact purchasers and provide information and advice about management of the mulch as well as ensure appropriate measures are in place for managing Council sites where the mulch has been used.

The EPA also requires the Council to remove and appropriately dispose of all contaminated garden mulch acquired from the Council landfill.

The Council has been cooperating with the EPA to ensure that it meets its requirements and obligations.

As a precaution, anyone who purchased mulch from the Council from the beginning of March this year should keep it wet, avoid disturbing the soil and contact the Council's customer service on 8640 3444.

Anyone with any concerns should discuss them with their GP.

For further information please contact EPA Media: 0439 137 641 or email epamedia@sa.gov.au

ENVIRONMENT PROTECTION ACT, 1993 CLEAN UP ORDER

(Issued pursuant to Section 99(1) of the *Environment Protection Act, 1993*)

TO:	City of Whyalla
OF:	Civic Building, Darling Terrace WHYALLA SA 5600
SITE/S to which the Order relates	Part Section 374 North Out of Hundreds Iron Knob Road WHYALLA SA 5600 ("the Waste Site") CR6140/886 CT6140/885
	Any site impacted by mulch contaminated with, or potentially contaminated with, asbestos, produced by the City of Whyalla between 2/3/17 & 7/6/17 ("Delivery Sites")

PURPOSE OF ORDER:

The Environment Protection Authority, being satisfied that you, the City of Whyalla, has caused environmental harm by a contravention or contraventions of the *Environment Protection Act 1993* ("the Act"), hereby issues a clean-up order pursuant to section 99(1) of the Act for the purpose of requiring you to take specified action within a specified period to make good any resulting environmental damage.

PARTICULARS OF NON COMPLIANCE:

1. Between 2 March 2017 and 7 June 2017 inclusive you, the City of Whyalla, failed to take all reasonable and practicable measures to prevent or minimise environmental harm from an activity that pollutes, namely the conduct of a waste or recycling depot, contrary to s25 of the Act.
 - 1.1. At all material times you operated a waste depot at the Waste Site pursuant to EPA licence 243.
 - 1.2. At all material times your waste depot operations included the processing of green waste received at the Waste Site to produce mulch for sale or supply to the public.
 - 1.3. Between 2 March 2017 and 7 June 2017 inclusive, you sold or supplied mulch from the Waste Site to members of the public that was contaminated with, or was potentially contaminated with, asbestos (collectively referred to hereon as "ACM").
 - 1.4. Between 2 March 2017 and 7 June 2017 inclusive, you supplied and/or used ACM from the Waste Site on areas you maintained, including parks, gardens and hospital garden beds.

ENVIRONMENT PROTECTION ACT, 1993

CLEAN UP ORDER

(Issued pursuant to Section 99(1) of the *Environment Protection Act, 1993*)

- 1.5. Between 2 March 2017 and 7 June 2017 you failed to take all reasonable and practicable measures to ensure that mulch sold or supplied to members of the public, or used in areas you maintained, was not contaminated with asbestos.

2. Between 2 March 2017 and 7 June 2017 inclusive, you caused material environmental harm contrary to s80 of the Act.
 - 2.1. Paragraphs 1.1 to 1.4 are repeated.
 - 2.2. Your actions described in paragraphs 1.1 to 1.4 caused material environmental harm in that:
 - 2.2.1. they exposed members of the public to an actual or potential risk to human health and/or safety;
 - 2.2.2. they resulted in actual or potential loss (namely clean up costs) of an amount, or amounts in aggregate, exceeding \$5000; and
 - 2.2.3. they resulted in members of the public being exposed to, or potentially exposed to, asbestos in their gardens and/or areas you maintained, thereby reducing the amenity value of those areas.

REQUIREMENTS OF ORDER:

You, City of Whyalla, are hereby ordered to:

1. Cease the sale or supply of mulch contaminated with, or potentially contaminated with, asbestos ("ACM") from the Waste Site.

Compliance date: Forthwith

2. Identify and contact all persons who are or have been in possession of ACM from the Waste Site and provide such persons with appropriate information and advice regarding management of risks associated with the ACM until its removal.
3. Identify all areas maintained by you, in which ACM has been used or supplied, and implement appropriate measures to manage risks associated with the ACM until its removal.

Compliance date: Close of business 13 June 2017

4. Engage a suitably qualified and licensed asbestos contractor ("the Contractor") to remove all ACM (and any other material potentially contaminated by the ACM) from the Delivery Sites and dispose of it at a suitability licensed facility.
5. Ensure that the Contractors undertake the removal and disposal as required by order 3.

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Compliance date: 23/06/2017

6. Provide the EPA with a report, to the EPA's satisfaction, prepared by the Contactor (or such other suitably qualified consultant) certifying that the Delivery Sites do not pose a risk to health and safety from exposure to asbestos related to the ACM.

Compliance date: 30/06/2017

NOTE: Compliance with this Clean Up Order does not absolve you of criminal responsibility from a breach of the *Environment Protection Act 1993*. The Environment Protection Authority ("the Authority") reserves the right to pursue other enforcement measures including prosecution. Further, pursuant to s135 of the Act, the Authority may seek recovery of administrative and technical costs associated with contraventions.



.....
Stephen Barry
**DELEGATE
ENVIRONMENT PROTECTION AUTHORITY**

Date: 9 June 2017

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IMPORTANT NOTICE

You have the right of appeal to the Environment Resources and Development Court against this order within 14 days of service of the order. For information on how to lodge an appeal, contact the Court on 8204 0300.

Making an appeal does not affect your obligations under this order unless the Court makes a decision affecting this order (section 107 Environment Protection Act).

Failure to comply with this order is an offence under the Environment Protection Act. Significant penalties may be imposed (section 99(8) Environment Protection Act) and there may also be penalties for each day of ongoing failure to comply (section 123 Environment Protection Act).

You are advised that the EPA will record the details of this order on the EPA Public Register pursuant to section 109(3) (ia) of the Environment Protection Act.

SERVICE OF ORDER

To: Whyalla City Council - Chris Cowley CEO.

At: facsimile.

Time and Date: 12:34pm 9 June 2017

Personal/post/facsimile: 08-8645 0155

Name: Stephen Barry of the Environment Protection Authority