



# **Ordinary Meeting of Council Late Agenda Items**

**Tuesday 10 December 2019**

**Ordinary Meeting 6.00pm**

Council Chambers, Civic Centre,  
Stuart Highway, Katherine

- 15.1 Show Cause Letter – NT EPA \_\_\_\_\_ 1-4
- 15.2 Selection of CEO (report to be tabled) \_\_\_\_\_
- 15.3 Appointment of CEO (report to be tabled) \_\_\_\_\_

# REPORT



**FOLDER:** Local Governance / Ordinary Council Meetings / Agenda  
**MEETING:** ORDINARY COUNCIL MEETING – DECEMBER  
**REPORT TITLE:** SHOW CAUSE LETTER – NT EPA

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## PURPOSE OF REPORT

To inform Council that the Northern Territory Environment Protection Authority (NT EPA) have offered Katherine Town Council the opportunity to show cause why the NT EPA should not take enforcement action.

## BACKGROUND

On the 1 July 2019, approximately 190 – 1500kg tyre bails being used as a fence caught fire at the Katherine Showgrounds, Lot 3177.

The alleged offences outlined in the letter from NTEPA dated 28 November, carry the following penalties as per the *Waste Management and Pollution Control Act 1998* and the *Environmental Offences and Penalties Act 1996*.

## **WASTE MANAGEMENT AND POLLUTION CONTROL ACT 1998**

1. **Section 30(3). A person must not, except under an environment protection licence or best practice licence, conduct an activity specified in Part 2 of Schedule 2.**

### **Schedule 2**

- (2) Collecting, transporting, storing, re-cycling, treating or disposing of a listed waste on a commercial or fee for service basis, other than in or for the purpose of a sewage treatment plant.

**Penalty:** Environmental offence level 4.

2. **Section 83(1,2,3,4). Polluting the environment causing environmental harm.**

### **83 General environmental offences**

- (1) A person must not intentionally pollute the environment, where:
  - (a) serious environmental harm results; and
  - (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

**Penalty:** environmental offence level 1.

- (2) A person must not pollute the environment, where:
  - (a) serious environmental harm results; and
  - (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

**Penalty:** Environmental offence level 2.

- (3) A person must not intentionally pollute the environment, where:
- (a) material environmental harm results; and
  - (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

**Penalty:** Environmental offence level 2.

- (4) A person must not pollute the environment, where:
- (a) material environmental harm results; and
  - (b) he or she knows, or ought reasonably be expected to know, that serious environmental harm or material environmental harm will or might result from the pollution.

**Penalty:** Environmental offence level 3.

### **3. Section 83(6,7). Improper storage of wastes/contaminants.**

- (6) A person must not intentionally cause or permit a contaminant or waste to be stored:
- (a) in a manner or condition in which; or
  - (b) at a place from which, it is reasonably likely that the contaminant or waste could:
  - (c) leak, spill, or escape from storage into the environment; and
  - (d) in leaking, spilling or escaping from storage, cause environmental harm.

**Penalty:** Environmental offence level 3.

- (7) A person must not cause or permit a contaminant or waste to be stored:
- (a) in a manner or condition in which; or
  - (b) at a place from which, it is reasonably likely that the contaminant or waste could:
  - (c) leak, spill, or escape from storage into the environment; and
  - (d) in leaking, spilling or escaping from storage, cause environmental harm.

**Penalty:** environmental offence level 4.

## ***ENVIRONMENTAL OFFENCES AND PENALTIES ACT 1996;***

### **4. Penalty for environmental offence level 1**

- (1) An individual who is found guilty of an offence designated an environmental offence level 1 is punishable by a penalty of:
- (a) not less than 385 penalty units and not more than 3 850 penalty units; or
  - (b) imprisonment for not more than 5 years.
- (2) A body corporate that is found guilty of an offence designated an environmental offence level 1 is punishable by a penalty of not less than 1 924 penalty units and not more than 19 240 penalty units.

**5. Penalty for environmental offence level 2**

- (1) An individual who is found guilty of an offence designated an environmental offence level 2 is punishable by a penalty of not less than 154 penalty units and not more than 1 540 penalty units.
- (2) A body corporate that is found guilty of an offence designated an environmental offence level 2 is punishable by a penalty of not less than 770 penalty units and not more than 7 700 penalty units.

**6. Penalty for environmental offence level 3**

- (1) An individual who is found guilty of an offence designated an environmental offence level 3 is punishable by a penalty of not less than 77 penalty units and not more than 770 penalty units.
- (2) A body corporate that is found guilty of an offence designated an environmental offence level 3 is punishable by a penalty of not less than 385 penalty units and not more than 3 850 penalty units.

**7. Penalty for environmental offence level 4**

- (1) An individual who is found guilty of an offence designated an environmental offence level 4 is punishable by a penalty of not more than 77 penalty units.
- (2) A body corporate that is found guilty of an offence designated an environmental offence level 4 is punishable by a penalty of not more than 385 penalty units.

Territory Revenue Office current value of penalty unit is \$157.00

**OFFICER RECOMMENDATION**

**That Council:**

1. Receive and note the information as above.
2. Request an extension until the end of February for Council's submission to the NT EPA.

  
**Allan McGill**  
**CHIEF EXECUTIVE OFFICER**

Delegation:  
Attachments:

Andrew Wilson, Manager Compliance, Environment & Regulatory Services  
NT EPA Letter to Allan McGill - Show Cause - Dated 28 November 2019.

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**File Ref:** NTEPA2019/0009-270  
**Our Ref:** PRL8124

Dear Mr McGill

**RE: KATHERINE TOWN COUNCIL – SHOW CAUSE  
ALLEGED NON-COMPLIANCES WITH THE WASTE MANAGEMENT AND POLLUTION CONTROL  
ACT 1998**

As you are aware, Northern Territory Environment Protection Authority (NT EPA) officers authorised under the *Waste Management and Pollution Control Act 1998* (the 'Act'), have been investigating a waste tyre fire that occurred at Katherine Town Council (KTC) premises on 1 July 2019.

On examination of the information and evidence collected to date both about the circumstances leading up to the fire and of the fire itself, officers have formed the view that that KTC may have contravened the following sections of the Act:

- 1) Section 30(3) – a person must not, except under an environment protection licence or a best practice licence, conduct an activity specified in Part 2 of Schedule 2.
- 2) Section 83(1,2,3,4,) – polluting the environment causing environmental harm; and
- 3) Section 83 (6,7) – improper storage of wastes/contaminants.

These offences can carry significant penalties for both individuals and body corporates if prosecuted.

You are now being offered an opportunity to show cause why the NT EPA should not take enforcement action in relation to any of these matters.

The NT EPA will take into consideration any submissions received by this office before 4pm ACST on 21 January 2020. Contingent on the information provided, the NT EPA may decide to exercise discretion, or if appropriate, take action in line with its published compliance and enforcement policy, including prosecutorial action.

Please send your submissions to [pollution@nt.gov.au](mailto:pollution@nt.gov.au) or GPO Box 3675, Darwin, NT 0801, ensuring that it is received before the date specified above.

Please do not hesitate to contact Christopher Coombes on 08 8924 4218, or at [pollution@nt.gov.au](mailto:pollution@nt.gov.au) should you require any further information or clarification.

Yours sincerely



Peter Vasel  
Director, Environmental Operations  
28 November 2019

