

**INQUIRY INTO PERFORMANCE OF THE NSW
ENVIRONMENT PROTECTION AUTHORITY**

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Partially Confidential

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Inquiry into Performance of the NSW Environment Protection Authority

Submission by: Russell Hiscox
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We have recently terminated 20 employees, our factory will close and my wife and I will lose everything because of the culture of the NSW EPA and the Wollongong Department head

We have been recycling e-waste for 8 years as a company. My wife, Caren and I have lived in the Shoalhaven for 21 years and love the area. We are an approved recycler under the National Product Stewardship Scheme. We receive e-waste from DHL, being one of the co-regulators, for processing.

Through our business we have always supported the disabled, disadvantaged and indigenous people in the area by supplying employment, work trials and free training. We work closely with numerous employment support agencies and all local high schools in providing these services.

As you are probably aware there is currently an issue with Cathode Ray Tube (CRT) glass that has been removed from old televisions. Cathode Ray Tubes are being stockpiled all over the country because of very limited downstream disposal/recycling possibilities. CRT glass contains on average 26% lead in the glass. This can't be used in the normal glass to glass recycling process.

We are the only company in Australia that has tried to do something about the leaded CRT glass problem. Our company developed a process to recycle CRT glass in Australia by removing the lead content of the glass so where the processed glass can be utilized as a sand substitute in various civil engineering applications. We have been striving to set up the recycling process for some time and have purchased machinery to accomplish the process. We have approached the Shoalhaven City Council to expand our current DA from 100mt per year to a temporary limit of 1200mt per year whilst we do a new DA for the final expansion to recycle 5400mt of CRT glass per year.

Our original development application was an integrated DA because we required approval from the NSW EPA. The NSW EPA has been aware of and contributed to the Development Application throughout the process.

Until recently we have had no site visit from the EPA during the last 12 month application process.

We proceeded with our plan to develop the CRT recycling process at our facility in Nowra. We stockpiled CRT glass for future processing and purchased the required machinery.

In approximately April this year we received a visit from _____, EPA Wollongong who said that the EPA was checking into the stockpiles of CRT glass in NSW because AFFORD in Sydney was found to have over 3000 metric tonnes of crushed glass in storage with no end disposal for the product. We showed him our stockpile of crushed and whole CRT tubes. He stated that crushed CRT glass was a dangerous good and that we had too much stockpiled on site. I told him that we would not receive any more crushed CRT glass at the facility until we investigated the claims and issues. We continued to stockpile whole CRT tubes.

I later had a meeting with _____ and _____ in the EPA Wollongong office at their request. I explained to _____ our plans to recycle CRT glass but she was concerned about the amount in storage. I explained that our DA application did not have a storage limit imposed by council but the glass must be stored correctly. I then explained that the NSW EPA had a \$1.5 million assistance package to reduce the amount of stockpile CRT tubes and that we had applied for assistance to remove 900mt from our premises thus reducing the stockpile. I asked for some information from the EPA on the fact that CRT glass was a dangerous good.

On or about 9 May 2014 we received a "clean-up" notice from the Wollongong EPA in relation to crushed CRT glass that was stored in bulk bags outside the factory area. We covered the bags as required in the notice. Sometime later we received a phone call from DHL stating that they had been informed of the notice and that they would not authorise any further CRT glass to be shipped to us. They stated the last paragraph in the notice that said we were not to receive any glass at our facility. I was always of the opinion that the matter was concerning crushed CRT glass. CRTs are like fluorescent tubes and light globes, as long as they are intact they are safe to handle. I could see no

reason for the EPA to stop us from receiving whole tubes. I asked for clarification from the EPA. I received confirmation from NSW EPA head office that we are not to receive any CRT glass at our facility. I was shocked to say the least.

DHL then contacted me and stated that they had had advice, I assume from the EPA, that they were no longer to supply us with any e-waste because it could contain CRT tubes in the television and monitors. The situation was becoming ridiculous. The e-waste we receive under the scheme is our main source of income.

I was very frustrated and complained to _____ that we needed to receive general e-waste to remain financially viable. I never got a reply. Some weeks later I again reconfirmed my previous complaint stating that the matter was now urgent. No reply.

I advised EPA head office in Sydney of our plight but was referred back to _____ at Wollongong EPA.

I also advised _____, Director, Television and Computer Regulator Team for the Australian Government's Department of Sustainability, Environment, Water, Population and Communities of the situation and asked him to make representation directly to the Environment Minister. I received no reply.

We even advised the EPA that two other e-waste recyclers in NSW would assist us by accepting any further CRT tubes that we received under the scheme for inclusion in their current downstream process. This would alleviate their concerns of any further stockpiling and ensure our financial viability so that we could proceed with our CRT recycling operations. We have yet to receive a response.

We were then contacted by our DA consultant and advised that a meeting was to be arranged with ourselves, Shoalhaven City Council (SCC) and the EPA. I thought that finally, we could get the matter sorted. Although during the meeting SCC was agreeable to a conditional temporary increase in

was loud and abrupt when speaking to me but not to anyone else. I don't know if she was offended because the SCC negotiated a solution with me or if it was something personal. They made ill-informed and unrelated claims such as

She then stated that there was no obvious signs of glass recycling at the factory, (she has never been there and still hasn't even though the meeting was in Nowra). I said that we didn't have our licence so how could we start to recycle the glass. She replied with "well that's a catch 22". Then she stated on numerous occasions that I have to be a "fit and proper" person to hold a licence. Her demeaning attitude towards me didn't change throughout this exchange. I got the feeling of sheer defeat from that moment onwards. No matter what we were to do, we were never going to get our EPA Licence if she was the authorising person. Even though [redacted] and [redacted] travelled down from Wollongong for this meeting they did not attend our premises on the day to inspect or verify any of their claims.

I got a response from head office referring the matter back to [redacted] at Wollongong.

I can't believe that the EPA is aware of the tremendous and growing problem with the disposal of CRT glass in NSW and that there are companies like ours trying to alleviate the problem but their culture is such that they cannot and will not negotiate or assist to get a resolution to this environmental problem. They would rather shut us down and waste an opportunity to move

forward on this issue because they cannot determine a process or work towards a mutually agreeable solution with us. I cannot understand it. Everyone I know is dumbfounded to say the least.

Unfortunately the situation with our company is now terminal. DHL pays recyclers on a 60 day payment and not having any income from the Government scheme for the last 8 weeks, even if we get the scheme e-waste back, we can no longer sustain a workforce for 60 days until the first payment is made.

This situation has weighed heavily on myself, my family and my staff, and will have a detrimental impact on the community and the environment. We have no choice but to file for personal bankruptcy. We will lose our home and everything we worked for. So much for trying to do something for the community and the environment, I should have just thrown it into landfill from the start.

The NSW EPA has made decisions that affect our business, the environment and the community without due research and failed to take into consideration the facts. I have been treated unfairly by the EPA and with total disregard.

My dealings with the NSW EPA have only highlighted their lack of competence, their inability to be able to adapt to an evolving waste industry or have any understanding of how it works or can work for the benefit of the community and the environment, their arrogance – what we say goes without any justifications, and no concept of a big picture solution for the CRT issue within NSW and the increased risk of pollution this issue will have on the environment and the community. The effects of this decision will now be ongoing for the foreseeable future.

Due to the case which I have outlined above I believe that the NSW EPA has failed to conduct themselves in a manner prescribed by the PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT 1991 - SECT 6. Objectives of the Authority. I have provided my comments to the parts of the Act relevant to this case below in blue.

PROTECTION OF THE ENVIRONMENT ADMINISTRATION ACT 1991 - SECT 6

Objectives of the Authority

6 Objectives of the Authority

(1) The objectives of the Authority are:

(a) to protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development, and

(b) to reduce the risks to human health and prevent the degradation of the environment, by means such as the following:

- promoting pollution prevention,
- adopting the principle of reducing to harmless levels the discharge into the air, water or land of substances likely to cause harm to the environment, [Our CRT recycling process creates an inert sand substitute by removing the lead from the glass particles.](#)
- minimising the creation of waste by the use of appropriate technology, [The NSW EPA has had a total disregard for our process. They have not asked one question about the process nor do they seem interested at all. CRT glass will now be shipped overseas for processing when the technology is here in Australia. There will now be a flood of exported waste from Australia.](#)

- regulating the transportation, collection, treatment, storage and disposal of waste, exporting CRT glass increases the risk of its accidental release into the environment whilst in extended periods of transit. There is no guarantee that the CRT glass will reach the appropriate destination. Applications for the export of CRT glass/tubes have been denied on previous occasions since 2008.

OECD countries under the Basel Convention:

“Basel parties are obliged to ensure that transboundary movements only occur if the state of export does not have the technical capacity and necessary facilities, capacity or suitable disposal sites to dispose of the wastes in an environmentally sound manner”

- encouraging the reduction of the use of materials, encouraging the re-use and recycling of materials and encouraging material recovery, Our CRT recycling process creates an inert sand substitute by removing the lead from the glass particles. We were the only company in Australia that had a process to recycle CRT Glass.

- adopting minimum environmental standards prescribed by complementary Commonwealth and State legislation and advising the Government to prescribe more stringent standards where appropriate,

- setting mandatory targets for environmental improvement,

- promoting community involvement in decisions about environmental matters,

- ensuring the community has access to relevant information about hazardous substances arising from, or stored, used or sold by, any industry or public authority, We have still not received any technical or other documents from the NSW EPA on the dangers of Crushed CRT tube glass although we have requested this information on at least three occasions so that we may be well informed and take the appropriate processing steps to be compliant.

- conducting public education and awareness programs about environmental matters.

(2) For the purposes of subsection (1) (a), ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes.

Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

(a) the precautionary principle-namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(ii) an assessment of the risk-weighted consequences of various options, [NSW EPA has made no assessment of our facility or it's processes at any stage. They have offered no options to help resolve the situation. Our own proposed solutions were ignored and the NSW EPA has made no response.](#)

(b) inter-generational equity-namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,

(c) conservation of biological diversity and ecological integrity-namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,

(d) improved valuation, pricing and incentive mechanisms-namely, that environmental factors should be included in the valuation of assets and services, such as:

(i) polluter pays-that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems. We have been the only company that has responded to environmental issues and tried to find a solution to the problem of lead containing Cathode Ray tubes from old televisions. The process was developed “in house” with no government financial assistance.

Russell and Caren Hiscox