



11 August, 2009

MEDIA RELEASE

**BRAMBLES TAKES LEGAL ACTION AGAINST THE COMMONWEALTH
GOVERNMENT IN LAND AND ENVIRONMENT COURT**

Brambles said today that it had reluctantly commenced legal proceedings against the Commonwealth government in relation to a landfill site ("IWC landfill") at Lucas Heights in NSW that was operated by Industrial Waste Collections Pty Ltd ("IWC") from 1969 until 1980, when waste disposal ceased. Cleanaway, a business formerly owned by Brambles, acquired shares in IWC in 1973.

It is alleged the Commonwealth is in breach of the NSW Protection of the Environment Operations Act and that injunctions should be issued to stop pollution escaping from control systems on the IWC landfill that have not been properly operated or maintained by the Commonwealth.

The court proceedings follow decades of inaction by the Commonwealth after the IWC landfill reverted to the Commonwealth after waste disposal ceased and closure works were completed in the 1980s. This includes the Commonwealth:

- failing to maintain the landfill cap installed at the IWC landfill, allowing storm water to infiltrate the wastes;
- allowing the pollution control system installed by Cleanaway to fall into disrepair;
- installing another pollution control system in about 2002 which was not properly maintained;
- failing to address the pollution issues at the IWC landfill after being served by the NSW Environment Protection Authority ("EPA") in 1993 with an order under the Environmentally Hazardous Chemicals Act as occupier of the IWC landfill;
- not following through with its commitments to the NSW Government in the 1990s to undertake the remediation work required at the IWC landfill;

- allowing discharge of storm water and seepage of pollutants from the Harringtons Quarry landfill on adjacent Commonwealth land to inundate the IWC landfill;
- refusing to take any action to implement various remediation plans prepared for the IWC landfill since 2004, including a Remediation Action Plan prepared by Cleanaway in 2008 to the satisfaction of the EPA.

The Commonwealth's apparent justification for inaction is the assertion that Cleanaway is still in occupation of the IWC landfill, even though the operations and closure activities of IWC and Cleanaway ended in the 1980s. The Commonwealth's attempt to establish this proposition ended with the dismissal of legal proceedings it took against Cleanaway in 2008.

"The NSW and Commonwealth governments studied the problem and disputed between themselves for many years about who had responsibility to stop the pollution after IWC and Cleanaway's involvement with the IWC landfill ceased in the 1980s. As a result, the IWC landfill and its pollution controls systems have been allowed to fall into disrepair by the Commonwealth. When they could not resolve their dispute, they looked to pass responsibility to Cleanaway after 2001. The current problems have nothing to do with IWC or Cleanaway," said Mr Michael Roberts, Brambles' Vice President Investor Relations and Corporate Affairs.

"Cleanaway has met all its responsibilities in relation to the closure of the IWC landfill in 1980, including capping and revegetation works," he added.

"Furthermore, and although it has no legal obligation to do so, Cleanaway has worked constructively for decades to pave the way for the pollution problems at the IWC landfill to be addressed."

"While Brambles has reluctantly commenced these proceedings, this appears to be the only way the Commonwealth can finally be made to take responsibility. Only the Commonwealth can fix this pollution problem," said Mr Roberts. "The Commonwealth must stop stalling and instead implement a solution."

A chronology of key events is attached to this media release.

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CHRONOLOGY

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| 1913 | <ul style="list-style-type: none"> • Commonwealth acquires land at Lucas Heights from NSW Government for defence purposes |
| 1968 | <ul style="list-style-type: none"> • Commonwealth licenses part of a quarry to Industrial Waste Collection Pty Ltd ("IWC") for disposal of trade wastes to address a shortage of waste disposal sites in the Sydney region |
| 1969 | <ul style="list-style-type: none"> • IWC commences waste disposal activities under supervision by the NSW and Commonwealth governments |
| 1973 | <ul style="list-style-type: none"> • Brambles Holdings Ltd, Cleanaway Division ("Cleanaway"), acquires shares in IWC |
| 1980 | <ul style="list-style-type: none"> • waste disposal ceases at IWC landfill in January 1980 and Cleanaway continues the final capping and revegetation works required under the licence • unauthorised activities at the Commonwealth owned Harringtons Quarry, adjacent to the IWC landfill, fractures the rock barrier between the two sites. This allows groundwater and pollutants to move between the two sites, a problem which still continues today • landfill closure works undertaken |
| 1986 | <ul style="list-style-type: none"> • despite no legal obligation to do so, Cleanaway constructs and commissions a pollution control system at the IWC landfill to address pollution seepage problem |
| 1987 | <ul style="list-style-type: none"> • NSW Metropolitan Waste Disposal Authority (now WSN Environmental Solutions) fills the Harringtons Quarry landfill with domestic and industrial wastes • inadequate closure works at Harringtons Quarry landfill allows stormwater and pollutants to discharge into the IWC landfill |
| 1992 | <ul style="list-style-type: none"> • a July 1992 letter from the NSW EPA to the Commonwealth notes: "<i>The operation of the leachate [ie pollution] collection system has not been maintained since control of the site reverted to the Commonwealth. As a result the site would appear to be saturated. The state of contamination of, and the movement of leachate from, the IWC site poses a threat to the local environment and gives rise to the risk of damage or injury to third parties...</i>" |

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| | <ul style="list-style-type: none"> Commonwealth subsequently agrees with the EPA to address the problem, but does not do so |
| 1993 | <ul style="list-style-type: none"> EPA serves an Environmentally Hazardous Chemicals Act order ("EHC Order") on the Commonwealth as occupier of the IWC landfill the EHC Order requires study and maintenance of the pollution control system on the basis that <i>"[l]ack of maintenance of the leachate collection system since reversion to the Commonwealth has led to the seepage problems..."</i> and that <i>"the Commonwealth, as owner and occupier of the site, is liable to meet the costs of the clean up and the installation of longer term strategies for the environmental management and remediation of the site"</i> (source – NSW Environment Minister media release accompanying the EHC Order) Commonwealth conducts a study but takes no action to stop the seepage this EHC Order remains in effect today, listed on the EPA register as a management order under the Contaminated Land Management Act |
| 1995 | <ul style="list-style-type: none"> At a meeting between NSW and Commonwealth government representatives, the senior Commonwealth representative: <i>"highlighted the fact that the Commonwealth had offered the use of the site to IWC to help NSW out of the problem of an acute shortage of sites for disposal of liquid industrial wastes. The Commonwealth had made the site available on the condition that the site be properly supervised by the State authorities. Even though the Commonwealth cannot be held morally responsible for the current state of the site, the Commonwealth government has made a commitment to undertake the remediation work required. He strongly stated his contention that the site had received sufficient investigations and that the remediation process should be started as soon as possible."</i> despite these words, no action is undertaken by the Commonwealth to maintain and operate the pollution control system in a proper and efficient manner or to stop the seepage of pollutants |
| 1996 | <ul style="list-style-type: none"> House of Representatives Standing Committee is advised by Commonwealth Department of Administrative Services that the IWC landfill <i>"is now fenced off and we are looking at a remediation program for that site. It is back under direct Commonwealth control."</i> |
| 1998 | <ul style="list-style-type: none"> Commonwealth reports the IWC landfill to the EPA under s60 of the Contaminated Land Management Act as posing a 'significant risk of harm' to human health and the environment |

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| 1999 | <ul style="list-style-type: none"> • NSW Environment Minister advises Commonwealth Environment Minister that "<i>[i]n situations where significant environmental issues arise at Commonwealth facilities, the NSW Environment Protection Authority (EPA) has found that there are at times delays in Commonwealth action. Recent examples relate to two contaminated sites within NSW on Commonwealth land...namely the Industrial Waste Collection (IWC) site and Harringtons site. Legal notices requiring clean up of the IWC site were issued on the Commonwealth Department of Finance and Administration as far back as 1993. The Commonwealth claimed immunity from State regulation and no remedial action was taken at the time</i>". |
| 2002 | <ul style="list-style-type: none"> • Commonwealth constructs another pollution control system at the IWC landfill |
| 2003 | <ul style="list-style-type: none"> • EPA declares part of the IWC landfill as a 'remediation site' under the Contaminated Land Management Act |
| 2003 | <ul style="list-style-type: none"> • WSN Environmental Solutions enters into a voluntary investigation agreement with the EPA for the Harringtons Quarry landfill |
| 2003/4 | <ul style="list-style-type: none"> • Cleanaway proposes two remediation plans for the IWC landfill on a 'without prejudice' basis, but the Commonwealth refuses to accept any responsibility for implementation |
| 2004 | <ul style="list-style-type: none"> • Harringtons Quarry landfill is declared a 'remediation site' under the Contaminated Land Management Act because of the discharge of pollutants into the IWC landfill |
| 2005 | <ul style="list-style-type: none"> • WSN Environmental Solutions enters a voluntary remediation agreement with the EPA for the Harringtons Quarry landfill |
| 2006 | <ul style="list-style-type: none"> • Commonwealth commences Supreme Court proceedings against Cleanaway alleging that the original licence under which IWC occupied and operated the IWC landfill continued to be in effect. Cleanaway disputes the allegations. The proceedings are dismissed in 2007 and the dismissal is upheld after an appeal in 2008, with Cleanaway recovering costs from the Commonwealth |
| 2006 | <ul style="list-style-type: none"> • Brambles sells Cleanaway |
| 2007 | <ul style="list-style-type: none"> • In February 2007, the EPA issues a remediation order to Cleanaway under the Contaminated Land Management Act |

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| | <ul style="list-style-type: none"> • Cleanaway challenges the remediation order in the Land & Environment Court |
| 2008 | <ul style="list-style-type: none"> • EPA's remediation order is revoked by order of the Land & Environment Court • Cleanaway agrees (on a 'without prejudice' basis) to prepare a remediation action plan ("RAP") to the EPA's satisfaction, while maintaining its denial of responsibility for any remediation • RAP for the IWC landfill is completed to the EPA's satisfaction |
| 2009 | <ul style="list-style-type: none"> • EPA provides the RAP to the Commonwealth • the Commonwealth proposes yet more studies, but no action is taken by it to stop the seepage of pollution from the IWC landfill • Brambles commences Land & Environment Court proceedings against the Commonwealth for breach of the Protection of the Environment Operations Act |