

Notice

Environmental Protection Act 1994

Decision to accept an Enforceable Undertaking

This notice is issued by the administering authority pursuant to sections 507 of the Environmental Protection Act 1994 to advise of a decision made on an enforceable undertaking.

Mt Cuthbert Resources Pty Ltd (ACN 140 474 693)
Suite 2 Level 2, 45 Grenfell Street
Adelaide SA 5000

Our reference: EPML00863313
3 March 2023

Take notice: that under the provisions of the *Environmental Protection Act 1994*, this decision notice advises of the administering authority's decision to accept the application for an Enforceable Undertaking (EU) made by Mt Cuthbert Resources Pty Ltd (Mt Cuthbert) on 8 February 2023. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

A. Application details

On 8 February 2023, the department received an application for an EU from Mt Cuthbert.

B. Material considered by the department in making the decision

In making the decision, the department had before it;

- a. *Environmental Protection Act 1994*;
- b. *Application Form – Enforceable Undertaking* dated 8 February 2023;
- c. Letter from Stewart Robinson, Chief Executive Officer of Mt Cuthbert, regarding the company's financial ability to comply with the terms of the EU, dated 8 February 2023;
- d. Correspondence between Mt Cuthbert and the Department relating to the terms of the EU and proposed amendments to environmental authority EPML00863313;
- e. Proposed amendments to environmental authority EPML00863313;
- f. *Guideline for Enforceable Undertakings under the Environmental Protection Act 1994* (ESR/2016/2272);
and
- g. *Department of Environment and Science Enforcement Guidelines* (ESR/2021/5549).

C. Application of legislation to the decision

Section 507 of the Environmental Protection Act 1994 provides that:

- a. the administering authority may accept a written undertaking (Enforceable Undertaking) made by a person in relation to a contravention or alleged contravention by the person of the *Environmental Protection Act 1994*, other than an indictable offence; and
- b. the administering authority must give the person written notice of the administering authority's decision to accept or reject the EU, and the reasons for the decision.

D. Decision

The administering authority has decided to accept Mt Cuthbert's application for an EU. The approved EU is attached to this decision notice.

E. Reasons for the decision

- a. the alleged contravention is not an indictable offence.
- b. Mt Cuthbert has agreed to amendments to environmental authority EPML00863313.
- c. the administering authority reasonably believes that the EU will:
 - i. secure compliance with the *Environmental Protection Act 1994*; and
 - ii. enhance the protection of the environment.

F. Additional information

Obligations under the Environmental Protection Act 1994

In addition to the requirements of the EU and the conditions imposed, you must also meet your obligations under the *Environmental Protection Act 1994*, and the regulations made under the *Environmental Protection Act 1994*. For example:

- you must comply with the following provisions of the Act:
 - general environmental duty (section 319); and
 - duty to notify of environmental harm (sections 320 - 320G);
- you must also ensure that you do not commit offences in relation to the *Environmental Protection Act 1994*, including but not limited to, the following:
 - causing serious or material environmental harm (sections 437 - 439);
 - causing environmental nuisance (section 440);
 - depositing prescribed water contaminants in waters and related matters (section 440ZG); and
 - placing contaminant where environmental harm or nuisance may be caused (section 443).

Notice
Internal Review Decision

Should you have any queries in relation to this notice, please contact Filiz Tansley, Director, Minerals Business Centre, of the department on telephone number 0436 621 418.



Signature

Scott Sullivan
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

03/03/2023

Date

Enquiries:

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