

Notice

Environmental Protection Act 1994

Direction Notice

This direction notice is issued by an authorised person pursuant to section 363B of the Environmental Protection Act 1994.

Mixed Metals Pty Ltd
ACN 614 321 176
OBT ACCOUNTING & TAX
20 William Street
GATTON QLD 4343

CC: Mixed Metals Pty Ltd
Unit 10, 215 Brisbane Road
BIGGERA WATERS QLD 4215

Our reference: CR95286; E-100000496

23 April 2020

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Mixed Metals Pty Ltd ACN 614 321 176 (you) by an authorised person of the Department of Environment and Science (the department) under section 363B of the Act.

The direction notice is issued with respect to your activities at Mixed Metals Recycling on land described as Lot 34 on BUP103694 and Lot 0 BUP103694 situated at Unit 10, 215 Brisbane Road, Biggera Waters (the premises).

A. Grounds

The direction notice is issued on the grounds that the authorised person reasonably believes that:

- you have contravened a prescribed provision, being section 426 of the Act; and
- you have contravened the prescribed provision in circumstances that make it likely that the contravention will continue or be repeated; and
- the matter relating to the contravention can be remedied and it is appropriate to give you an opportunity to remedy the matter.

The facts and circumstances forming the basis for these grounds are:

- Under section 426 of the EP Act a person must not carry out an environmentally relevant activity (ERA) unless the person holds, or is acting under, an environmental authority (EA) for the activity.
- Under Schedule 2 of the Environmental Protection Regulation 2019, ERA 62 – *Resource recovery and transfer facility operation* consists of operating a facility for receiving and sorting, dismantling or baling waste; or receiving and temporarily storing waste before it is moved to a waste facility.

- Under section 13(1) of the Act, "Waste" includes any thing, other than an end of waste resource, that is— (a) left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or (b) surplus to the industrial, commercial, domestic or other activity generating the waste.
- Section 13(3) of the Act provides that a thing can be waste whether or not it is of value.
- An inspection conducted at the premises by authorised persons on 15 January 2020 confirmed that various wastes, principally scrap metals, were being received at the premises, sorted and stored before being removed to a waste facility.
- At the time of the inspection, you were conducting ERA 62 - Resource recovery and transfer facility operation at the premises.
- No valid EA is currently held either by you or by another person for the ERA to be conducted at the premises.

B. Reasonable Steps

The authorised person considers that the following reasonable steps are necessary to remedy the contravention of the prescribed provision:

- 1) By **5pm on 18 June 2020**, you must either:
 - a) Cease conducting ERA 62 at the premises; OR
 - b) Submit to the department a properly-made application to conduct the ERA 62 at the premises.
- 2) In the event that you decide to cease the ERA 62 at the premises, by **5pm on 18 June 2020** you must ensure that all **wastes** are removed from the premises and lawfully transported and disposed of to a facility that can lawfully accept the wastes.
- 3) In the event that the ERA 62 ceases and wastes are removed from the premises, you must provide written documentation to the department to demonstrate the lawful removal and disposal of all **wastes on the premises**. This may include transport receipts, waste tracking documentation for regulated wastes (such as waste oils and tyres) and/or receipts from disposal locations.

The written documentation must be provided to goldcoast.es@des.qld.gov.au or PO Box 4244 Robina QLD 4230 by **5pm on 25 June 2020**.
- 4) No further **wastes** may be accepted at the premises unless a valid EA is obtained for the activity to occur at the premises.

Wastes include all whole waste vehicles, scrap metal, end-of life vehicles, end of life tyres, waste oils, waste car parts and any other wastes stored at the premises as a result of operating the ERA 62 activity.

Take notice:

- The contravention must be remedied by **5pm on 18 June 2020**.
- The requirements of the direction notice take effect immediately upon service of the notice
- This notice remains in force until further notice from the department.

Notice

C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act.

A person, who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must be made:

- within 10 business days of the decision being notified to the person
- be supported by enough information to enable the department to decide the application for review
- be made using the application for review of an original decision form (ESR/2015/1573).¹

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (ESR/2015/1742). You may have other legal rights or obligations and should seek your own legal advice.

D. Penalties

Failing to comply with a direction notice is an offence unless the person has a reasonable excuse.

- The maximum penalty for a corporation for wilfully contravening a direction notice is 8325 penalty units, totalling \$1,110,971
- The maximum penalty for a corporation contravening a direction notice is 3000 penalty units, totalling \$400,350.

Section 3 of the Penalties and Sentences Regulation 2015 prescribes the monetary value of a penalty unit.

¹ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.des.qld.gov.au>.

Notice

The department has considered enforcement action in relation to the offence that is the subject of this notice. Please see the accompanying letter which includes a formal warning for the offence.

Should you have any queries in relation to the notice, please contact Yvette Morgan on telephone number (07) 5626 6865.



Signature

Paul Butcher
Manager (Compliance)
Authorised Person
Environmental Protection Act 1994
Department of Environment and Science



Date

Enquiries:
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Waste Development & SE Compliance
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