

Notice

Environmental Protection Act 1994

Environmental Evaluation

Notice to conduct or commission an environmental evaluation

This notice to conduct or commission an environmental evaluation is issued by the administering authority pursuant to section 326B of the Environmental Protection Act 1994.

Hail Creek Coal Holdings Pty Limited
Level 44, 1 Macquarie Place
SYDNEY, NSW, 2000

Our reference: C-CPLPO-100001502, STAT-E-100001510

13 October 2022

Take notice: that under the *Environmental Protection Act 1994* (EP Act) a notice to conduct or commission an environmental investigation is issued to Hail Creek Coal Holdings Pty Limited (HCCH) (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

This amended notice to conduct or commission an environmental investigation (amended notice) is issued in respect of the activities of HCCH at the following places:

- Environmental Authority (EA) EPML00661913 – Mining Leases (ML) 4738 and 700026
- EA EPSX03543115 – Exploration Permits Coal (EPC) 658 and 689, Mineral Development Licence (MDL) 353 and MDL435
- EA EPVX03173515 – EPC752
- EA EPSX00602113 – MDL442

This amended notice has been issued to extend the due dates for delivery of the interim report on Phase 2 and final report on Phase 3 activities in response to a request from you on 15 September 2022. The extension of time is considered reasonable to allow sufficient time for negotiations with landholders regarding land access.

This amended notice replaces the notice to conduct or commission an environmental investigation for the places as listed above that was issued to Hail Creek Coal Holdings Pty Limited ACN: 625 050 722 by the administering authority on 16 November 2021.

A. Grounds

The notice to conduct or commission an environmental investigation is issued on the following grounds:

- HCCH has informed the department that there may be a legacy compliance history on coal tenements recently acquired by HCCH with respect to potential breaches of s 430(3) of the EP Act for failing to comply with EA conditions relating to the decommissioning and rehabilitation of disturbance caused by authorised activities.

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- The department considers that an environmental investigation is necessary to identify the extent of any potential non-compliance with each EA that authorises HCCH to conduct authorised activities. The investigation findings will also determine the appropriate mechanism for addressing any non-compliance.

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

- In undertaking a business review and reconciliation of records in relation to coal tenements recently acquired, HCCH have identified that some historical exploration drilling disturbance decommissioning and rehabilitation records may contain some inaccurate and/or incomplete information regarding the status of decommissioning and rehabilitation of these disturbances at various tenements.
- In discussions between the department and HCCH on Thursday 13 February 2020, HCCH agreed to undertake an environmental investigation of the recently acquired tenements to determine the decommissioning and rehabilitation status of the historical exploration drilling disturbance, noting that it is not presently known whether any un-rehabilitated exploration drilling disturbance has, in fact, caused environmental harm.

B. Requirements

The report on the environmental investigation must address the following relevant matters:

- Provide information relating to the decommissioning and rehabilitation status of historical exploration drilling disturbance resulting from carrying out environmentally relevant activities on each of the tenements listed in this notice. The investigation is to be split into the following three phases.
- Phase 1: Preliminary Review:
 - Objective:
 - Identify from a desktop review of HCCH's drilling records and database those mining tenements that may require a ground-truthing field inspection to determine whether historical exploration drilling disturbance on those tenements have been decommissioned and/or rehabilitated in accordance with the applicable EA conditions for the tenements.
 - Outcome:
 - Establish a database and record of locations on those tenements that require ground-truthing investigations of historical exploration drilling disturbance decommissioning and/or rehabilitation status.
 - Identify a field inspection scope that prioritises areas, properties or locations on the tenements that are require inspection.
 - An interim report on Phase 1 activities and outcomes must be prepared by HCCH and submitted to the department. The interim report will provide the outcomes of the desktop database review and a field investigation program (to be conducted as Phase 2).
 - Delivery Date:

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- The interim report on Phase 1 must be submitted to the department by 30 June 2020, unless otherwise agreed by the department.
- Phase 2: Field inspections:
 - Objective:
 - Verify status of historical exploration drilling disturbance by undertaking field inspection of relevant tenements, as outlined in the program prepared in Phase 1.
 - Outcome:
 - Complete field inspections of historical exploration drilling disturbance on identified tenements.
 - Prepare a list of locations that require historical exploration drilling disturbance to be decommissioned and/or rehabilitated by HCCH in accordance with the applicable EA conditions for the tenements.
 - An interim report on Phase 2 field results must be prepared by HCCH and submitted to the department.
 - Delivery Date:
 - The interim report on Phase 2 activities and outcomes must be submitted to the department by 31 October 2023, unless otherwise agreed by the department.
- Phase 3: Development of a decommissioning and rehabilitation management plan:
 - Objective:
 - Development of a decommissioning and rehabilitation management program that outlines the program of activities required to progressively decommission and rehabilitate historical exploration drilling disturbance, in order of priority.
 - Outcome:
 - Submission of a report to the department documenting the decommissioning and rehabilitation management program for the tenements assessed under this environmental investigation.
 - Delivery Date
 - The final report on Phase 3 activities, in particular provision of the historical exploration drilling disturbance decommissioning and rehabilitation management plan, must be submitted to the department by 31 October 2023, unless otherwise agreed by the department.
 - This report will constitute the environmental report for the environmental investigation for the purposes of section 326B(2)(b) of the EP Act.
 - The declarations required by section 326E of the EP Act must accompany the environmental report.

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The environmental investigation must be carried out, and the environmental report prepared by a suitably qualified person. A suitably qualified person is defined as a person who has qualifications and experience relevant to performing the function.

Delivery of Phases 1, 2 and 3 combined constitute the environmental report. The environmental report must be submitted to the department on or before: 31 October 2023.

As the recipient of this notice, you are also required to provide a statutory declaration in the form attached, to accompany the environmental report submitted to the department.

The suitably qualified person who prepares the environmental report must also provide a statutory declaration in the form attached to the environmental report submitted to the department.

Copies of the template statutory declarations can also be accessed from the Queensland Government website at www.qld.gov.au, using the publication number as a search term:

1. Statutory declaration environmental evaluation for recipient ([ESR/2016/1997](#))
2. Statutory declaration for suitably qualified person ([ESR/2016/2266](#))

Take notice:

1. The requirements of the notice to conduct or commission an environmental investigation take effect immediately upon service of this notice;
2. This notice remains in force until further notice from the department; and
3. You are responsible for meeting the costs of conducting or commissioning the environmental evaluation, preparing the environmental report and providing any further information as requested by the department.

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 an original decision made by the Department of Environment and Science (the department) may apply to have that decision internally reviewed.

Information about initiating an appeal in relation to this notice is contained within the [Internal Reviews and Appeals Information Sheet](#) (available at www.qld.gov.au using the publication number ESR /2015/1742 as a search term).

A request for review or appeal is to be made using the approved form '[Application for review of original decision](#)' (available at www.qld.gov.au using the publication number ESR/2015/1573 as a search term).

Applications for reviews are to be sent to Permit and Licence Management, Department of Environment and Science: via email at palm@des.qld.gov.au, or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

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.

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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*.

You may have other legal rights or obligations and should seek your own legal advice.

D. Public Register


Pursuant to section 540 of the EP Act, the Department is required to maintain a register of certain documents and information authorised under the EP Act. A copy of this document will be kept on the public register. The register is available for inspection by members of the public who are able take extracts, or copies of the documents from the register. Documents that are required to be kept on the register are published in their entirety, unless alteration is required by the EP Act. There is no general discretion allowing the department to withhold documents or information required to be kept on the public register. For more information on the department's public register, search 'public register' at www.qld.gov.au. For queries about privacy matters please email privacy@des.qld.gov.au or telephone 13 74 68.

Penalty

Failure to comply with a notice to conduct or commission an environmental evaluation is an offence.

1. The maximum penalty for an individual is 300 penalty units, totalling \$ 40,035.
2. The maximum penalty for a corporation is 1500 penalty units, totalling \$ 200,175.

Should you have any queries in relation to this notice, please contact Garry Debbage-Philp, Senior Environmental Officer on (07) 4999 6850.



Signature

13.10.2022

Date

Martyn Hughes

Manager (Compliance)

Delegate of the Chief Executive

Department of Environment and Science

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Enquiries:

Mackay Compliance Centre

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