

Notice

Environmental Protection Act 1994

Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Carabella Resources Pty Ltd (ACN: 143 355 471)
'MLC Centre' Suite 6106
Level 16, 19-29 Martin Place
SYDNEY NSW 2000

Your reference: EPML02090614

Our reference: CR95513, C-CPLRC-100001113, STAT-E-100002710

27 May 2020

Dear Directors

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Carabella Resources Pty Ltd (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued in respect to the activities of Carabella Resources Pty Ltd at Mining Lease ML80194 on land described as Lot 80/SP232626, Lot 1/SP136854, Lands Lease 11/H4023 and Reserve 8/HT142 situated south of Bluff township, Central Queensland on the Capricorn Highway (the premises).

A. Grounds

This EPO is issued on the following grounds:

- To secure compliance with condition B3 of environmental authority (EA) EPML02090614 dated 10 March 2020.

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

- A formal monitoring request (formal request) pursuant to Condition B3 of the EA dated 15 February 2019 was issued by the Department of Environment and Science (DES) to you on 6 September 2019. The formal request was issued to you in response to multiple community concerns received by DES in relation to dust nuisance allegedly caused by mining activities at the Bluff Coal Mine. Dust monitoring commenced on 22 October 2019. The formal request required dust monitoring in accordance with Australian Standards for PM₁₀, TSP and dust deposition as per condition B2 of EA EPML02090614 dated 15 February 2019.

- You failed to ensure Bluff PCI Management Pty Ltd complied with a dust monitoring program in accordance with Condition B3 of EA EPML02090614 dated 15 February 2019.
- Bluff PCI Management Pty Ltd (BPM) is a wholly owned subsidiary of Carabella Resources Pty Ltd and has been established by Carabella Resources Pty Ltd to manage the development and operation of the Bluff Coal Mine.
- BPM has failed to take measures to comply with three requirements identified in the formal monitoring request and as highlighted in the pre-enforcement letter issued by DES on 6 December 2019 to you.
- The three requirements not complied with are:
 - The dust monitoring program was not designed and implemented by an appropriately qualified person; and
 - Certification or other suitable documentation was not provided to the department demonstrating that the proposed dust monitoring equipment meets the relevant Australian Standards prior to commencement of the dust monitoring on 22 October 2019 as per the formal request; and
 - The PM₁₀ instrument as installed at monitoring point “I” does not meet the Australian Standards options stipulated in the formal request and the EA.

B. Requirements

In accordance with this EPO, you are required to do the following:

- By 29 May 2020, provide certification or other suitable documentation to the department demonstrating the qualifications and experience of an appropriately qualified person to be engaged to design and implement a dust monitoring program at the Bluff Coal Mine. A suitably qualified person means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.
- Within 20 business days of confirmation by the department of the suitability of the appropriately qualified person, provide for the department's approval, the proposed dust monitoring program and a written report on the proposed dust monitoring program by the appropriately qualified person demonstrating the following:
 - how the dust monitoring program has been developed.
 - how the dust monitoring equipment that will be used meets the below Australian and New Zealand Standards:
 - for dust deposition – the most recent version of AS3580.10.1 Methods for sampling and analysis of ambient air – Determination of particulate matter – Deposited matter – Gravimetric method;
 - for PM₁₀ – the most recent version of either AS3580.9.6 Methods for sampling and analysis of ambient air – Determination of suspended particulate matter – PM10 high volume sampler with size-selective inlet – Gravimetric method or AS3580.9.9 Methods for sampling and analysis of ambient air – Determination of suspended particulate matter – PM10 low volume sampler – Gravimetric method; and
 - for total suspended particulates – the most recent version of AS/NZS3580.9.3 Methods for sampling and analysis of ambient air – Determination of suspended particulate matter – Total suspended particulate matter (TSP) – High volume sampler gravimetric method.

- how the locations of the dust monitoring equipment stipulated in the proposed dust monitoring program comply with the AS/NZS3580.1.1 Methods for siting and analysis of ambient air, Part 1.1 Guide to siting air monitoring equipment.
- who is responsible for implementing all parts of the dust monitoring program and the interactions between site and the appropriately qualified person.
- Within 20 business days of confirmation by the department of the suitability of the proposed dust monitoring program, implement the dust monitoring program at the Bluff Coal Mine as detailed in the approved program and report.
- Air quality monitoring must be undertaken by an appropriately qualified person in accordance with the below requirements:
 - For dust deposition - Using the gravimetric method, measure dust deposition in accordance with the most recent version of AS3580.10.1, and simultaneously at a location that is representative of the background or ambient dust environment (i.e. in the absence of Bluff Coal Mine generated dust).
 - For PM₁₀ - in accordance with the most recent version of AS3580.9.6 or AS3580.9.9 measure suspended particulate matter with an aerodynamic diameter of less than ten (10) micrometres (PM₁₀).
 - For TSP - in accordance with the most recent version of AS3580.9.3 measure the concentration of particulate matter suspended in the atmosphere of 90 micrograms per cubic metre over a (1) year averaging time.
- All monitoring must be conducted at the locations stipulated in the approved dust monitoring program that, when approved, forms part of this notice. Monitoring of each air quality related parameter is to be undertaken simultaneously for a period of twelve (12) months commencing on the date of implementation of the program.
- Meteorological conditions including temperature, wind speed, wind direction and rainfall are to be monitored for the duration of the relevant monitoring period at the monitoring equipment location stipulated in the approved dust monitoring program.
- Interim (monthly) reports must be provided to the department, endorsed by the agreed appropriately qualified person, over the duration of the 12 month monitoring period for air quality monitoring, with the first report due 45 days after implementation of the program and thereafter, 15 business days after each monthly monitoring period ends. Each interim report must, at a minimum, include:
 - all air quality monitoring results for the reporting period;
 - associated analysis/interpretation of the monitoring results;
 - all pertinent information on all instances during the reporting period where measured dust levels have exceeded the limits prescribed in condition B2 of EA EPML02090614 dated 10 March 2020; and
 - the meteorological conditions for the reporting period.

C. Obligations

If you propose to dispose of the place or business to which the EPO relates, you **must** advise the buyer of the existence of this EPO.

If you cease to carry out the activity to which this EPO relates, you **must** give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity.

Take notice:

- the requirements of this order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

- The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling \$831,250 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$4,156,250.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$598,500.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,992,500.

Failure to provide written notice to the buyer is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling \$6,650.
- The maximum penalty for a corporation is 250 penalty units, totalling \$33,250.

Failure to provide written notice within 10 business days of ceasing the activity to the department is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling \$6,650.
- The maximum penalty for a corporation is 250 penalty units, totalling \$33,250.

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

E. Reviews and appeals

The provisions regarding review of decisions and appeals may be 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; and
- 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.

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.ehp.qld.gov.au>.

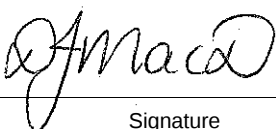
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Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may also 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/2015/1572](#)). You may have other legal rights or obligations and should seek your own legal advice.

Should you have any queries in relation to the notice, please contact Louise Pinn on telephone number (07) 4837 3499 or via email at CWES_Rockhampton@des.qld.gov.au.



Signature

27 May 2020

Date

Debbie-Jo MacDonald
Manager (Compliance)
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

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