# 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.*

Waterford Sand & Soil Pty Ltd
C/- Smart Steps Accounting Pty Ltd
Suite 2, 20 Walan Street
MOOLOOLABA QLD 4557

Cc: Waterford Sand & Soil Pty Ltd
262 Waterford-Tamborine Road
WATERFORD QLD 4133

Cc: Raj Bhullar
Email: raj.bhullar@byrnecivil.com.au

Our reference: 101/007553, E-100012652

17 August 2020

**Take notice:** that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Waterford Sand & Soil Pty Ltd ACN 627 501 642 (you) by an authorised person of the Department of Environment and Science under section 363B of the Act.

The direction notice is issued with respect to your activities at the premises on land described as Lot 319 on MAR6115 situated at 262 Waterford Tamborine Road, Waterford (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, Environmental Authority required for particular environmentally relevant activity (ERA); 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:

- You operate at 262 Waterford Tamborine Road, Waterford under Environmental Authority (EA) EPPR03587215, which authorises you to conduct Environmentally Relevant Activity (ERA)16 for (2) extraction and (3) screening, (b) more than 100,000t but less than 1,000,000t.
- You do not hold an environmental authority for ERA 62 Resource recovery and transfer facility operation or ERA 54 Mechanical waste processing.



Queensland Government

- On 9 June 2020, authorised persons of the Department of Environment and Science (the department) conducted an inspection of the premises. At 11:38am, authorised persons observed several large stockpiles of general waste material including:
  - Crushed glass waste comingled with plastics;
  - Treated and painted timber including telephone poles;
  - Comingled timber, plastic, metal, concrete, chipboard, particleboard, rags and plastics;
  - Mud and soils with visible leachate;
- The term waste is defined in section 13 of the Act, and includes any thing, other than an end of waste resource, that is left over, or an unwanted by-product, from an activity or surplus to the activity generating the waste. It can be a gas, liquid, solid or energy, or combination thereof, irrespective of whether or not it is of value.
- Under the EP Regulation 2019, Schedule 19: Clean earth means any natural substance found in the earth that is not contaminated with waste or a hazardous contaminant — clay, gravel, loam, rock, sand.
- Therefore, all of the waste materials listed above, including earth that does not meet the definition of clean earth under the EP Act, can also be considered a waste.
- Authorised persons observed that the stockpile volumes were in excess of 6 cubic metres which is the lower threshold for conducting ERA 62.
- This activity constitutes ERA 62 – *Resource Recovery and Waste Transfer Facility Operation* which consists of operating a facility for receiving and sorting, dismantling or baling waste.
- During the inspection, authorised persons observed screeners onsite near the waste piles which indicates mechanical sorting of the waste is occurring. Authorised persons were advised that the waste material is brought onto the site for the purpose of sorting via screening with some of the screened product being used as 'value-add' to extracted products.
- The mechanical screening of waste at the premises also constitutes ERA 54 - *mechanical waste reprocessing* which consists of operating a facility for receiving and mechanically reprocessing any quantity of general waste.
- The departmental record indicates you do not have and are not acting under an EA for ERA 62 and ERA 54 to be conducted for the premises. You have therefore contravened section 426 of the Act.

## 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 Tuesday 18 August 2020**, you must cease receiving waste at the premises.
2. By **5pm on Friday 18 September 2020**, you must remove all waste that has been received at the premises including (but not limited to):
   - Crushed glass waste, including glass contaminated with plastic waste;
   - Treated and painted timber including telephone poles;
   - Comingled timber, plastic, metal, concrete, chipboard, particleboard, rags, plastics;
   - Mud and soils that are not clean earth.

3. By **5pm on Friday 25 September 2020**, you must provide written documentation to demonstrate the lawful transport and disposal of all waste. This may include waste disposal and transport receipts and waste tracking documentation for regulated wastes.

   The written documentation must be provided to goldcoast.es@des.qld.gov.au OR PO Box 4244 Robina QLD 4230

**Take notice:**

- The contravention must be remedied by **18 September 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.

## 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

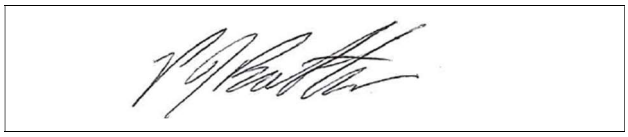
[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.des.qld.gov.au>.

- 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.

The department may also consider alternative compliance or enforcement action in relation to the offences that are the subject of this notice.

Should you have any queries in relation to the notice, please contact Rhoda Johanni on telephone number 07 5626 6893.



Signature

17 August 2020

Date

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

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