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.

SEQ Waste & Recycling Pty Ltd
HQ South Tower
Level 3, 520 Wickham Street
FORTITUDE VALLEY QLD 4006

Our reference: E-100046411 : 101/0029256

26 November 2020

Dear Sir/Madam

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to SEQ Waste & Recycling Pty Ltd ACN: 629 249 332 (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 with respect to your activities at North Tivoli Qld 4306 on land described as Lot 2 on RP885020 situated at 540 – 604 Warrego Highway, North Tivoli Qld 4306 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. SEQ Waste & Recycling Pty Ltd has failed to comply with a condition of an environmental authority (EA), namely condition G3 of EA0001696; and
2. SEQ Waste & Recycling Pty Ltd has failed to comply with the general environmental duty under section 319 of the Act.

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

1. SEQ Waste & Recycling Pty Ltd holds an environmental authority, namely EA0001696, for the following environmentally relevant activities (ERAs)—
    - ERA 54 Mechanical waste reprocessing Threshold 1 – operating a facility for receiving and mechanically reprocessing, in a year, more than 5,000t of inert, non-putrescible waste or green waste only; and
    - ERA 62 Resource recovery and transfer facility operation Threshold 1 – operating a facility for receiving and sorting, dismantling, baling or temporarily storing - (b) general waste.

2. SEQ Waste and Recycling Pty Ltd occupies premises located in the north-eastern corner of premises located at 540 – 604 Warrego Highway, North Tivoli Qld 4306 (Lot 2 RP885020). The activity is approved under a development permit under the *Planning Act 2016* (ref: 9996/2018/MCU).
3. At 11.02pm on 19 November 2020, the department received an online report from a member of the public reporting "very strong burnt rubber" odour in Bundamba Qld 4304 that started around 10.50pm. The source of that odour has not been confirmed, but it is nonetheless likely that the odour report in Bundamba arose as a consequence of a stockpile fire at the SEQ Waste & Recycling Pty Ltd premises.
4. At approximately 12:30pm on 20 November 2020, an employee of SEQ Waste and Recycling Pty Ltd was informed (presumably by Queensland Fire and Emergency Services (QFES) or Queensland Police Service) of a fire in a waste stockpile at its Tivoli premises and arrived about 1 hour later.
5. QFES attended the premises to combat the fire, extinguishing it with some 80,000L of water, before handing control of the premises back to SEQ Waste & Recycling Pty Ltd employees to dismantle the stockpile and extinguish remaining hotspots.
6. At 7:24am on 20 November 2020, Mr Luke Zambelli of Zambelli Environmental telephoned the department's 24-hour Pollution Hotline advising of a fire in unprocessed stockpiled waste at the premises.
7. At 10:47am on 20 November 2020, departmental officers John RICE and Jeremy BENNETT, both being Authorised Persons under the *Environmental Protection Act 1994* and the *Waste Reduction and Recycling Act 2011*, attended the premises and met with Adam LOWE (General Manager, SEQ Waste & Recycling Pty Ltd) and Shawn BURLACE (Operations Manager, SEQ Waste & Recycling Pty Ltd).
8. LOWE and BURLACE, having summarised the events and response surrounding a waste stockpile fire at the premises on 20 November 2020, estimated that the fire, which was largely confined to the surface of a large unprocessed stockpile of waste, had impacted about 100m^2. No source of ignition was evident, although some speculation was offered that the fire may have ignited from a battery within the waste stockpile.
9. Despite initial reports that the waste stockpile included asbestos and tyres, no such waste was observed during the inspection and SEQ Waste & Recycling Pty Ltd denied that such waste was present in the stockpiles.
10. The department notes that the premises has an active security camera system and notes your commitments to review the footage to ascertain if the fire was deliberately lit.
11. The department notes, by comparing the footprint of waste evident on a NearMap image of the premises dated 4 November 2020, that the extent of stockpiling has increased roughly 3-fold since a remotely piloted aircraft system (RPAS) survey of the premises was undertaken by the department on 30 June 2020, wherein the amount of waste was estimated to be around 2,000m^3.
12. Departmental officers formed the belief that the extent and nature of waste stockpiles at the premises creates conditions conducive to fire (and nuisance arising from such fire) and impacts on visual amenity, both of which constitute an impact on an environmental values (namely air quality, public safety and public amenity) under the Act.
13. An adverse impact on an environmental value constitutes environmental harm under section 14 of the Act.
14. You do not hold an EA that either directly or by implication permits the company to cause environmental harm. Nor is there another instrument that authorises harm. Thus, any such harm is unlawful.

15. The fire of 20 November 2020 demonstrated that the risk of harm is high and without action to address the risk, a reoccurrence is likely.
16. Under condition G3 of EA0001696, you must take all reasonable steps to prevent or minimise the likelihood of environmental harm from the activity, a requirement that is comparable to the General Environmental Duty under section 319 of the Act.
17. Departmental officers invited you to submit an "action plan" concerning the reduction and management of waste stockpiles on the premises, specifically setting timeframes by which the company can reduce waste stockpiles to a level that mitigates the risk of fire and other impacts.
18. You submitted, via email, an action plan on 20 November 2020. Following feedback from Departmental officers, including a request to define areas where waste would be stockpiled going forwards, you submitted an amended "Action Plan" on 23 November 2020. The Department has considered the latter version of the Action Plan in drafting the requirements of this EPO.

B. Requirements

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

1. As soon as practicable, but by no later than **5pm on 10 December 2020**, you must ensure that all waste awaiting processing, or having been processed (but excluding waste that consists of concrete only), are kept in stockpiles not exceeding 20m (length), 15m (width) and 4m (height).

2. As soon as practicable, but by no later than **5pm on 10 December 2020**, you must ensure that a minimum separation distance of 9m exists, and is maintained, between each of the following:
   - each stockpile of waste, whether processed or unprocessed (whether or not that stockpile is comprised of combustible material); and
   - each stockpile and any structure (e.g. processing shed); and
   - any stockpile of waste, whether or not that stockpile is comprised of combustible material) and the boundary of the approved activity area (see development permit 9996/2018/MCU).

3. **From 8 January 2021**, you must not cause or permit waste to be stored at any place within the approved site (see development permit 9996/2018/MCU) other than with the areas depicted in Appendix 1 of this Environmental Protection Order, unless:
   a) the waste is in a container with at least 4 sides (e.g. inside a skip bin having been received at the premises prior to unloading awaiting processing or is processed material awaiting removal from the premises);
   b) the waste is arising from the operation of processing equipment and reasonable in the context of the operation of that equipment (e.g. a stockpile of processed material at the outlet of that equipment); or
   c) minor volumes of material, other than waste that is the subject of the Environmental Authority, that is normally associated with the operation of the business.

4. As soon as practicable but not later than **5pm on 8 January 2021**, you must ensure that:
   - Light Waste* awaiting processing is confined to Area 1 as depicted in Appendix 1;
   - Heavy Waste! is confined to Area 2 as depicted in Appendix 1; and
   - Concrete waste is confined to Area 3 as depicted in Appendix 1
   - Receipt of waste is ceased, and not recommenced, at any time whilst waste is stockpiled outside Areas 1, 2 and 3 in Appendix 1.

* Light waste means unconsolidated, loose construction and demolition waste of a type that may be accepted under the conditions of EA0001696

! Heavy Waste means construction and demolition waste that is primarily soil with comingled construction and demolition waste of a type that may be accepted under EA0001696.
5. Notwithstanding Requirements 1 to 4 of this Environmental Protection Order or other obligations at law, you must not cause or permit the stockpiling of more unprocessed waste than the company would ordinarily process in a period of 5 business days.

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 $834,065.50 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $4,170,312.50.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $600,525.00.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $3,002,625.00.

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

- The maximum penalty for an individual is 50 penalty units, totalling $ 6672.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $ 33,362.50.

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 $ 6,672.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $ 33,362.50.

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]

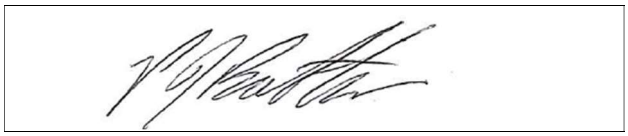
Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able 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 John Rice on telephone number (07) 3894 8159.



Signature

26 November 2020

Date

Paul Butcher

Manager (Compliance)

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries:

Ipswich Compliance Centre

Environmental Services and Regulation

Department of Environment and Science

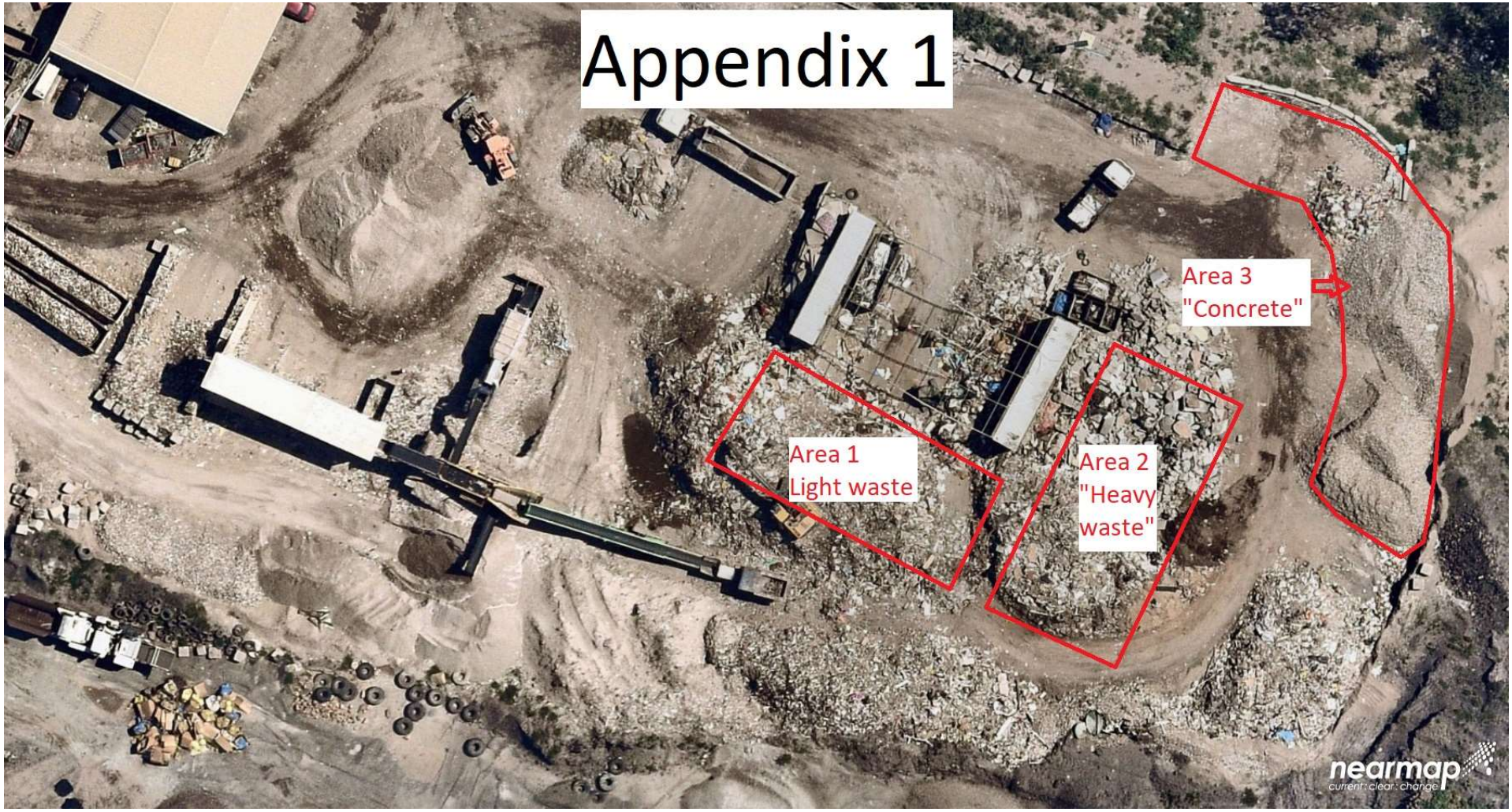
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[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.des.qld.gov.au>.


Appendix 1
Area 3
"Concrete"
Area 1
Light waste
Area 2
"Heavy
waste"
nearmap
current: clear: change