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.

Renewable Power Australia Limited

ACN 158 240 192

124 Mill Road Woongoolba QLD 4207

Our reference: C-CPLRC-100000195; E-100095396

27 August 2021 ~~12 July 2021~~

Dear Directors

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to Renewable Power Australia Limited ACN 158 240 192 (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 the activities of waste processing and electricity generation on land described as Lot 2 WD3160 situated at 102 Mill Road STEIGLITZ (the premises).

This notice was originally issued to you on 12 July 2021 and was varied on 27 August 2021 following an internal review. New text in the notice is shown as underlined and deleted text is shown as strikethrough. The original notice remained in force until it was replaced by this notice on 27 August 2021.

A. Grounds

This EPO is issued on the following grounds:

1. The department requires you to take reasonable measures to secure compliance with the general environmental duty.
2. The department requires you to take reasonable measures to secure compliance with conditions G1 and WA28 of the Environmental Authority (EA) EPPR00841013.

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

1. The department considers you are carrying out environmentally relevant activities (ERAs) at the premises:
    a. ERA14(2)(a) Electricity generation
    b. ERA 54(1) Mechanical waste reprocessing

Queensland Government

2. You are the holder of environmental authority (EA) EPPR00841013, comprised of registration certificate ENRE00470506 and the conditions contained within development approval IPDE00829408, which authorises the ERAs listed in point 1 ~~2~~.
3. As part of these activities, you stockpile waste material for fuel burning to generate electricity.
4. You directly engaged Benedict Recycling Pty Ltd (Benedict) to bring the waste material now identified as Stockpile 1 (see Attachment 1) to your site. The material in Stockpile 1 was brought to your premises from 2 January 2020 to 19 January 2020.
5. You have stockpiled this waste material which is contaminated with asbestos containing materials (ACM), in addition to contaminants such as synthetically treated timber materials, rubber and plastics which has been at the premises since at least 20 January 2020.
6. You were responsible for the receipt of the material, with control of the weighbridge at the premises where waste is received.
7. Your EA imposes limitations on the waste that can be burned in generating electricity and thus waste that can be accepted at the premises. These limitations on waste acceptance and your own internal corporate procedures and policies necessitate that you inspect all incoming loads for conformance with waste acceptance criteria. As the EA holder and operator of the activities, you are responsible for inspecting waste coming on to the premises.
8. You have communicated your waste acceptance requirements to waste suppliers in a generic letter to suppliers dated 1 April 2019. In this letter, you articulate your policy for dealing with contaminated or unacceptable waste that is brought on to the premises. This policy involves a fee, per tonne of contaminated or unacceptable waste, that you will charge to suppliers who bring such waste to the premises. The letter states that there is a charge for removal of the unacceptable waste and a charge for the reloading of the unacceptable waste.
9. You are responsible for ensuring compliance with conditions of your EA under sections 430 and 431 of the EP Act.
10. The department issued an Emergency Direction Notice on 5 February 2020 due to the contamination of the waste material mentioned in point 5 ~~3~~. The Notice prohibited you from grinding or burning this waste material.
11. The Emergency Direction was issued as authorised officers identified the waste material being stockpiled at the premises was not suitable to be ground or used as fuel in the cogeneration plant boiler, due to the extensive contamination with materials not suitable for combustion and at risk of impacting human health.
12. On 28 April 2020, 31 August 2020, 30 October 2020 and 23 April 2021 authorised officers of the department undertook site inspections and collected spatial information and high-quality aerial imagery via drone (remotely piloted aircraft surveys), allowing desktop volumetric analysis of the stockpiles. The information collected confirmed that the waste stockpiles the subject of the Emergency Direction Notice remained in place at the premises.
13. Aerial imagery collected by officers on 23 April 2021 and volumetric analysis of this imagery demonstrated considerable reductions in stockpile volume when compared with previous volumetric surveys.
14. Officers during the site inspection on 23 April 2021 also noted that:

a. decomposition of materials contained within the stockpiles is occurring, evidenced by the observation of leachate production from the stockpiles exhibiting indicators of high levels of contaminants, including colour, odour and bubbles in pooled leachate; and

b. stockpiles of waste material are at risk of fire, evidenced by the odour of burned waste material and observation of charred blackened material located on Stockpile 1 (see Attachment 1).

15. The department is of the view that the considerable length of time that the waste stockpiles have been on the premises has resulted in:

    a. decomposition of the waste materials and subsequent leachate production and increased risk of contaminant release to waters; and

    b. self-heating stockpiles and increased risk of an ignition source within the stockpiled waste material.

16. During the site inspection on 23 April 2021, officers observed stormwater drains around the perimeter of the wood yard at the premises to be blocked with debris, litter and choked with vegetation overgrowth. Officers also observed stagnant pools of water containing high levels of contaminants in the stormwater drains, indicated by the bright green colouration and odour of the pooled water.

17. The officers considered the stormwater management system surrounding the wood yard to be in poor condition, unlikely to drain to the stormwater management ponds, causing an increased risk of overflow of contaminants to waters such as cane drains and road stormwater drains.

18. The department considers the length of time of storage of waste outdoors at the premises highly conducive to the generation of stormwater that has come into contact with decomposing waste.

19. The department is also aware of high levels of residual contaminants levels within the stormwater management ponds relating to your ERAs at the premises and considers any additional contaminants entering these ponds in addition to that generated by the operation of the cogeneration plant a high risk of causing environmental harm.

20. The department considers the current stormwater management system ineffective at conveying firewater run-off to the stormwater ponds if a fire occurs in the waste stockpiles at the premises.

21. The stormwater management ponds are unlikely to have sufficient storage capacity to manage the firewater generated by a potential waste stockpile fire event, particularly during full operation of the cogeneration plant during the impending sugar cane crush season commencing in July 2021.

22. The department considers the continued storage of the waste stockpiles and the failure to maintain the stormwater management system at the premises is a contravention of conditions G1 and WA28 of the EA and your general environmental duty (GED).

23. On 9 December 2020, the department released the guideline – *Prevention of fires in waste stockpiles (ESR/2020/5409 v1.00)*, to assist environmental authority holders that undertake waste and recycling activities to meet their GED and reduce risk of environmental harm from fires in waste stockpiles.

    - The guideline states that waste stockpiles should be limited in size and volume appropriate to the waste material, fire risks, building designs and installed fire safety alarms.
    - The guideline also states that the maximum height of any stockpile must not exceed 4 metres, and that the maximum width of an external stockpile should be 20 metres if access is provided for a Queensland Fire and Emergency Services (QFES) vehicle down both sides of the stockpile and 10 metres is access is provided down one side of the stockpile only.

24. The spatial information and aerial imagery collected via drone (remotely piloted aircraft surveys) and subsequent volumetric analysis of the stockpiles collected on 23 April 2021 shows that the dimensions of the stockpiles on the premises far exceed those stipulated in the department's guideline for prevention of fires in waste stockpiles.
25. The department considers the considerable length of time that the waste stockpiles have been on the premises has allowed for decomposition of the waste materials, and has resulted in the stockpiles self-heating, increasing the risk of an ignition source within the stockpiled waste material.
26. The department also considers the dimensions of the waste stockpiles at the premises does not allow for fire-fighting intervention should the waste materials ignite and an increased risk of releases of contaminants to the air environment.
27. Waste fires, when they occur, pose potential adverse effects to the environment and human health. The consequences of waste fires, particularly those containing ACM and other contaminants as contained within the stockpiles at the premises include:
    - Environmental harm via:
        - Release of contaminants into the air, including smoke, asbestos and particulate matter as well as noxious compounds from the combustion of synthetic/treated materials such as volatile organic compounds (VOCs), dioxins and formaldehyde.
        - Release of run-off of firewater, combustion products and firefighting chemicals that may impact ground and surface waters.
        - Impacts upon human health, caused by the toxic nature of smoke and contaminants released into the environment by the fire.
28. The department considers that by stockpiling the waste materials at the premises for the extended length of time and in the dimensions present, that you are carrying out an activity that is likely to cause environmental harm through risk of releases to waters and risk of releases to air in contravention with the conditions of your EA and the GED.
29. The department also considers that you have not undertaken all reasonable and practicable measures to prevent or minimise harm.
30. Both the GED and condition G1 of your EA require you to take all reasonable and practicable measures to prevent or minimise environmental harm. Condition WA28 of your EA requires you to take practical measures to prevent the release of contaminated stormwater to waters.
31. As such, the department considers that it is appropriate for you to take reasonable measures to comply with your general environmental duty and the conditions of your environmental authority and eliminate this risk.

B. Requirements

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

1. By **5pm on 3 September 2021** ~~22 July 2021~~, you must restore the function of the stormwater management system around the wood yard at the premises. This includes, but is not limited to, removal of vegetation and debris from stormwater drains to ensure water flows in a timely manner into stormwater management ponds.

2. ~~By **5pm on 22 July 2021**, you must commence removal of the waste identified as **Stockpile 1** (Image 1; Attachment 1) from the premises. The waste must be lawfully transported from the premises and disposed of to an authorised **waste disposal facility**~~.
3. By **5pm on** **1 October 2021** ~~**13 August 2021**~~**,** you must have removed all waste identified as **Stockpile 1** from the premises. The waste must have been lawfully transported from the premises and disposed of to an authorised **waste disposal facility**.
4. By **5pm on 4 October 2021** ~~**9am on 16 August 2021**~~**,** you must provide written documentation to the department to demonstrate the lawful removal of **Stockpile 1** from the premises. This may include transport receipts and receipts from disposal locations.

   The written documentation must include the volume of each load of waste removed, the description of waste removed and the location to which waste was disposed.
5. During all movement or loading of waste originating from **Stockpile 1**, you must implement dust suppression measures to ensure no emissions to air occur which are capable of causing environmental harm.
6. The removal of the waste identified as **Stockpile 1** from the premises must be conducted in accordance with Workplace Health and Safety Queensland: *How to safely remove Asbestos; Code of Practice 2021*.

Definitions

Stockpile 1 – the stockpile depicted in Image 1, also known as the Benedict stockpile located within the GPS coordinates below (GDA94; Zone 56):

Direction/extremity	Easting	Northing
Northern	532 356	6932090
Eastern	532 380	6932058
Southern	532 360	6932040
Western	532 335	6932082

Waste disposal facility – a facility authorised under the *Environmental Protection Act 1994* to undertake environmentally relevant activity 60 – waste disposal.

Please note:

The requirements of this EPO do not exempt you from complying with other legislation. It is your responsibility to ensure that waste is managed and transported in accordance with the requirements of all other relevant legislation, including the Environmental Protection Regulation 2019 ~~2008~~, the *Workplace Health and Safety Act 2011* and the *Fire and Emergency Services Act 1990*.

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 EP Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

1. The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $861, 562 or five years imprisonment.
2. The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $4,307,812.
3. The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $620,325
4. The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $3,101,625

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

- The maximum penalty for an individual is 50 penalty units, totalling $6,892.
- The maximum penalty for a corporation is 250 penalty units, totalling $34,462.

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 $6,892.
- The maximum penalty for a corporation is 250 penalty units, totalling $34,462.

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

E. Reviews and appeals

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

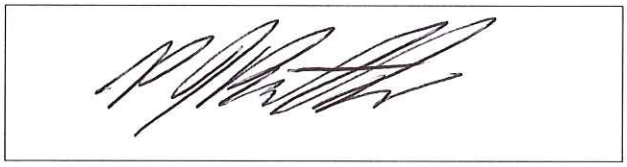
A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

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

Pursuant to section 540 of the Act, the department is required to maintain a register of certain documents and information authorised under the 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 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.

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



Signature

27 August 2021

~~12 July 2021~~

Date

Paul Butcher ~~**Eugene Immisch**~~

Compliance Delivery Manager

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Rebecca Jones

COMPLIANCE CENTRE: **Gold Coast**
Ph: (07) 5626 6865
Email: goldcoast.es@des.qld.gov.au

Enc: Attachment 1 – Image 1

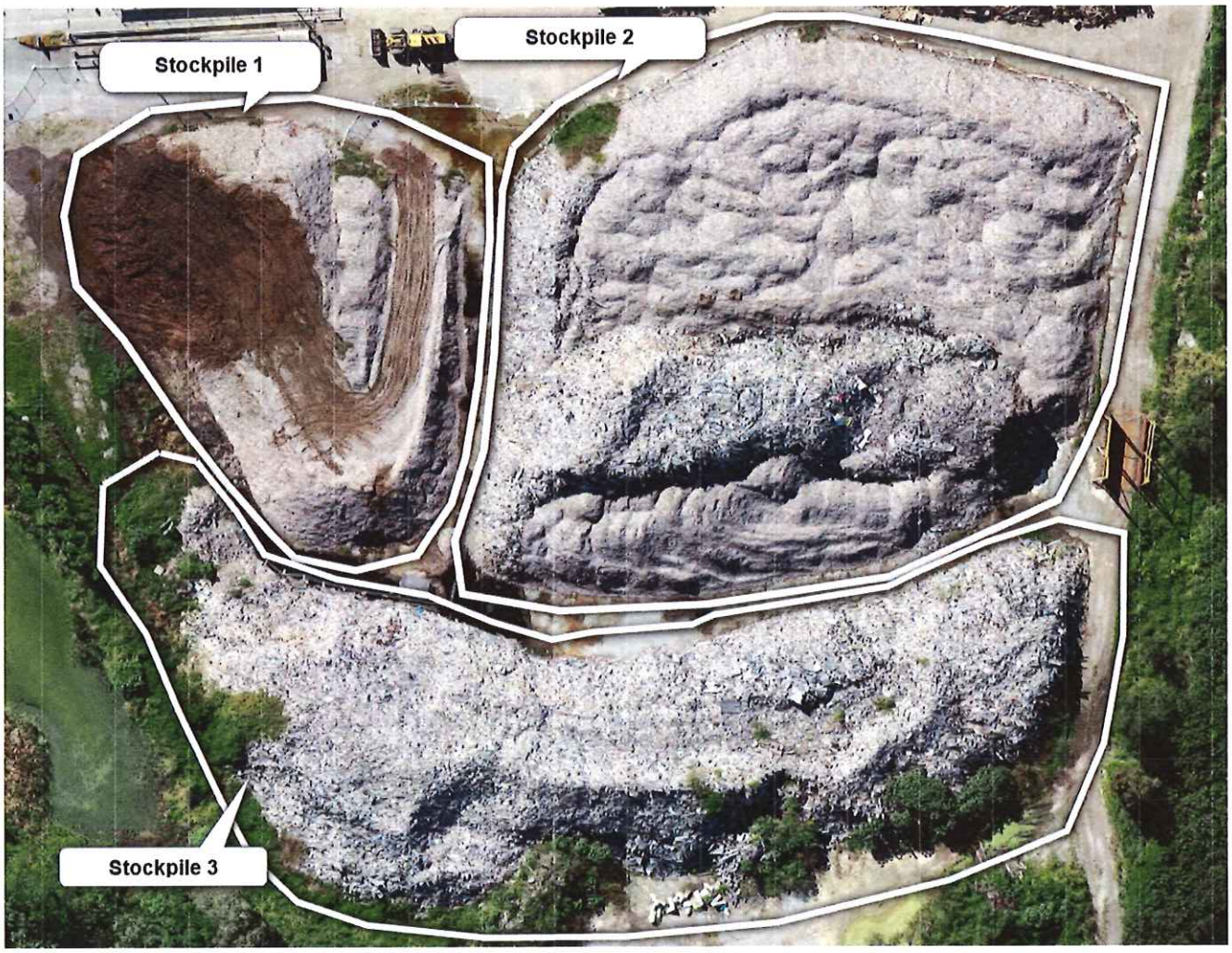


Image 1: Stockpile names as per configuration on 23 April 2021.