

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)
Suite 6106,
Level 61, MLC Centre
19-29 Martin Place
SYDNEY NSW 2000

C/o Peter James Gothard, William Martin Colwell &
Timothy James Michael
KPMG Australia
Riparian Plaza
71 Eagle Street
Brisbane QLD 4000

Cc: Mr Peter Gilford
CFO & Company Secretary
MACA Limited (ACN: 144 745 782)
45 Division Street
Welshpool WA 6106

Your reference: EPML02090614

Our reference: C-CPLRC-100095819; E-100075947

18 November 2021

Dear Directors

Take notice: that under the *Environmental Protection Act 1994* (EP 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 with respect to the activities carried out at Bluff Coal Mine on land described as ML80194 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. The department requires you to take reasonable measures to secure compliance with condition D1 of Environmental Authority (EA) EPML02090614 dated 10 March 2020 which states:



Condition D1

Contaminants must not be released to any waters as a result of the authorised mining activities, except as permitted under the conditions of this environmental authority.

2. The department requires you to take reasonable measures to secure compliance with the General Environmental Duty. The General Environmental Duty is detailed in s319 of the Act which states the following: 'A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practical actions to prevent or minimise the harm (the general environmental duty).'

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

1. Carabella Resources Pty Ltd is the holder of EA EPML02090614. The EA authorises the following activities:

Resource Activity, Schedule 2A, 13: Mining black coal.

Ancillary 31 - Mineral processing 2: Processing, in a year, the following quantities of mineral products, other than coke (b) more than 100,000t

Ancillary 08 - Chemical Storage 1: Storing a total of 50t or more of chemicals of dangerous goods class 1 or class 2, division 2.3 under subsection (1)(a)

Ancillary 08 – Chemical Storage, 3: Storing more than 500 cubic metres of chemicals of class C1 or Class C2 combustible liquids under AS 1940 or dangerous goods class 3 under subsection (1)(c)

Ancillary 60 – Waste disposal, 1: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(a), (a) less than 50,000t

Ancillary 63 – Sewage Treatment, 1: Operating sewage treatment works, other than no-release works, with a total daily peak design capacity of, (b-ii) more than 100 but not more than 1500EP otherwise.

2. Carabella Resources Pty Ltd entered voluntary administration on 23 November 2020, with KPMG Australia appointed as Administrators.
3. On 10 February 2021, Carabella Resources entered court appointed liquidation, with KPMG Australia ceasing their role as Administrators and being appointed as Liquidators.
4. On 10 February 2021, MACA Limited (MACA) became secured controller of Carabella Resources Pty Ltd, and all their assets, with the effect that they became the controller of Bluff Coal Mine ML80194.
5. The department is satisfied that MACA is the person responsible for complying with the obligations under the Act to prevent and minimise environmental harm, and the conditions of EA EPML02090614.
6. On 9 June 2021, departmental officers conducted a compliance inspection at the Bluff Coal Mine. During the inspection, one manually operated pump and associated pipe was observed on site. Bunds and drainage channels were visibly eroded, and high levels of water were observed in site water management infrastructure. The matters identified were communicated to you via telephone and email following the inspection.
7. On 9 November 2021, you informed the department via telephone of an unauthorised release from the premises.

8. Condition D1 of EA EPML02090614 states that other than as permitted within the EA, contaminants must not be released to any waters. No other conditions of the EA permit release of contaminants including mine affected water to waters.
9. On 10 November 2021, the department conducted a compliance inspection at the Bluff Coal Mine.
10. During the compliance inspection of 10 November 2021, departmental officers observed an uncontrolled release of sediment laden water flowing from Farm Dam downslope into Rufus Creek.
11. During the inspection, officers identified the single manually operated pump at Sediment Dam 1 that was onsite prior to the rain event was completely submerged and not operational, limited personnel were onsite and departmental officers were advised an additional pump was installed at Sediment Dam 1 at 7am on 10 November 2021 and was pumping water to the pit.
12. Farm Dam receives water from MIA Dam via a pipe under the haul road between Farm Dam and MIA Dam. MIA Dam is a mine affected water containment. The department considers sediment laden and mine affected water has been released to Rufus Creek.
13. On 12 November 2021, you notified the department that releases were also occurring from Town Dam to Columba Creek and continuing from Sediment Dam 1.
14. Town Dam and Sediment Dam are ESC water containments that have received overflows from mine affected water containments.
15. Sediment is a prescribed water contaminant under section 6, schedule 10 of the *Environmental Protection Regulation 2019*.
16. Waters is defined in EA EPML02090614 as to include river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water, natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.
17. The department considers Rufus Creek and Columba Creek meet the definition of waters in the EA.
18. The releases to Rufus and Columba Creek is a contravention of condition D1 of EA EPML02090614.
19. The department also considers that, in the absence of ongoing management of contaminated water at the premises, there is a likelihood that contaminants will continue to be released to waters, with the potential to cause environmental harm.
20. The department considers that given, the facts and circumstances detailed above, you have failed to comply with condition D1, and the department requires you to take reasonable measures to return to compliance with conditions of the EA and the GED.

B. Requirements

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

1. On and from the date of this EPO, you must take all necessary actions to cease and further prevent the unlawful release of contaminated water to the receiving environment.

2. Until such time as the unlawful release to waters has ceased, an appropriately qualified person must monitor the water quality of all containment structures that directly or indirectly release to waters as well as the receiving waters of Columba and Rufus Creeks immediately downstream of the release.
3. The monitoring under Requirement 2 must be undertaken on a daily basis and include Electrical conductivity ($\mu\text{S}/\text{cm}$), pH, Total Suspended Solids, Sulphate, Dissolved Aluminium and Dissolved Iron.
4. By 10 December 2021, a report prepared by an appropriately qualified person must be provided to the department which details the following:
 - a. An assessment of unauthorised releases to waters from Farm Dam and Town Dam including volume, quality, and potential impact to the environment considering the environmental values and relevant water quality objectives.
 - b. All actions that were taken to cease and further prevent the unlawful release of contaminated water to the receiving environment.
 - c. Describe all monitoring undertaken including the quality characteristics monitored, the frequency and locations.
 - d. Provide the water quality monitoring data for all monitoring undertaken to the department in Microsoft Excel format.

Definitions

Appropriately qualified person is defined as a person or persons who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis of performance relative to the subject matter using the relevant protocols, standards, methods or literature.

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 a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$ 4,307,812 or five years imprisonment
2. 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 of the existence of the order is an offence.

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

Failure to provide written notice to the department within 10 business days of ceasing the activity to which an environmental protection order relates is an offence.

- 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.

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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.

Notice
Environmental Protection Order

Should you have any queries in relation to the notice, please contact Barbara van der Pol on telephone number 07 4987 9390.



Signature

18/11/2021

Date

Aimee Maxwell
Manager (Compliance)
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

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