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.

Stanmore IP South Pty Ltd (ACN 625 536 094)
Level 15, 133 Mary Street
BRISBANE QLD 4000

CC: Jon Romcke
Jon.Romcke@stanmore.net.au

Your reference: EA0002817

Our reference: C-CPLPO-100149520; C-CPLRC-100186923

10/03/2022

Dear Directors

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to Stanmore IP South Pty Ltd ACN 625 536 094 (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 of Isaac Downs Coal Mine on land described as mining lease (ML) 700046, ML700047, ML700048 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. You are, or have been, contravening all or part of a condition of an environmental authority, pursuant to section 358(d) (iii) of the Act:

   Condition A5 – *The environmental authority holder must:*

   a) install all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority;

   b) maintain such measures, plant and equipment in a proper and efficient condition;

   c) operate such measures, plant and equipment in a proper and efficient manner; and

   d) ensure all instruments and devices used for the measurement or monitoring of any parameter under any condition of this environmental authority are properly calibrated.

   Condition C2 - *Unless otherwise permitted under the conditions of this environmental authority, the release of mine affected water to waters must only occur from the release point specified in Table C1: Mine Affected Water Release Points, Sources and Receiving Waters as depicted in Appendix 1, Figure*

Queensland Government

2: Location of Water Release Points, Water Quality Monitoring Points and Infrastructure Areas attached to this environmental authority.

Condition C27 - *A Water Management Plan must be developed by an appropriately qualified person and implemented.*

Condition C28 - *The Water Management Plan required by Condition C27 must:*

a) provide for effective management of actual and potential environmental impacts resulting from water management associated with the mining activities carried out under this environmental authority; and

b) include:

i. a study of the source of contaminants;

ii. a water balance model for the site;

iii. a water management system for the site;

iv. measures to manage and prevent saline drainage;

v. measures to manage and prevent acid rock drainage;

vi. contingency procedures for emergencies; and

vii. a program for monitoring and review of the effectiveness of the Water Management Plan.

Condition C34 - *An Erosion and Sediment Control Plan must be developed by an appropriately qualified person and implemented for all stages of the authorised mining activities on the site to minimise erosion and the release of sediment to receiving waters and contamination of stormwater.*

Condition H1 - *The consequence category of any structure must be assessed by a suitably qualified and experienced person in accordance with the Manual for Assessing Consequence Categories and Hydraulic Performance of Structures (ESR/2016/1933) or its successor at the following times: a) prior to the design and construction of the structure, if it is not an existing structure; or b) prior to any change in its purpose or the nature of its stored contents.*

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

1. You hold environmental authority (EA) EA0002817, dated 25 August 2021. The EA approves the following environmentally relevant activities (ERAs):
    a. **ERA 13** – Mining black coal
    b. **ERA 38** – Surface coating – more than 100t but not more than 1000t (1)(b)
    c. **ERA 63** – Sewage treatment – more than 21EP but not more than 100EP (1)(a)(i).
2. The department is satisfied that you are the entity operating the Isaac Downs Coal Mine.
3. Condition C2 of the EA states *Unless otherwise permitted under the conditions of this environmental authority, the release of mine affected water to waters must only occur from the release point specified in Table C1: Mine Affected Water Release Points, Sources and Receiving Waters as depicted in Appendix 1, Figure 2: Location of Water Release Points, Water Quality Monitoring Points and Infrastructure Areas attached to this environmental authority.*
4. Waters is defined in the EA as

a. *water in waters or spring;*

b. *underground water;*

c. *overland flow water; or*

d. *water that has been collected in a dams.*

5. Mine affected water is defined in the EA as:

a. *means the following types of water:*

i. *pit water, tailings dam water, processing plant water;*

ii. *water contaminated by a mining activities which would have been an environmental relevant activity under Schedule 2 of the Environmental Protection Regulation 2008 if it had not formed part of the mining activities;*

iii. *rainfall runoff which has been in contact with any areas disturbed by mining activities which have not yet been rehabilitated, excluding rainfall runoff discharging through release points associated with erosion and sediment control structures that have been installed in accordance with the standards and requirements of an Erosion and Sediment Control Plan to manage such runoff, provided that this water has not been mixed with pit water, tailings dam water, processing plant water or workshop water;*

iv. *groundwater which has been in contact with any areas disturbed by mining activities which have not yet been rehabilitated;*

v. *groundwater from the mine's dewatering activities;*

vi. *a mix of mine affected water (under any of paragraphs i)-v) and other water.*

b. *does not include surface water runoff which, to the extent that it has been in contact with areas disturbed by mining activities that have not yet been completely rehabilitated, has only been in contact with:*

i. *land that has been rehabilitated to a stable landform and either capped or revegetated in accordance with the acceptance criteria set out in the environmental authority but only still awaiting maintenance and monitoring of the rehabilitation over a specified period of time to demonstrate rehabilitation success; or*

ii. *land that has previously been rehabilitated and monitoring demonstrates the relevant part of the landform with which the water has been in contact does not cause environmental harm to water or groundwater, for example:*

1. *areas that are been capped and have monitoring data demonstrating hazardous material adequately contained with the site;*

2. *evidence provided through monitoring that the relevant surface water would have met the water quality parameters for mine affected water release limits in this environmental authority, if those parameters had been applicable to the surface water runoff; or*

iii. *both.*

6. Table C1 of the EA defines the authorised release point for Isaac Downs Coal Mine as being RP1 located at 620661 E, 7563311 N (GDA94).

Pre-Wet Season Compliance Inspection

7. On 25 November 2021, officers of the department conducted a pre-wet season compliance inspection at Isaac Downs Coal Mine. During the inspection, officers observed water runoff exiting the haul road via a series of 'cut-throughs' in the bund of the haul road, and entering Five Mile Gully and its tributary.
8. On 9 December 2021 and 14 December 2021 you provided laboratory certificate of analysis (COA) for sampling conducted on 25 November and 30 November 2021 respectively. Sampling was conducted at the following locations
    a. Five Mile Gully upstream of haul road culvert (described as FG1 in the EA) (621026; 7564008 Zone 55 WGS84); sampling conducted 25 November 2021;
    b. Five Mile Gully downstream of haul road culvert (620976; 7563867 Zone 55 WGS84); sampling conducted 25 November 2021;
    c. CMC Lay Down Area low point, also known as the 'yard sump' (621157; 7563725 Zone 55 WGS84); sampling conducted on 25 November 2021;
    d. CMC Lay Down Area gully crossing (621024; 7563617 Zone 55 WGS84); sampling conducted on 25 November 2021;
    e. Haul road run-off location number 1 (621319; 7563350 Zone 55 WGS84); sampling conducted on 30 November 2021
    f. Haul road run-off location number 2 (621217; 7563677 Zone 55 WGS84); sampling conducted on 30 November 2021;
    g. Haul road run-off location number 3 (621173; 7563761 Zone 55 WGS84); sampling conducted on 30 November 2021; and
    h. Haul road run-off location number 4 (621011; 7563899 Zone 55 WGS84); sampling conducted on 30 November 2021.
9. From the laboratory COA's that you provided the department on 9 December 2021 and 14 December 2021, it has been identified that the samples taken at the locations as described in points (e) to (h) contained coal fines. The unauthorised releases that occurred from these locations is considered mine affected water.
10. Further, the definition of mine affected water in your EA includes rainfall runoff which has been in contact with areas disturbed by mining, and has not been managed through a designated erosion and sediment control measure as per the Erosion and Sediment Control Plan.
11. The department considers that you have contravened condition C2 of the EA as a result of this release event.
12. Condition C34 of the EA states *An Erosion and Sediment Control Plan must be developed by an appropriately qualified person and implemented for all stages of the authorised mining activities on the site to minimise erosion and the release of sediment to receiving waters and contamination of stormwater.*
13. During the compliance inspection on 25 November 2021, officers of the department inspected the following locations described as:
    a. Temporary CMC Construction Lay Down Area;
    b. 'Low point' at the temporary CMC Construction Lay Down Area (also known as the 'yard sump');

c. Light vehicle crossing of Five Mile Gully tributary, near the temporary CMC Construction Lay Down Area;

d. Light vehicle crossing of Five Mile Gully;

e. Peak Downs Highway Underpass Construction Project Area

f. Isaac River Levee construction

14. Officers observed the following:

a. Sediment laden water entering Five Mile Gully tributary at the light vehicle crossing of Five Mile Gully tributary near the temporary CMC Construction Lay Down Area. This included runoff from the temporary CMC Construction Lay Down Area which is considered an area disturbed by mining activities, which constitutes mine affected water as per the definition in the EA.

b. Mine affected water pooling at an area described as a 'low point' adjacent to the Temporary CMC Construction Lay Down Area. This location is not a formal water storage managed as part of the mine water management system as per the Water Management Plan or as a sediment dam under the Erosion and Sediment Control Plan.

c. Insufficient erosion and sediment control measures in place at the light vehicle road crossing of Five Mile Gully (downstream of the haul road).

d. Water was observed to be overflowing from this 'low point' and into the tributary of Five Mile Creek, and such water may be MAW or sediment laden water with insufficient sediment control structures established.

e. Insufficient erosion and sediment controls in place at the Isaac River Levee construction area to mitigate sediments from exiting the construction area.

f. Multiple examples of poorly maintained, erosion and sediment control measures observed at the entry to Isaac Downs, which received run-off from areas including the underpass construction area within the Peak Downs Highway road reserve resulting in the release of sediments to the receiving environment.

15. A copy of the Erosion and Sediment Control Plan (version 2 dated 7 July 2021) was provided to the department on 9 December 2021.

16. The plan identifies erosion and sediment control measures which details the requirements for each catchment based on the activity type. Section 8 of the plan details the erosion and sediment control planning and implementation requirements for Isaac Downs Coal Mine.

17. During the inspection on 25 November 2021, officers did not observe all of the erosion and sediment control measures identified by you in your plan as being implemented.

18. The department considers that you have contravened condition C34 of the EA by not implementing your Erosion and Sediment Control Plan (version 2 dated 7 July 2021) for all stages of authorised mining activities.

19. Condition C27 of the EA states *A Water Management Plan must be developed by an appropriately qualified person and implemented.*

20. Condition C28 - *The Water Management Plan required by Condition C27 must:*

a) provide for effective management of actual and potential environmental impacts resulting from water management associated with the mining activities carried out under this environmental authority; and

b) include:

i. a study of the source of contaminants;

ii. a water balance model for the site;

iii. a water management system for the site;

iv. measures to manage and prevent saline drainage;

v. measures to manage and prevent acid rock drainage;

vi. contingency procedures for emergencies; and

vii. a program for monitoring and review of the effectiveness of the Water Management Plan.

21. On 9 December 2021 you provided a copy of the Water Management Plan (version 2 dated 7 July 2021) for Isaac Downs Coal Mine.
22. The department conducted a review of the Water Management Plan and identified the following:
    a. The plan does not consider construction phases of the mining activity conducted on site;
    b. Does not provide for effective management of actual and potential environmental impacts from water management associated with the mining activities; and
    c. Does not include a water management system for the site.
23. The department considers that you have contravened condition C27 and C28 of the EA by not implementing the Water Management Plan which has resulted in a number of unauthorised releases of mine affected and sediment affected water.
24. As described in points (7) and (14) above, officers did not observe appropriate measures installed to manage mine affected water, or appropriate measures installed and maintained for erosion and sediment control.
25. On 30 January 2022, you provided a project plan titled '*20220128 Haul Road MAW Dam Program Rev 2 (003)'* which details the actions required to be undertaken to install measures associated with the management of mine affected water at the haul road.
26. Therefore, the department alleges condition A5 has been contravened, namely by failing to install all measures to ensure compliance with EA0002817.

Dam Failure Incident

27. On 7 January 2022, you notified the department via WaTERS that Construction Dam had been overfilled, overtopped and subsequently the dam wall failed, resulting in the release of 'mine affected water' to a tributary of Five Mile Gully and then onto File Mile Gully.
28. On 24 January 2022 you provided laboratory COA results, issued on the 11 January 2022 for sampling conducted on the 7 January 2022 of the water released from the Construction Dam including the receiving waters along Five Mile Gully.
29. From the laboratory COA that you provided to the department on the 24 January 2022, it has been identified that the release contained mine affected water from a location that is not authorised as a release point.
30. On the 13 January 2022 during the site inspection and confirmed via documentation submitted on the 24 January 2022, you outlined that the water that is pumped into the Construction Dam is from the BSP Dam. The BSP Dam receives water from the Millennium water transfer and from the BSP Pit.

31. The definition of mine affected water in your EA includes pit water.
32. The department considers that you have contravened condition C2 of the EA as a result of this release event.
33. On 13 January 2022, officers of the department conducted an inspection of Construction Dam. You advised officers during the inspection that Construction Dam was temporary in nature, was not built to an engineering design and no consequence category assessment (CCA) was completed.
34. On 24 January 2022, you provided further information to the department in the *'ICAM Investigation Report'* which outlined that there were no written operating protocols in place to manage the movement of water around site and this along with the Construction Dam not being built to an engineering design (no spillway) being identified as a root cause of the dam wall failure (overfilling of the Construction Dam).
35. The Water Management Plan (dated 7 July 2021) for Isaac Downs Coal Mine is based on a fully operational mine site, with no considerations to interim mine water management measures required during construction phases including no mention of the Construction Dam or management of water movements for site.
36. The department considers that you have contravened condition C27 and C28 of the EA as a result of not taking into consideration or including the management and operation of the Construction Dam as part of the mine water management system.
37. As described in point (33) and (34) above, officers did not observe and were not informed of appropriate measures installed to manage the operation of water movements on site or the installation of a water management structure to ensure that wall failure did not occur (i.e. no spillway installed).
38. The department considers that you have contravened condition A5 of the EA by failing to effectively install and operate measures associated with the Construction Dam to ensure compliance with the EA.
39. As described in point (33) above, officers were informed that no CCA had been conducted on the Construction Dam.
40. The department considers that you have contravened condition H1 of the EA as a result of not assessing the consequence category of the Construction Dam.
41. The department considers that the contraventions of conditions C2, C27, C28, C34, H1 of the EA indicate that there are significant issues regarding the management, identification, control and risk mitigation of water management on the site and that you need to address this as a matter of priority.

B. Requirements

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

Management of runoff at the haul road

1. You must complete all of the actions associated with project plan titled *'20220128 Haul Road MAW Dam Program Rev 2 (003)'* which was submitted to the department on 30 January 2022 by **Monday 25 April 2022.**
2. A report must be provided to the department by **4pm on Monday 2 May 2022** which includes:
    a) Confirmation that the works have been completed in accordance with design plan;
    b) The construction of the measures has been certified by a Registered Professional Engineer of Queensland (RPEQ) where required;

c) Photos of the completed haul road and mine water storages.

3. The report required by requirement (4) must be submitted to CWES_Mackay@des.qld.gov.au.

Assessment of water management measures

4. You must commission an appropriately qualified person (AQP) to undertake an assessment of the current mine water management system onsite to:

   a) Determine its effectiveness in managing water at Isaac Downs Coal Mine for all stages of mining;

   b) Determine its effectiveness in managing actual and potential environmental impacts resulting from water management associated with the mining activities at Isaac Downs Coal Mine for all stages of mining; and

   c) Ensure compliance with condition C27 the EA.

   d) Determine any additional management measures (including infrastructure) or changes to the current water management measures required to ensure compliance with the EA.

5. Based on the outcome of requirement (4), you must update the Water Management Plan required by condition C27 of the EA and submit to the department by **4pm on Monday 2 May 2022.**

   Any comments made by the department must be included or implemented into the updated Water Management Plan.

6. Within 20 business days of the department providing any comments, you must update the Water Management Plan and re-submit the plan to the department.

7. You must install all relevant measures identified as a result of the outcome of requirement (4) and as detailed in the updated Water Management Plan required by requirement (5) and (6) to ensure compliance with condition C2 and C28 of the EA by **30 September 2022.**

8. You must undertake the works associated with the decommissioning and rehabilitating of the Construction Dam as identified in the *'ICAM Investigation Report'* provided to the department on 24 January 2022 by **Thursday 30 June 2022.**

9. A report must be provided to the department by **4pm on Monday 12 July 2022** which includes:

   a) Confirmation that the decommissioning and rehabilitation works associated with the Construction Dam have been completed in accordance with a decommissioning and rehabilitation plan;

   b) Photos of the completed decommissioning and rehabilitation works.

10. You must develop written procedures to manage the operational control of water management including mitigating risk associated with that operation and submit to the department by **4pm on Wednesday 30 March 2022.**

    Any comments made by the department must be included or implemented into the written procedure(s) developed.

11. Within 20 business days of the department providing any comments, you must update the written procedure(s) and re-submit the procedure(s) to the department.

12. You must install all relevant measures identified as a result of requirements (4), (10) and (11) to ensure compliance with the developed written procedure as per condition A5 of the EA by **30 September 2022.**

Assessment of erosion and sediment control measures

13. You must commission an AQP to undertake an assessment of the current erosion and sediment control measures onsite to:
    a) Determine its effectiveness in minimising the release of sediment to the environment;
    b) Determine its effectiveness in minimising erosion;
    c) Determine its effectiveness in minimising the contamination of stormwater;
    d) Ensure compliance with condition C34 of the EA; and
    e) Determine any additional management measures (including infrastructure) or changes to the current erosion and sediment control measures required to ensure compliance with the EA.
14. Based on the outcome of requirement (13), you must update the Erosion and Sediment Control Plan required by condition C34 of the EA and submit to the department by **4pm on Monday 2 May 2022.**

    Any comments made by the department must be included or implemented into the updated Erosion and Sediment Control Plan.
15. Within 20 business days of the department providing any comments, you must update the Erosion and Sediment Control Plan and re-submit the plan to the department.
16. You must install all relevant measures identified as a result of requirement (13) and as detailed in the updated Erosion and Sediment Control Plan required by requirements (14) and (15), and to ensure compliance with condition C34 of the EA by **30 September 2022.**

Regulated structures management

17. You must commission an AQP to complete an assessment of all water structures at Isaac Downs Coal Mine to ensure compliance with Schedule H of the EA by **20 June 2022**.
18. Based on the outcome of requirement (17) you must implement any additional management measures or changes to current infrastructure to ensure compliance with Schedule H of the EA.
19. You must develop a written procedure that ensures that any new structure (including temporary and interim structures) achieve compliance with Schedule H of the EA and submit this procedure to the department by **4pm on Monday 20 June 2022.**

    Any comments made by the department must be included or implemented into the written procedure(s).
20. Within 20 business days of the department providing any comments, you must update the written procedure(s) and re-submit the plan to the department.

Final report

21. You must submit a report to the department detailing how you have achieved compliance with requirements (1) to (22) of this Notice to the department by **4pm on Monday 1 November 2022.**
22. The report required by requirement (21) must be submitted to CWES_Mackay@des.qld.gov.au.

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.

- The maximum penalty for wilfully contravening an EPO is 31, 250 penalty units, totalling $4,307,812.50 for a corporation.
- The maximum penalty for contravening an EPO is 22,500 penalty units, totalling $3,101,625.00 for a corporation.

Failure to provide written notice to the buyer of the existence of the order is an offence.

- The maximum penalty is 250 penalty units, totalling $34,462.50 for a corporation

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 is 250 penalty units, totalling $34,462.50 for a corporation.

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 Naomi Camilleri, A/Team Leader on (07) 4999 6888, or via email at CWES_Mackay@des.qld.gov.au.



Signature

10/03/2022

Date

Alisha Stewart

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries:

Mackay Compliance Centre
Ph: (07) 4999 6861
Email: CWES_Mackay@des.qld.gov.au