

Notice

Environmental Protection Act 1994

Clean-up Notice

This clean-up notice is issued by the administering authority pursuant to section 363H of the Environmental Protection Act 1994 to advise you of a decision requiring you to take the stated action in regard to a contamination incident.

Mixed Metals Pty Ltd
C/ Tax & Accounting Options Pty Ltd
Suite G6
9 Bay Street
SOUTHPORT QLD 4215

CC: Mixed Metals Pty Ltd
14 Manufacturer Drive
MOLENDINAR QLD 4214

Cc via email: adrian@adrians.com.au
serah@adrians.com.au

Attention: Adrian Fuller and Serah Garabed

Our reference: C-CPLRC-100282400; STAT-E-100283551

14 July 2022

Take notice: that under section 363H of the *Environmental Protection Act 1994* (the Act) a clean-up notice is issued to Mixed Metals Pty Ltd ACN 614 321 176 (you / Mixed Metals) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The clean-up notice is issued in respect your activities on land described as Lot 2 on WD6641 situated at 14 Manufacturer Drive, Molendinar QLD (the premises).

A. Grounds

The clean-up notice is issued on the following grounds:

- In accordance with section 363F (a) of the Act, a contamination incident involving contamination of the environment has occurred that the department is satisfied has caused or is likely to cause serious or material environmental harm, due to the release of hazardous materials including hydrocarbons, combustion products and contaminated firewater as a result of the fire at the premises. The department considers a contamination incident has occurred on 11 July 2022.
- In accordance with section 363G (b) (i) and (ii) of the Act, you are a person, who, at the time of the contamination incident, were the occupier of the premises and/or the owner or person in control of a contaminant.

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

1. Mixed Metals operates a metal recycling facility at 14 Manufacturer Drive, Molendinar, QLD, 4215 (the premises) under environmental authority (EA) EA0002464. The EA authorises ERA 62 (Resource recovery and transfer facility operation - (1) Operating a facility for receiving and sorting, dismantling, baling or temporarily storing – (a) scrap steel, non-putrescible waste, or green waste only) at the premises.
2. On 31 May 2022, during an inspection adjacent to the premises, authorised persons observed contaminants (predominately oil/hydrocarbons) releasing from the premises on to the ground of the neighbouring property.
3. The oil was observed running down a retaining wall and into a stormwater drain with no controls in place to prevent the contaminants from leaving the premises or entering the receiving environment.
4. Results of analysis by a NATA accredited laboratory of samples collected of the contaminants leaving the premises confirmed levels of petroleum hydrocarbons and other contaminants at concentrations that pose a risk to the environment.
5. On 3 June 2022, a Direction Notice (reference C-CPLRC-100233173) and Penalty Infringement Notice (PIN) was issued in relation to the release. One requirement of this notice remains outstanding.
6. On 10 June 2022, authorised persons undertook a site inspection at Mixed Metals and observed nine contraventions of Environmental Authority permit number EA0002464.
7. On 6 July 2022, the department became aware that another discharge of contaminants had started after recent rainfall.
8. In response to the allegation, authorised persons undertook an inspection at ATL Composites on 7 July 2022 where it was observed that contaminants (predominately oil/hydrocarbons) were releasing from the premises into stormwater infrastructure in the same manner as the first release.
9. On 8 July 2022, another Direction Notice (reference STAT-E-100281597 xxx) was issued.
10. On 11 July 2022 at approximately 11:15am, the department became aware that a fire had broken out at the premises.
11. The fire resulted in the combustion of waste vehicles and associated fluids, highly likely to result in the release of hydrocarbons and other contaminants including heavy metals to the environment.
12. Authorised persons attended the premises and observed contaminants being released in fire water into stormwater infrastructure and downstream.
13. The location of the fire on the property was where authorised persons have observed the storage of tyres, car interiors/plastics, batteries, oil, and fuel.
14. The contaminant storage systems on site have been destroyed during the fire and there are no systems in place to store liquid contaminants.
15. The contaminants released from the premises were observed in at least the stormwater drainage channel offsite and the receiving vegetated creek, Biggera Creek, both south and north of the Smith St Motorway.
16. Due to the release of contaminants during the incident to the receiving stormwater channel and the rain that occurred on 12 July 2022, it is highly likely that the contaminants will have migrated beyond the area observed by authorised persons.

17. The receiving environment has designated environmental values under the Environmental Protection (Water and Wetland Biodiversity) Policy 2019 that are likely to be adversely impacted by the contaminants released.
18. The department is satisfied that the incident has caused, or is likely to cause, serious or material environmental harm, pursuant to section 16 of the Act.
19. The department reasonably believes you are a prescribed person for the contamination incident because at the time of the incident you were the occupier of the place at which the incident happened.
20. The department also reasonably believes that you are a prescribed person for the contamination incident as you were the owner, or person in control of a contaminant involved in the incident.
21. The department has determined as a result, it is reasonable to require you to take the following stated actions to prevent or minimise contamination and to mitigate the effects of the incident.
22. The department notes that further investigation beyond that required in this clean-up notice may be required at a later date to assess the full nature and extent of environmental harm.

B. Requirements

You are required to do the following:

1. Upon service of this notice on **14 July 2022**, receipt of waste containing any liquid contaminants must cease **immediately** and not recommence until further notice from the department.
2. All actions taken under this notice must be undertaken in a manner that does not result in the release of further contaminants to the environment.
3. By **9:00am on 18 July 2022**, you must undertake immediate actions to prevent a release of further contaminants from the premises to waters. Immediate actions include but are not limited to:
 - a) removal of any visible contaminants within the stormwater infrastructure onsite; and
 - b) installation of bunding or covers at all stormwater drains onsite to prevent any liquids, fluids or other contaminants entering onsite stormwater infrastructure; and
 - c) containment (including by placing in impervious containers, bunding, covering and placing on impervious surfaces or otherwise containing) of all fluids, liquids and other contaminants, including any residual fire water onsite.
4. All waste material collected and removed must be transported and disposed of at a regulated facility that can lawfully receive such waste.
5. By **5:00pm on 21 July 2022** you must engage an appropriately qualified person (AQP) with qualifications and experience in the technical field of contaminated land assessment including impacts to land, groundwater and surface water and associated remediation. You must engage the AQP to undertake the relevant requirements of this notice and provide evidence of qualifications and experience of the AQP to the department for consideration by the above date.
6. By **5:00pm on 28 July 2022** under the direction of the AQP you must:
 - a) undertake all further actions necessary to clean-up and contain all residual contaminants that have occurred as a result of the incident and that pose a risk to human health and/or the environment. This includes all burnt or partially burnt waste and debris associated with the contamination incident, gross

pollutants, contaminants that may be present in stormwater infrastructure or residual contaminants that are likely to mobilise beyond the boundary of the premises.

- b) notify the department in writing of the actions taken.
7. By **5:00pm on 29 July 2022**, you must provide to the department a written assessment prepared by the AQP that includes:
- a) the AQP's assessment of immediate environmental risks of the contamination from the incident to the receiving surface waters, that includes at least the receiving stormwater infrastructure and vegetated areas of Biggera Creek south of the Smith St Motorway, and the bed and banks of those waters; and
 - b) all actions required to clean-up all residual contamination of those surface waters and bed and banks of those waters to a level that prevents further risk to the environment; and
 - c) the schedule for those actions to be carried out within the timeframe stipulated in requirement 8.
8. By **9:00am on 5 August 2022**, under the direction of the AQP you must:
- a) implement all actions as outlined in the written assessment specified in requirement 7; and
 - b) notify the department in writing of the actions taken.
9. By **9:00am on 12 August 2022**, copies of all waste tracking certificates must be provided to the department for all trackable waste transported in relation to this notice.
10. All submissions made under this notice must be in writing via email and sent to Goldcoast.ES@des.qld.gov.au.

Definitions

'Appropriately qualified person' (AQP) means a person or persons who, in addition to the requirements stipulated in Requirement 5, has relevant demonstrated professional qualifications, training, skills or experience and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

'Contaminants' means any contaminant as defined under section 11 of the Act and includes but is not limited to oils, all fluids, any material used to absorb, contain or otherwise treat contaminants, heavy metals, all burnt or partially burnt waste and debris associated with the contamination incident, gross pollutants, and any other contaminant capable of causing environmental harm.

Note:

- The requirements of the clean-up notice take effect immediately upon service of the notice.
- This notice remains in force until further notice from the administering authority.

C. Appeal rights

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act. Internal review of the decision to issue a clean-up notice is not available. If you are dissatisfied with the decision to issue this clean-up notice, you may apply to the relevant court for a stay of the decision to issue the clean-up notice.

A person who is dissatisfied with the decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the 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](#)) available on the Queensland Government website at www.qld.gov.au, using the publication number (ESR/2015/1742) as a search term.

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

D. Penalties

Failing to comply with a clean-up notice is an offence unless you have a reasonable excuse.

- The maximum penalty for an individual for wilfully contravening a clean-up notice is 6,250 penalty units, totalling \$ 898,437 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening a clean-up notice is 31,250 penalty units, totalling \$ 4,492,187.
- The maximum penalty for an individual contravening a clean-up notice is 4,500 penalty units, totalling \$ 646,875.
- The maximum penalty for a corporation contravening a clean-up notice is 22,500 penalty units, totalling \$ 3,234,375.

If you do not comply with the clean-up notice, an authorised person may also take any of the actions stated in the notice and the department may recover from you the costs incurred in taking the actions.

Should you have any queries in relation to the notice, please contact Ben Leach on telephone number 5626 6844.



Signature

14 July 2022

Date

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

Enquiries:
Gold Coast Compliance Centre
Department of Environment and Science
PO Box 4244, Robina, Qld 4230
Ph: (07) 5626 6844
Email: goldcoast.ES@des.qld.gov.au

