

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.

New Lenton Coal Pty Ltd (ACN 095 390 079)
Level 16, 175 Eagle Street
Brisbane QLD 4000

Your reference: EA0001002

Our reference: STAT-E-100314030

17/11/2022

Dear Directors,

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to New Lenton Coal Pty Ltd (ACN 095 390 079) (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 New Burton Mine on land described as mining lease ML70109, ML70260, MDL315, EPC857, MDL349 (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 conditions A4 and C1 of Environmental Authority EA0001002 dated 19 August 2022 which states:

Condition A4

The environmental authority holder must ensure:

- a) that all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority are installed;*
- b) that such measures, plant and equipment are maintained in a proper condition; and*
- c) that such measures, plant and equipment are operated in a proper manner.*

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

1. You hold environmental authority (EA) EA 0001002 dated 19 August 2022. The EA authorises the following environmentally relevant activities (ERAs):
 - a. **ERA 9** - A mining activity involving drilling, costeaning, pitting or carrying out geological surveys causing significant disturbance
 - b. **ERA 13** - Mining black coal



- c. **ERA 31** - Mineral processing - more than 100,000t
 - d. **ERA 60** - Waste disposal - more than 5000t but not more than 10,000t
 - e. **ERA 63** - Sewage Treatment - more than 100 but not more than 1500EP otherwise
2. The department is satisfied that you are the entity operating New Burton Coal Mine.
3. Condition A4 states:
- The environmental authority holder must ensure:
- a) that all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority are installed;
 - b) that such measures, plant and equipment are maintained in a proper condition; and
 - c) that such measures, plant and equipment are operated in a proper manner.
4. On 8 August 2022 you submitted pre wet season information to the department which included:
- a. Current inventory levels of all mine affected water structures.
 - b. A copy of the Water Management Plan (dated 11 October 2021, version 5)
 - c. A copy of the Erosion and Sediment Control Plan (dated 14 November 2018, version 4)
 - d. A copy of the Burton 2022/23 12 Month Water Management Forecast Graph
 - e. A copy of the 2022 Working Burton Water Levels and Water Volumes Spreadsheet
5. On 12 October 2022, departmental officers conducted a pre-wet season compliance inspection at New Burton Coal Mine.
6. During the inspection, departmental officers observed the following:
- a. That B2W Dam (lat -21.59559 long 148.15862 GDA2020) was visually nearing capacity as the water level was approximately 1m below the spillway.
 - b. That no electricity supply connected at the premises, therefore pumping infrastructure cannot be operated.
 - c. That access roads to mine affected water dams have not been maintained and some areas did not have all weather access.
 - d. That an assessment of the operational status of the water management infrastructure on site had not been conducted.
 - e. That water quality in a number of mine affected water structures is not of a quality that complies with the conditions of the EA or is unknown and is therefore not able to be released via the authorised release points in the EA.
7. On 1 November 2022, you submitted correspondence to the department that stated that B2W Dam mine affected water inventory is 525ML (75% full) and the total catchment area is 282ha constituting of unrehabilitated spoil dumps, reshaped spoil and cleared areas.
8. On 11 November 2022, you submitted correspondence to the department which stated that one diesel pump has been installed at B2W dam and dewatering to Ellensfield void has commenced. As of 14 November you reported the level to be dropping with current freeboard being at 2.760 metres.
9. The department considers that while you have been managing the risk of B2W dam via reducing the water level, it is reasonable that further steps could be taken at your premises to appropriately

investigate and manage the risk of other mine affected water structures and infrastructure. The department considers this risk elevated due to the lack of power supply to the site.

10. The department has determined that you have failed to install, maintain and operate all plant, measures and equipment in accordance with condition A4 of EA0001002, necessary to ensure compliance with conditions of the EA.
11. The department considers that the contravention of condition A4 indicates that there are significant issues regarding the management, control and risk mitigation of mine affected water management at the premises, and this needs to be addressed as a matter of priority.

B. Requirements

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

1. By **4pm 2 December 2022**, you must provide an updated Water Management Plan that complies with EA condition C32.
2. By **4pm 9 December 2022**, you must provide the department with an action plan to assess the current operational condition and commissioning of all water management infrastructure at the premises. The action plan must include measurable timeframes for when the water management infrastructure will be operational.

Definitions

‘water management infrastructure’ includes but is not limited to mine affected water dams and structures, pipes, pumps, water monitoring equipment and any other equipment necessary to transfer and store water on the premise.

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

It is important that you know the impact to you personally as an individual or as a corporation for not meeting your obligations.

Failure to comply with an EPO is an offence.

- The maximum penalty for wilfully contravening an EPO is 6250 penalty units, totalling \$ 4,492,187.50 for a corporation.

- The maximum penalty for contravening an EPO is 4500 penalty units \$ 3,234,375.00 for a corporation.

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

- The maximum penalty is 50 penalty units, totalling \$ 35,937.50 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 50 penalty units, totalling \$ 35,937.50 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.

Notice
Environmental Protection Order

Should you have any queries in relation to the notice, please contact Garry Debbage-Philp on (07) 4999 6850 or via email at cwes_mackay@des.qld.gov.au.



Signature

17/11/2022

Date

Alisha Stewart

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Garry Debbage-Philp

COMPLIANCE CENTRE: Mackay

Ph: (07) 4999 6861

Email: cwes_mackay@des.qld.gov.au