

Notice

Environmental Protection Act 1994

Direction Notice

This direction notice is issued by an authorised person pursuant to section 363B of the Environmental Protection Act 1994.

Magnetic South Pty Ltd
Suite 30, Level 3
102 Adelaide Street
BRISBANE QLD 4000

Our reference: C-CPLRC-100322226; 101/0011167-001

12 January 2023

Take notice: that under the *Environmental Protection Act 1994 (the Act)* this direction notice is issued to Magnetic South Pty Ltd (ACN 122 465 749) (**you / Magnetic South**) by an authorised person under section 363B of the Act.

The direction notice is issued with respect to your coal exploration activities on exploration lease coal (EPC) EPC881).

A. Grounds

This direction notice is issued on the grounds that:

1. As an authorised person under the Act, I am satisfied on reasonable grounds that you have contravened, and continue to contravene a prescribed provision, namely section 426 of the Act which states: “A person must not carry out an environmentally relevant activity unless the person holds, or is acting under, an environmental authority for the activity”.
2. Section 18 of the Act states that an environmentally relevant activity (**ERA**) includes a resource activity as defined under section 107, and section 107 of the Act provides that a resource activity is an activity that involves a mining activity.
3. You are the holder of environmental authority EPPR00819713 (**the EA**), which relates to exploration lease EPC881.
4. The EA authorises ERA 9 of Schedule 3 – a mining activity involving drilling, costeaning, pitting or carrying out geological surveys causing significant disturbance (**the ERA**).
5. The ERA is being conducted at EPC881 in areas that are not authorised by the EA or any other EA, as depicted on the map labelled “Unauthorised Exploration Activities” in **Annexure A** to this notice (**the Unauthorised Activity**).

6. It is likely the contravention of section 426 of the Act will continue if no action is taken to remedy the matter.
7. Cessation of the unauthorised ERA and either obtaining an environmental authority to authorise the activity, or rehabilitating the disturbed land, would remedy the contravention of the prescribed provision (section 426 of the Act).
8. The matter relating to the contravention can be remedied and it is appropriate to give you an opportunity to remedy the matter.

The facts and circumstances forming the bases of these grounds are:

1. You are the holder of exploration lease EPC881.
2. You are the holder of the EA.
3. The EA authorises the ERA.
4. Condition C4 of the EA states:
"Mining activities undertaken must be consistent with the "EPC881 Exploration Program, Environmental Management Plan" and with the schedule of works proposed in the map entitled "Figure 3 EPC881 ERE & 500m Buffers & Drill Plan".
5. 'Figure 3: EPC881 ERE & 500m Buffers & Drill Plan' is **Annexure B** to this notice.
6. The ERA has been conducted, and continues to be conducted, in areas on EPC881, that are not authorised by the EA as depicted on the map "Unauthorised Exploration Activities" shown in Annexure A to this notice.
7. The Department of Environment and Science (**the department**)'s records confirm that the current and approved Environmental Management Plan for EPC881 is the Environmental Management Plan dated 11 April 2008 (**the EM Plan**).
8. The EM Plan for EPC881 provides authorisation for:
 - a) Four seismic lines spanning the length of the exploration lease;
 - b) Approximately 24 drill holes within Category B Environmental Sensitive Areas (**ESA**) or within the 500-metre buffer of Category B ESA; and
 - c) Approximately 71 drill holes not within Category B ESA or the 500-metre buffer; as depicted in Annexure B to this notice.
9. On 26 September 2022, departmental officers conducted an inspection at EPC881 and confirmed that the ERA was being conducted inconsistently with the EM Plan, specifically:
 - a) Concentrated drilling in the south-eastern area of EPC881 as part of the 2022 limit of oxidation (LOX) program which is inconsistent with 'Figure 3: EPC881 ERE & 500m Buffers & Drill Plan' contained within the EM Plan.
10. Between 30 September 2022 and 15 November 2022, you provided information to the department that included, but was not limited to:
 - a) Coordinates for exploration activities undertaken between 2017 – 2022 (7000s Headers.csv dated 8 November 2022);

- b) Mapping files for seismic lines (221115_SeismicLine.shp dated 15 November 2022) and LOX drilling program (EPC881_LOX_PTS_20220929 dated 29 September 2022);
- c) Two versions of an updated Environmental Management Plan for EPC881 (221006_EMplan with Appendix.pdf dated 7 October 2022 and 221013_EMplanv3 with Appendix.pdf dated 24 October 2022); and
- d) Significant Disturbance Areas – EPC881 report dated 8 November 2022.

A review of this information and satellite imagery for Queensland (Planet latest monthly basemap (GBR Catchments)) also confirmed that the ERA was being conducted inconsistently with the EM Plan, specifically:

- a) Concentrated drilling across the south-eastern area of EPC881; and
 - b) Four seismic lines that are not in a location represented in *'Figure 3: EPC881 ERE & 500m Buffers & Drill Plan'* of the EM Plan, as depicted in Annexure A to this notice.
11. The exploration activity was determined by the department to have commenced in 2017, and this was confirmed by you on 25 October 2022, in the document titled 'EPC881 Exploration Program Environmental Management Plan' (dated 24 October 2022) submitted to the department.
 12. The concentrated drilling and the four seismic lines depicted in Annexure A are not consistent with the EM Plan and therefore are not authorised by the EA.
 13. Under section 426 of the Act, it is an offence for a person to carry out an ERA unless the person holds, or is acting under, an environmental authority for the activity.
 14. You have unlawfully carried out the ERA on EPC881 in contravention with section 426 of the Act.

B. Steps required

The authorised person considers that the following reasonable steps are necessary to remedy the contravention of section 426 of the Act:

1. You must cease undertaking exploration activities that are not contained within *'Figure 3 EPC881 ERE & 500m Buffers & Drill Plan'* (**Annexure B** to this notice) unless, and until you hold, or are acting under, an environmental authority for the activities. The Unauthorised Exploration Activities is depicted in Annexure A to this notice.
2. You must not cause any further disturbance within EPC881 until the unauthorised disturbance caused by exploration activities is rehabilitated.
3. By **4pm on 14 February 2023** you must:
 - a) complete rehabilitation of the Unauthorised Exploration Activities in accordance with Table 1; or alternatively
 - b) lodge with the department a properly made amendment application for an EA for the ERA for the unauthorised exploration activities; and
 - c) do all things necessary to progress the application; and
 - d) if the application is refused, complete rehabilitation of the unauthorised exploration activities in accordance with Table 1.

Table 1: Rehabilitation requirements

#	Completion Criteria	Timeframe
1.	Backfill all excavations, drill holes or sampling sites.	Within 6 months of requirement 3(a) or 3(d) commencing
2.	Rehabilitate areas disturbed by exploration activities to a stable landform consistent with surrounding undisturbed areas.	
3.	Rehabilitation must be consistent with “Technical Guidelines for the Environmental Management of Mining and Exploration in Queensland”, Part D, ‘Geo-technical Slope Stability’.	
4.	Revegetate areas disturbed by exploration activities to provide suitable erosion control and stabilisation of the disturbed areas.	
5.	Revegetate areas disturbed by exploration activities with a seed mix that promotes growth of species endemic to the area and density of cover as the surrounding undisturbed areas.	

C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the 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 starting a review or 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 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 apply for a statutory order of review under the *Judicial Review Act 1991*.

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

D. Public Register

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

E. Penalties

Failing to comply with a direction notice is an offence unless you have a reasonable excuse.

- The maximum penalty for wilfully contravening a direction notice is 1665 penalty units, totalling \$239,343.75 for an individual and \$1,196,718.75 for a corporation.
- The maximum penalty for an individual contravening a direction notice is 600 penalty units, totalling \$86,250 for an individual and \$431,250 for a corporation.

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

The department may also consider alternative compliance or enforcement action in relation to the offences that are the subject of this notice.

Should you have any queries in relation to the notice, please contact me on telephone number 0477 737 255 or email louise.pinn@des.qld.gov.au.



Signature

12/01/2023

Date

Louise Pinn
Department of Environment and Science
Authorised Person
Environmental Protection Act 1994

Annexure A - Unauthorised Exploration Activities



Annexure B - Figure 3: EPC881 ERE & 500m Buffers & Drill Plan

