Notice

Environmental Protection Act 1994

Direction Notice

This direction notice is issued by the administering authority pursuant to section 363B of the Environmental Protection Act 1994.

Essential Spill Products Pty Ltd
70 Callide Street
BILOELA QLD 4715

Our reference: C-CPLRC-100337819 I E-100354590

20 December 2022

Dear Sir,

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Essential Spill Products Pty Ltd ACN: 151 347 698 by an authorised person under section 363B of the Act, on behalf of the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The direction notice is issued in respect to the activities of Essential Spill Products Pty Ltd on land described as Lot 17 on Plan RP612749 situated at 146 Callide Street, Biloela QLD 4715 (the premises).

A. Grounds

The direction notice is issued on the grounds that the authorised person believes that:

1. you are contravening a prescribed provision, being 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”; and
2. it is likely the contravention of section 426 will continue; and
3. 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 basis of these grounds are:

1. You occupy the premises located at Lot 17 on Plan RP612749, known as 146 Callide Street, Biloela QLD 4715 (the premises).

Queensland Government

2. On 14 November 2022, authorised persons of the Department of Environment and Science (the department) attended the premises and observed a large number of intermediate bulk containers (IBCs) at the premises.
3. On 1 December 2022, authorised persons of the department attended the premises and conducted an inspection.
4. During the inspection of the premises, authorised persons of the department observed that the aforementioned IBCs had not been removed from the premises.
5. During the inspection of the premises, authorised persons of the department spoke with Michael MARTIN of Essential Spill Products Pty Ltd and determined the following:
    a. Regulated waste, specifically waste oil and oil and water mixtures, was being stored at the premises in IBCs and oil drums.
    b. The volume of general waste observed at the property exceeded six cubic metres and the volume of category 2 regulated waste observed at the premises exceeded four cubic metres.
    c. The IBCs observed at the premises by authorised persons of the department on 14 November 2022 contained regulated waste and these IBCs had remained on the premises for longer than the five day *in-transit* storage of regulated waste limit as defined by the *Environmental Protection Regulation 2019*.
6. The receipt and storage of waste being carried out onsite is consistent with the definition of Environmentally Relevant Activity (ERA) 62 Resource Recovery and Transfer Facility Operation.

    ERA 62 Resource Recovery and Transfer Facility Operation

    (1) Resource recovery and transfer facility operation (the relevant activity) consists of operating a facility for—

        (a) receiving and sorting, dismantling or baling waste; or

        (b) receiving and temporarily storing waste before it is moved to a waste facility.

7. Under section 13(1) of the Act, ***Waste*** includes anything, other than an end of waste resource, that is –
    (a) left over, or an unwanted by-product, from an industrial, commercial, domestic or other activity; or
    (b) surplus to the industrial, commercial, domestic or other activity generating the waste.
8. Section 13(3) of the Act provides that a thing can be waste whether or not it is of value.
9. A search of the department's electronic databases indicates that you do not hold an environmental authority (EA) to lawfully carry out the ERA at the premises.
10. You are not acting under an EA to lawfully conduct the ERA at the premises.
11. Under section 426 of the Act, a person must not carry out an ERA unless the person holds, or is acting under, an EA for the activity.
12. Correspondence was sent to you on 8 December 2022 inviting you to provide any submissions as to why the department should not pursue enforcement action for you carrying out ERA 62 without holding, or acting under, an EA for the activity.
13. A response was not received from you. The department has considered and assessed all relevant information and has determined that a non-compliance has occurred.

14. You have therefore contravened section 426(1) of the Act as you have carried out ERA 62 without holding, or acting under, an EA for that activity.

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. Immediately on receipt of this notice, you must stop conducting the ERA at the premises; and
2. You must not recommence the ERA at the premises or elsewhere in the State of Queensland until you hold or are acting under an effective EA for the activity; and
3. Within 56 days after the date of this notice, you must:
    a. Apply for, and have an application under assessment for an EA to carry out the ERA; or
    b. Hold or be acting under an effective EA to carry out the ERA; or
    c. Have removed all general waste in excess of six tonnes or six cubic metres and category 2 regulated waste in excess of four tonnes or four cubic metres from the premises and lawfully transport and dispose of the waste to a facility that can lawfully receive it.
4. If you remove the waste from the premises, you must provide written documentation to the department to demonstrate the lawful removal and disposal of all material from the premises within 56 days after the date of this notice. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations; and
5. The written documentation must be provided to unlicensed@des.qld.gov.au or via mail to Department of Environment and Science, GPO Box 2454, Brisbane QLD 4001.

Take notice:

1. The requirements of the direction notice take effect immediately upon service of the notice; and
2. This notice remains in force until further notice from the department.

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

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

Under section 363E of the Act, is an offence to fail to comply with a Direction Notice unless the person has a reasonable excuse.

- The maximum penalty for wilfully contravening a direction notice is 1665 penalty units, totalling $239,343.75 for an individual, or $1,196,718.75 for a corporation.
- The maximum penalty for contravening a direction notice is 600 penalty units, totalling $86,250 for an individual, or $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 Morgan Purdy on telephone number (07) 4971 6506



20/12/2022

Ben Stewart
A/Compliance Delivery Manager
Department of Environment and Science
Authorised Person
Environmental Protection Act 1994

Enquiries:
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