

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.

Stapylton Resource Recovery (Qld) Pty Ltd
ACN 611 003 724
132-134 Commercial Rd
TENERIFFE QLD 4005

CC. PO Box 2117
Fortitude Valley QLD 4006

Attention: Balfour Irvine, Director

CC. Mark Dekker
Email: mark@bmigroup.com.au

CC: Peta Rutherford
Email: Peta.Rutherford@bmigroup.com.au

Our reference: C-CPLRC-100364801, E-100367592

11 January 2023

Take notice: that under the *Environmental Protection Act 1994* (the EP Act) a direction notice is issued to Stapylton Resource Recovery (Qld) Pty Ltd (you) by an authorised person under section 363B of the EP Act.

The direction notice is issued in respect to the activities conducted by you at 144 Rossmanns Road, Stapylton on land described as Lots 2 and 3 on SP279441 (the premises).

A. Grounds

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

- You are contravening a prescribed provision in circumstances that make it likely the contravention will continue or be repeated, being section 440(2) of the EP Act; and
- 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 for these grounds are:

- You hold environmental authority (EA) P-EA-100287544 issued on 16 November 2022 authorising you to conduct at the premises ERA 16 – Extraction and Screening, ERA 53 – Organic material processing, ERA 54 – Mechanical Waste reprocessing, ERA 55 – Other waste reprocessing or treatment, ERA 60 – Waste disposal, and ERA 62 – Resource recovery and transfer facility operation.

- On 24 December 2022, a fire was observed at the premises in cell 1 of the landfill. You notified the Department of Environment and Science (the department) in writing on 25 December 2023 of the fire at the premises stating that smoke was continuing, and that the fire had been controlled.
- Between 24 December and 25 December 2022, the department received four community reports alleging environmental nuisance from smoke and odour in the Stapylton and Jacobs-Well area.
- During site inspections by authorised persons of the department on 3 and 4 January 2023, you advised that a fire was observed at the premises at approximately 7pm on 24 December 2022 by an onsite caretaker who immediately reported the incident to QFES. Authorised persons observed smoke emanating from cell 1 of the landfill during these inspections.
- A follow-up inspection of the premises and nearby sensitive receptors was conducted on 6 January 2023. During this inspection, authorised persons observed smoke continuing to emit from cell 1 of the landfill at the premises. The smoke was being generated from smouldering waste that had been identified on 24 December 2022.
- Authorised persons responded to community reports of environmental nuisance impacts at residences in proximity to the premises. When attending the sensitive receptors on 6 January 2023, authorised persons observed unlawful environmental nuisance resulting from smoke and odour impacts, constituting a contravention of s.440(2) of the EP Act.
- The prevailing weather conditions showed that the smoke was coming from the direction of the premises. Authorised persons confirmed the source of the nuisance to be the smouldering waste from cell 1 of the landfill at the premises during a subsequent site inspection on 6 January 2023.
- Under section 15 of the EP Act, Environmental nuisance is unreasonable interference or likely interference with an environmental value caused by -
 - (a) aerosols, fumes, light, noise, odour, particles, or smoke; or
 - (b) an unhealthy, offensive, or unsightly condition because of contamination; or
 - (c) another way prescribed by regulation.
- Under section 9 of the EP Act, an Environmental value is a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety.
- The department has determined that the smoke and odour from your premises has caused an unreasonable interference with an environmental value, affecting public amenity or safety.
- Since 24 December 2022, you have implemented measures to control the fire and minimise the release of smoke and odour from the premises. These measures have included covering the burning waste with soil.
- On 6 January 2023, the department determined that further reasonable steps could be taken to minimise offsite environmental nuisance impacts to sensitive receptors and manage the fire.
- Given the above facts and circumstances, the department considers it appropriate for you to implement the following reasonable steps to minimise offsite environmental nuisance.

B. Reasonable Steps

The authorised person considers that the following reasonable steps are necessary to remedy the contravention and avoid further contravention of the prescribed provision:

1. Commencing **12 January 2023**, you must provide the department with daily updates (including on weekends and public holidays) on the progress towards extinguishing the fire and thereby remedying the contravention of s.440(2) of the EP Act. These daily reports are to be sent via email to GoldCoast.ES@des.qld.gov.au.
2. An independent appropriately qualified person (AQP) must be engaged by close of business on **16 January 2023** to prepare an Incident Action Plan (IAP) that includes (but is not limited to) the following:
 - a) Method(s) for delineating the extent of the fire within the waste mass at the premises;
 - b) Method(s) for ongoing monitoring of subsurface spread of the fire throughout the waste mass at the premises;
 - c) Method(s) for extinguishing the fire and contingency methods in the event that the primary method is unsuccessful in extinguishing the fire;
 - d) Trigger points for review of efficacy of implemented method(s) of delineating, monitoring, and extinguishing the fire by the AQP;
 - e) Identification of the potential human health and environmental risks associated with the method(s) identified in steps 2a, 2b, and 2c above, and proposed mitigation measures and contingency plans to manage those risks;
 - f) Details on the mitigation measures and any contingency plans to be implemented at the premises to minimise the likelihood of offsite nuisance impacts during the process of extinguishing the fire; and
 - g) Details of an air quality monitoring program to be carried out during the process of extinguishing the fire.
3. The IAP must be provided in draft form to the department for review by close of business on **19 January 2023**.
4. You must ensure that any comments made by the department in response to the draft IAP are managed in the delivery of the final IAP.
5. All reasonable and practicable measures must be implemented to minimise the likelihood of environmental harm resulting from the measures taken to extinguish the fire (as detailed in the IAP) with a focus on potential groundwater and air quality impacts.
6. By close of business on **16 January 2023**, you must begin air quality monitoring at the nearest sensitive receptor. The air quality monitoring is to include particulate matter with an aerodynamic diameter of less than 10 micrometre (μm) (PM_{10}) and 2.5 micrometre (μm) ($\text{PM}_{2.5}$) suspended in the atmosphere. These particulate concentrations are to be recorded in micrograms per cubic metre ($\mu\text{g}/\text{m}^3$) over a 24-hour averaging time.
7. Results of air quality monitoring must be provided to the department in the daily updates required under Step 1 and must include a comparison of air quality monitoring results for the 24-hour average PM_{10} and $\text{PM}_{2.5}$ to the Environmental Protection (Air) Policy 2019 air quality objective for each indicator being $50\mu\text{g}/\text{m}^3$ and $25\mu\text{g}/\text{m}^3$, respectively.
8. Particulate monitoring is to be carried out in accordance with Australian Standard AS 3580.9.6 (or more recent editions) or any other method approved by the administering authority.
9. You must engage with nearby residents who have been impacted by the fire since 24 December 2022 to ensure that community concerns are managed. This includes providing updates on the actions being implemented at the premises to extinguish the fire.

10. The drinking water supply of nearby residences is an environmental value that has been made unsafe/unhealthy due to contamination from the fire. If requested, you must make available and provide a safe drinking water supply to residents impacted by the fire including, but not limited to, residents of 197 Rossmanns Road and 213 Rossmanns Road, Stapylton by close of business on **12 January 2023**.
11. Details on how you have addressed steps 4, 5 and 6 above are to be included in the daily updates provided to the department.

Take notice:

- An independent appropriately qualified person is defined as a person who:
 - a) is not an employee of Stapylton Resource Recovery (Qld) Pty, or BMI Group Pty Ltd; and
 - b) has professional qualifications, training, skills and experience relevant to landfill management and can give authoritative assessment, advice and analysis in relation to landfill management and fire investigation using the relevant protocols, standards, methods or literature.
- The contravention must be remedied by and from close of business on **10 February 2023**.
- The requirements of the direction notice take effect immediately upon service of the notice.
- 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 EP Act.

A person, who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must be made:

- within 10 business days of the decision being notified to the person
- be supported by enough information to enable the department to decide the application for review
- be made using the application for review of an original decision form (ESR/2015/1573).¹

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*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (ESR/2015/1742). You may have other legal rights or obligations and should seek your own legal advice.

D. Penalties

Failing to comply with a direction notice is an offence unless the person has a reasonable excuse.

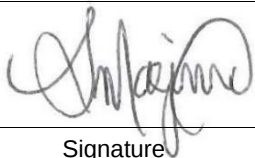
¹ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.des.qld.gov.au>.

- The maximum penalty for a corporation for wilfully contravening a direction notice is 8325 penalty units, totalling \$1,196,718.
- The maximum penalty for a corporation contravening a direction notice is 3000 penalty units, totalling \$431,250.

Section 3 of the Penalties and Sentences Regulation 2005 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 Ryan Henry on 07 5626 6871.



Signature

Stephanie Maguire
Team Leader
Authorised Person
Environmental Protection Act 1994
Department of Environment and Science

11/01/2023

Date

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