

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.

Mt Rawdon Operations Pty Ltd (ACN: 152 727 663)
Level 24, 175 Liverpool St
SYDNEY NSW 2000
mro.correspondence@evolutionmining.com

Cc:

Mr Ben Young, General Manager / SSE, Mt Rawdon Gold Mine

Email: Benjamin.Young@evolutionmining.com

Mr Paul Wright, Manager – Sustainability, Mt Rawdon Gold Mine

Email: Paul.Wright@evolutionmining.com

Our reference: C-CPLPO-100290669, E-100535328

23/01/2024

Dear Mr Young

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Mt Rawdon Operations Pty Ltd (ACN: 152 727 663) (you/MRO) by the administering authority. The administering authority is the Chief Executive of the Department of Environment, Science and Innovation (the department).

The EPO is issued with respect to the activities of Mt Rawdon Gold Mine conducted under Environmental Authority (EA) EPML00712113 on land described as ML1231, ML1259, ML50119, ML100059, ML1192, ML1203, ML1204, ML1206, ML1210 (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, E39 and E47 of EA EPML00712113 (the EA) dated 23 March 2023, pursuant to section 358(d)(iii) of the Act. Conditions A4, E39 and E47 are as follows:



A4

The holder of this environmental authority must:

- a) install all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority;*
- b) maintain such measures, plant and equipment in a proper and efficient condition;*
- c) operate such measures, plant, and equipment in a proper and efficient manner; and*
- d) ensure all instruments and devices used for the measurement or monitoring of any parameter under any condition of this environmental authority are properly calibrated.*

E39

Water may be released via WD1 into the Perry River Dam, upstream of the weir, where the flows measured at the Perry River Weir are equal to or greater than 1m³/sec as measured through an operational flow gauging station.

E47

Water released pursuant to condition E39 must cease when flows in the Perry River falls below 1m³/s at the Perry River Weir.

2. The department requires you to take reasonable measures to secure compliance with the “general environmental duty” pursuant to section 358(d)(i) of the Act. The general environmental duty is detailed in s319 of the Act as follows:

*‘A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm (the **general environmental duty**).*

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

1. You are the holder of EA EPML00712113 which authorises environmentally relevant activities including mining and associated activities on mining lease areas ML1231, ML1259, ML50119, ML100059, ML1192, ML1203, ML1204, ML1206, ML1210, subject to the conditions of the EA.
2. The department is satisfied that you are the entity operating Mt Rawdon Gold Mine and are responsible for the operation and maintenance of all water management infrastructure, including water storage dams and water release monitoring equipment, under the EA.
3. On 16 May 2022 following significant rainfall in February and May 2022, waste rock dump seepage containment dam WD2 reached capacity and released over the spillway into a small gully towards Twelve-Mile Creek. This constituted a breach of section 430 of the Act by releasing contaminants from dam WD2 not in accordance with Table E2 of the EA and this is contravention of Condition E2 of the EA. A formal warning was issued to MRO in relation to this offence on 29 July 2022.
4. You made an application for a Temporary Emission Licence (TEL) on 27 May 2022 and supporting information was provided to the department on 27 May 2022. This TEL application relied on measurements of flow in the Perry River to ensure adequate levels of dilution of contaminants in the Perry River during proposed controlled releases from WD1. The supporting information stated the flows over the Perry River Weir were monitored using an online automatic gauging station as well as by manual observation of the water level. It was also stated that, currently, the online automatic gauging station was undergoing repair, and that you were manually observing water level measurements over the weir as the alternative method for determining flow in the Perry River.

5. On 22 July 2022 an additional high rainfall event associated with an east coast low occurred on 21-22 July 2022, resulting in total depletion of remaining available storage in the South and West Dam's. Water was diverted to the pit to lower the risk of an uncontrolled release from the West Dam.
6. Over the ensuing period, a series of three TELs were granted to you (27 May 2022, 6 July 2022 and 23 July 2022) permitting the discharge of water from Dams WD1, WD2, WD3 and WD4 to the Perry River via a pumped pipeline from WD1. These TELs authorised the release of water subject to specified quality limits and also specified minimum flows that must be present in the Perry River for a release to occur.
7. On 31 August 2022 you reported that between the dates of 1 August 2022 and 12 August 2022 you released water from dam WD1 to the Perry River when flows at the Perry River Weir were below levels where a release was authorised under the TEL. The release was in contravention of condition TEL12 of the TEL and a breach of section 357I of the Act.

8. **Section 14** of the Act states—

Environmental harm is any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

Environmental harm may be caused by an activity—

- a) Whether the harm is a direct or indirect result of the activity; or
- b) Whether the harm results from the activity alone or from the combined effects of the activity and other activities or factors.

Section 9 of the Act defines environmental value as—

- a) A quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
- b) Another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

9. Aquatic ecosystem health is one of the environmental values of the Perry River. You had conducted modelling based on contaminant dilution calculations to determine acceptable levels of contaminants in water released from WD1 to prevent environmental harm to aquatic communities (including macroinvertebrates) in the Perry River. These dilution calculations determined the minimum flow in the Perry River where a release from WD1 could occur. You failed to cease discharging from WD1 when flows in the Perry River were below the permitted level during a twelve-day period and you did not take all reasonable and practicable measures to ensure that the environmental values of the Perry River were protected from environmental harm.
10. An amendment to the EA was made by the department on 30 September 2022 to add conditions that permitted the release of water from WD1 under high flow conditions in the Perry River, subject to specified water release quality limits and water quality limits monitored downstream in the Perry River.
11. An inspection of the Mt Rawdon Gold Mine was conducted by officers from the department on 6 October 2022. The departmental officers observed the water release pipeline to the Perry River that was to be used for any discharges made in accordance with conditions in the EA.
12. During the inspection on 6 October 2022, departmental officers observed the online automatic gauging station in a shed on the bank of the Perry River and it was noted as non-operational at the time. It has since been confirmed by MRO that this online automatic gauging station is not under the ownership of MRO, and that two systems are installed, and the MRO system was operational at the time of the inspection.

13. You advised the department via email on 23 October 2022 that a high flow event had occurred in the Perry River on 22 October 2022, and that you had commenced discharging water to the Perry River as the minimum flow requirements in the Perry River were met as required by condition E39 of the EA.
14. You then advised the department via email on 25 October 2022 that the release had ceased due to the need to ensure the downstream water quality limits in the Perry River were not exceeded as specified in condition E49 of the EA.
15. Both these advisories mentioned in points 13 and 14 above relied on flow readings in the Perry River and this requires measurement of the height of water over the Perry River Weir to accurately determine the flow at any given time.
16. Correspondence from you to the department dated 17 January 2024 has indicated that the online automatic gauging station that is operated by MRO (Xylem system) was only providing data on an intermittent basis during the period between 2014 and 2022. During the period where you were discharging water under the three TELs (from 27 May 2022 to 20 August 2022) the system was not providing data. During this period a manual gauging board was used to assess the levels of flow in the Perry River.
17. You have advised the Xylem online automatic gauging station will be used to assess levels of flow in the Perry River for any releases made in accordance with condition E39 of the EA. You have advised that the Xylem online automatic gauging station is currently operational and providing data.
18. An online automatic gauging station must be operational to ensure compliance with condition A4 of the EA. Condition A4 of the EA requires you to install, maintain and operate plant, equipment and measures to ensure compliance with the conditions of the EA. The department considers that there are reasonable and practicable measures that can and should be taken to ensure compliance with the EA conditions. Such actions include having in place an appropriate, reliable and accurate flow gauging station and associated maintenance reporting to ensure the gauging station is maintained and calibrated in accordance with relevant standards.
19. As outlined in the facts and circumstance above, the department considers that you have previously failed to take all reasonable and practical measures to prevent or minimise the risk of environmental harm during releases of mine impacted water to the Perry River.
20. The department considers that it is appropriate to require you to take all reasonable and practical measures to install, maintain and operate a continuous and reliable online gauging station to assess flows in the Perry River to lawfully release mine impacted water during high flow events in accordance with the relevant conditions of the EA.

B. Requirements

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

1. By **16 February 2024** you must have commissioned a *suitably qualified and experienced person* (SQEP) to assess the necessary equipment to enable accurately calibrated continuous flow gauging of the Perry River over the Perry River Weir. If the existing online automatic gauging station is assessed as not being suitable for this purpose, the SQEP must design a new online automatic gauging station or recommend necessary upgrades to the existing gauging station.
2. By **3 May 2024** if the SQEP assesses it as necessary under Requirement 1, you must have commissioned works and equipment necessary for the installation of a new online automatic gauging station, or upgrade of the existing gauging station to provide remote readings of flow in the Perry River over the Perry River Weir. These works must be undertaken by a SQEP.

3. By **16 August 2024** you must have completed all works, to the extent that any works are required, to ensure an online automatic gauging station is operational and calibrated by a SQEP and is successfully providing remote access enabled data readings of flow in the Perry River over the Perry River Weir.
4. By **16 August 2024** you must have had a registered surveyor verify the reduced level height measurements taken by the online automatic gauging station.
5. By **30 October 2024** you must implement a maintenance and calibration program to ensure the online automatic gauging station is operating at all times and generating the necessary information to ensure compliance with the conditions of the EA. This maintenance program should also include a log of works including non-operational hours and reasoning for the failure.
6. Following the completion of each of the requirements of this EPO, you must notify the department via email within one business day of the relevant requirement due date occurring. This must be provided to the following email address widebay.esr@des.qld.gov.au.
7. By **30 October 2024** you must provide a written report to the department summarising the completion of the requirements detailed in this EPO. This must be provided to the following email address widebay.esr@des.qld.gov.au.

Note: for the purposes of the requirements under this EPO, the calculation flow over the Perry River Weir can utilise the flow rating curve for the Gauging Station 136022A - Perry River at Evolution Dam Headwater developed by the Department of Regional Development, Manufacturing and Water.

Note: for the requirement purposes in this EPO, a *suitably qualified and experienced person* (SQEP) means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.

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 EPO take effect immediately upon service of the EPO;
- failure to comply with this EPO is an offence under the Act;
- this EPO 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 \$967,500 or five years imprisonment for an individual or \$4,837,500 for a corporation.

- The maximum penalty for contravening an EPO is 4500 penalty units, totalling \$696,600 for an individual or \$3,483,000 for a corporation.

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

- The maximum penalty is 50 penalty units, totalling \$7,740 for an individual or \$38,700 for a corporation.

Failure to provide written notice to the department within 10 business days of ceasing the activity to which an EPO relates is an offence.

- The maximum penalty is 50 penalty units, totalling \$7,740 for an individual or \$38,700 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 Act.

A person who is dissatisfied with an original decision made by the Department of Environment, Science and Innovation (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, Science and Innovation: 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 to 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.

Should you have any queries in relation to the EPO, please contact Dan Cohen, Principal Environmental Officer of the Maryborough Compliance Centre on telephone number (07) 4302 8516 or email dan.cohen@des.qld.gov.au



Signature

23/01/2024

Date

Cate Puschmann

Compliance Delivery Manager.,

Delegate of the Chief Executive

Department of Environment, Science and Innovation

Environmental Protection Act 1994

Enquiries:

Maryborough Compliance Centre
PO Box 145
MARYBOROUGH QLD 4650
Ph: (07) 4302 8589
Email: widebay.esr@des.qld.gov.au