

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.

Quarrico Products Pty Ltd (ACN 151 216 107)
Level 3 345 Ann Street
Brisbane QLD 4000

Our reference: C-CPLRC-100482306, STAT-E-100585653

22 March 2024

Dear Mr Joseph Zarb,

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Quarrico Products Pty Ltd (ACN 151 216 107) (you) by an authorised person under section 363B of the Act. The direction notice is issued in relation to your activities at the Winchester Downs Quarry on land described as Lot 5 on CNS90 situated at Peak Downs Mine Road, Dysart (the premises).

A. Grounds

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

1. you have contravened a prescribed provision, being section 426 of the Act which states: “A person must not carry out an environmentally relevant activity (ERA) unless the person holds, or is acting under, an environmental authority (EA) for the activity”; and
2. it is likely the contravention will be repeated if no action is taken to remedy the matter(s); 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 for these grounds are:

1. You hold environmental authority (EA) EPPR00960313, which came into effect on 8 June 2023 and authorises the following environmentally relevant activities (ERAs) to be conducted at Lot 5 on CNS90 (the premises) and on Lot 15 on CNS111:
 - (a) ERA 16 3(a) – Screening, in a year, 5,000t to 100,000t of material; and
 - (b) ERA 16 1(b) – Dredging, in a year, more than 10,000t but not more than 100,000t of material.
2. On 20 October 2023, authorised persons from the Department of Environment, Science and Innovation (the department) conducted an inspection of the premises in the presence of Quarrico Products Pty Ltd representatives.



3. During the inspection, authorised persons from the department observed the area in which you have extracted and screened rock material at the premises.
4. During the inspection, you advised the authorised persons from the department that for the 2022/2023 financial year, you extracted and screened approximately 540,000 tonnes of rock material at the premises.
5. During the inspection, departmental officers advised you that under EPPR00960313, you are not authorised to carry out:
 - (a) ERA 16 2 – extracting other than by dredging; and
 - (b) ERA 16 3(b) – screening, in a year, more than 100,000t but not more than 1,000,000t of material.
6. During the inspection, authorised persons from the department advised you under EPPR00960313, you are not authorised to carry out the following ERAs at the premises:
 - (a) ERA 16 2 – extracting other than by dredging; and
 - (b) ERA 16 3(b) – screening, in a year, more than 100,000t but not more than 1,000,000t of material.
7. During the inspection, you stated that you were intending to apply to Isaac Regional Council for a new development approval which would constitute a concurrence application for a new environmental authority at the premises.
8. On 24 October 2023, you provided records of the volumes of material extracted from the premises from 1 January 2018 to 30 September 2023. The records confirmed that you have extracted:
 - (a) 289,497.01 tonnes of rock material during the 2022 calendar year; and
 - (b) 696,312.01 tonnes of rock material from 1 January 2023 to 23 September 2023; and
 - (c) 101,510.43 tonnes of rock material was extracted during the period 8 June 2023 and 14 July 2023; and
9. On 23 October 2023, you confirmed that the volume of material screened at the premises is identical to the volume of material extracted at the premises.
10. On 21 November 2023, you stated that you also operate under an EA held by the late Ms Beryl Neilsen, being EPPR00203313.
11. EA EPPR00203313 came into effect on 21 December 2009 and authorises the following ERAs to be conducted at the premises (Lot 5 on CNS90):
 - (a) ERA 16 2(a) – Extracting other than by dredging, in a year, 5,000t to 100,000t of material; and
 - (b) ERA 16 3(a) - Screening, in a year, 5,000t to 100,000t of material;
12. The department considers that the volume of rock material extracted and screened at the premises between the period 1 January 2023 and 30 September 2023 exceeded the 100,000t threshold authorised by EA EPPR00203313. Therefore, you were not operating under EA EPPR00203313.

13. The department considers that the volume of rock material extracted at the premises following the issue of EA EPPR00960313 on 8 June 2023 was not lawful, in that it was extracted by a method other than by dredging.
14. The department considers that on 14 July 2023, the volume of rock material screened at the premises exceeded the 100,000t threshold for screening authorised by EA EPPR00960313.
15. The department alleges that you are carrying out the following ERAs:
 - (a) ERA 16 2(b) – extracting, other than by dredging, in a year, more than 100,000t but not more than 1,000,000t of material; and
 - (b) ERA 16 3(b) – screening, in a year, more than 100,000t but not more than 1,000,000t of material.
16. EA EPPR00203313 and EA EPPR00960313 do not authorise ERA 16 2(b) or ERA 16 3(b) at the premises.
17. 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.
18. The department alleges that by contravening section 426 of the Act, that you have contravened a prescribed provision in section 363A of the Act.
19. The department alleges that you have carried out an ERA without holding or acting under an EA at the premises for the past two (2) calendar years. By doing so you have contravened a prescribed provision in circumstances that make it likely the contravention will continue or be repeated.
20. On 16 February 2024, the department received a referral from the State Assessment Referral Agency (SARA) for a development application submitted by you which constitutes an application for a site-specific EA to conduct extraction and screening activities up to 1,000,000t in a year (ERA 16(2)(b) and ERA 16(3)(b)) at the premises.
21. The department considers it reasonable to require you to cease conducting the ERAs, until you hold or are acting under an EA for the ERAs.

B. Reasonable Steps

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

1. By **5pm on 22 March 2024**, you must stop and not restart carrying out ERA 16 2(b) Extraction and ERA 16 3(b) Screening (the activities) at the premises, until you hold or are acting under an **effective** environmental authority for the activities at the premises.
2. By **5pm on 28 March 2024**, and for the duration of this notice, you must ensure that **disturbed areas** are:
 - a. Stabilised with erosion and sediment controls and maintained; and
 - b. Managed to prevent environmental nuisance caused by dust; and
 - c. Managed and maintained to prevent the release of contaminants from the site to **waters**.

3. If you have not obtained an **effective** environmental authority by **1 August 2024**, you must engage an **appropriately qualified person** to develop a Rehabilitation Plan to remedy the **disturbed areas** at the premises. The Rehabilitation Plan must include, but not be limited to:
 - a. rehabilitation objectives, performance indicators and success criteria; and
 - b. a final land use plan for the **disturbed areas**; and
 - c. a schedule of actions to be carried out to achieve the rehabilitation objectives, including completion timeframes for each action; and
 - d. actions to:
 - i. install and maintain erosion and sediment controls at the premises; and
 - ii. prevent environmental nuisance caused by dust; and
 - iii. remediate contaminated land; and
 - iv. prevent the release of contaminants from the site to **waters**; and
 - v. re-profile the land to reflect the final land use, consistent with surrounding landforms and established drainage lines; and
 - vi. ensure the landform is in a stable condition; and
 - vii. reinstate the top layer of the soil profile consistent with surrounding soils; and
 - viii. vegetate the land with species similar to the surrounding land that will support a self-sustaining system; and
 - ix. actively manage pest and weed species; and
 - e. a monitoring and maintenance program, to be undertaken by an **appropriately qualified person**, that assesses the rehabilitation undertaken with regards to the objectives, performance indicators and success criteria; and
 - f. reporting progress milestones to the department.
4. By **1 September 2024**, the Rehabilitation Plan must be submitted to the department via email to CWES_Mackay@des.qld.gov.au or mail to:

PO Box 2001
Mackay QLD 4740
5. By **1 September 2024**, and for the duration of this notice, you must implement the Rehabilitation Plan.
6. By **1 November 2024**, you must have completed the actions and commenced the monitoring and maintenance program in the Rehabilitation Plan.

Definitions:

“appropriately qualified person” means a person or persons who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice, and

analysis to performance relative to the subject matter using the relevant protocols, standards, methods, or literature.

“disturbed areas” means areas disturbed by the carrying out of the activity/ies including areas:

- (a) that are susceptible to erosion; and/or
- (b) that are contaminated by the activity; and/or
- (c) upon which stockpiles of soil or other materials are located.

“effective” means an environmental authority that has taken effect under s200 of the *Environmental Protection Act 1994*.

“waters” includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water, natural or artificial watercourse, bed and banks of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

Take notice:

- 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 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.

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 contravening a direction notice is 600 penalty units, totalling \$92,880 for an individual, or \$464,400 for a corporation.
- The maximum penalty for wilfully contravening a direction notice is 1665 penalty units, totalling \$257,742 for an individual, or \$1,288,710 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 Rebecca Freese, A/ Principal Environmental Officer on telephone number (07) 4999 6814.



Signature

22 March 2024

Date

Clinton Bond
Compliance Delivery Manager - Mackay
Department of Environment, Science and
Innovation
Environmental Protection Act 1994

Enquiries:

Mackay Compliance Centre
Environmental Services and Regulation
Department of Environment, Science and
Innovation
Ph: 07 4999 6861
Email: CWES_Mackay@des.qld.gov.au