Notice

Environmental Protection Act 1994

Environmental Enforcement Order

This environmental enforcement order is issued by the administering authority pursuant to section 362 of the Environmental Protection Act 1994.

QLD Metal Recyclers Pty Ltd
'The Astor Centre' Level 5
445 Upper Edward Street
SPRING HILL QLD 4000

CC: QLD Metal Recyclers Pty Ltd
41 Dooley Street
PARK AVENUE QLD 4701

Attention: Nicolas Chambers
CC via email: nick@qmr.net.au , Jackson@qldmetals.com , Tyson@qmr.net.au

Your reference: EA0002691

Our reference: 101/0035632, STAT-E-100623890

20 June 2024

Dear Mr Chambers,

Take notice: That under the *Environmental Protection Act 1994* (the Act), this Environmental Enforcement Order (EEO) is issued to QLD Metal Recyclers Pty Ltd ACN 105 537 460 (you) by the administering authority. The administering authority is the Chief Executive of Department of Environment, Science and Innovation (the department).

The EEO is issued with respect to your activities on land described as Lot 72 on LN1544 situated at 41 Dooley Street, PARK AVENUE QLD 4701. (the premises).

A. Grounds

The department may issue an EEO to a person if the department believes an enforcement ground exists for the person. This EEO is issued on the following grounds and relate to the relevant matter:

1. It is necessary to issue an environmental enforcement order to secure your compliance with a condition of an environmental authority.

Queensland Government

a) The department requires you to take reasonable measures to secure compliance with Condition G1 of the EA EA0002691 which states:

All reasonable and practicable measures must be taken to prevent or minimise environmental harm caused by the activities.

b) The department requires you to take reasonable measures to secure compliance with Condition G7 of the EA which states:

For plant and equipment, all measures necessary to comply with the conditions of this environmental authority must be:

a) installed, operated and maintained in a proper and effective manner; and

b) in accordance with condition G5.

c) The department requires you to take reasonable measures to secure compliance with Condition A1 of the EA which states:

Odours or airborne contaminants must not cause environmental nuisance to any sensitive place or commercial place.

d) The department requires you to take reasonable measures to secure compliance with Condition WT1 of the EA which states:

Contaminants must not be released to any waters in a manner that causes or is likely to cause environmental harm.

2. It is necessary to issue an environmental enforcement order to secure your compliance with the general environmental duty. The general environmental duty is detailed in s319 of the Act which states:

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

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

1. The EA, which came into effect on 19 January 2021, authorises the following environmentally relevant activity (ERA) on Lot 72 on LN1544 (the premises):

   ERA 62-1(a) Resource recovery and transfer facility operation, operating a facility for receiving and sorting, dismantling, baling or temporarily storing scrap metal, non-putrescible waste or green waste only.

2. The department is satisfied that you are responsible for the operation and maintenance of the site under the EA.
3. Condition G1 of the EA requires that you take all reasonable and practicable measures to minimise the likelihood of environmental harm being caused.
4. The general environmental duty (GED) requires that you take all reasonably practicable measures to prevent or minimise the harm.
5. Environmental harm is defined by section 14 of the Act as follows:

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.

6. On 6, 8 and 21 March 2024, the department's Pollution Hotline received community notifications alleging dust from the premises was causing nuisance to nearby sensitive or commercial places.
7. On 10 April 2024, Authorised Persons (AP) of the department conducted a compliance inspection of the premises.
8. During the inspection, APs observed the surface of the site is earthen in nature. Given the nature of the activity there is a significant potential for the generation of dust.
9. During the inspection, Mr Tyson Chambers (QLD Metal Recyclers (QMR) Rockhampton Branch Manager) indicated that most of the dust generated by the activity occurs when material is pushed into piles after being unloaded.
10. During the inspection, APs observed muddy vehicle tracks originating from within the premises and extending through the entry and exit point, which resulted in sediment being deposited on Dooley Street.
11. During the inspection, APs did not observe any measures at the premises to manage or minimise the risk of sediment/contaminants being transported via vehicle movements from within the site onto Dooley Street.
12. During the inspection. Mr Daryl White, Trading Manager QMR, indicated that you have purchased a sediment interceptor to remove sediment from stormwater draining from the site, and intend to have this installed along with concreting of the whole site. Further correspondence from Mr Jackson Chambers, General Manger QMR, on 17 May 2024, confirmed that this is intended to be completed by the end of the calendar year 2024.
13. During the inspection, Mr Daryl White provided a hard copy of engineered plans relating to the installation of the sediment interceptor and other associated drainage works.
14. The department has formed the view that measures at the site have been inadequate to address compliance with Conditions G1, G7, A1 and WT1 of the EA, and with the GED.
15. The department considers that the interceptor, drainage and concreting works at the premises are reasonably practicable measures to assist in complying with these conditions and the GED.

B. Requirements

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

1. By 31 December 2024, you must complete your proposed drainage and concreting works at the site, which includes the following:
    a) Installation of sediment interceptor and all associated drainage infrastructure; and
    b) Installation of concrete hardstand to all areas of the site; and

c) the sediment interceptor and concrete hardstand are operational and functioning appropriately to fulfill their intended purpose by the 31 December 2024 time frame.

2. You must provide a progress update by the first business day of each month via CWES_Rockhampton@des.qld.gov.au, including details of any delays and any measures being taken in response to those delays.
3. You must notify the administering authority within 10 business days of completion of the installation of the sediment interceptor and associated drainage works, and the installation of concrete hardstand to the entire site via CWES_Rockhampton@des.qld.gov.au.

Note - Ensure all approvals required to complete the works required by this EPO are acquired prior to the commencement of works relevant to those approvals.

The standard criteria, principles of environmental protection and human rights were considered prior to issuing this EEO.

C. Obligations

If you propose to dispose of the place or business to which the EEO relates, you **must** advise the buyer of the existence of this EEO.

If you cease to carry out the activity to which this EEO 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 order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the Act;
- this order remains in force until further notice from the administering authority.

D. Offences

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 this EEO is an offence unless you have a reasonable excuse. The maximum penalties are significant and are provided in s369A of the Act.

Failure to provide a written notice to the buyer of the existence of the order is an offence. The maximum penalty is provided in s369C of the Act.

Failure to provide written notice to the department within 10 business days of ceasing the activity to which an EEO relates is an offence. The maximum penalty is provided in s369D of the Act

E. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in s519 to s539 of the Act.

A person who is dissatisfied with an original decision made by 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.

For a decision that is not an original decision, there are no formal review and appeal rights for a person who is dissatisfied with the decision made by the administering authority. The person may have other legal rights and may wish to seek legal advice.

F. Public Register

Pursuant to s540 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 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 notice, please contact Scott Botting on telephone number 07 4837 3303 or at CWES_Rockhampton@des.qld.gov.au.



Tony Baker

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Scott Botting

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