

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.

Queensland Coking Coal Pty Ltd (ACN 129 600 004)
Central Plaza
Level 34, 345 Queen Street
Brisbane City QLD 4000

Our reference: C-CPLPO-100669302 / E-100669305

17 June 2024

Dear Directors,

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Queensland Coking Coal Pty Ltd (ACN 129 600 004) (you) 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, Science and Innovation (the department).

The direction notice is issued in respect to the mining activities of Queensland Coking Coal Pty Ltd (ACN 129 600 004), specifically EPC1233.

A. Grounds

The direction notice is issued on the grounds that:

1. As an authorised person under the Act, I am satisfied on reasonable grounds that Queensland Coking Coal Pty Ltd has contravened, and continue to contravene a prescribed provision, namely 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*”.
2. Section 18 of the Act states that an environmentally relevant activity (**ERA**) includes a resource activity as defined under section 107, and section 107 of the Act provides that a resource activity is an activity that involves a mining activity.
3. Queensland Coking Coal Pty Ltd is the holder of environmental authority EPPR03277115 (the EA), which relates to EPC1233.
4. The EA authorises ERA 9 – A mining activity involving drilling, costeaning, pitting or carrying out geological surveys causing significant disturbance, and ERA 10 - Investigating the potential development of a mineral resource by large bulk sampling or constructing an exploratory shaft, adit or open pit.
5. ERA 9 and ERA 10 have been and continue to be carried out on EPC1233 in areas that are not authorised by the EA or any other EA (the unauthorised ERA), as depicted by the area shown in red in **Annexure A** to this notice (**the unauthorised disturbance area**).



6. It is likely the contravention of section 426 of the Act will continue if no action is taken to remedy the matter.
7. Cessation of the unauthorised ERA being carried out in the unauthorised disturbance area, and either obtaining an environmental authority (EA) to authorise the unauthorised ERA, or rehabilitating the unauthorised disturbance area, would remedy the contravention of the prescribed provision (section 426 of the Act).
8. The matter relating to the contravention can be remedied and it is appropriate to give Queensland Coking Coal Pty Ltd an opportunity to remedy the matter.

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

1. Queensland Coking Coal Pty Ltd is the holder of the EA.
2. Queensland Coking Coal Pty Ltd is the holder of EPC1233.
3. The EA authorises ERA 9 - A mining activity involving drilling, costeaning, pitting or carrying out geological surveys causing significant disturbance and ERA 10- Investigating the potential development of a mineral resource by large bulk sampling or constructing an exploratory shaft, adit or open pit.

4. Condition A8 of the EA states:

Authorised activities

*The bulk sample activities conducted under this environmental authority must not exceed the total maximum disturbance areas listed in **Table A1 - Maximum disturbance area for each bulk sample disturbance domain**¹ and must not extend beyond the disturbance footprint depicted in **Figure A1 – Project Layout**.*

¹*The total disturbance footprint does not include exploration and groundwater monitoring activities that are authorised outside of Figure A1 – Project Layout.*

5. Figure A1: Project layout is **Annexure B** to this notice.
6. The unauthorised ERA has been conducted, and continues to be conducted, in areas on EPC1233 that are not authorised by the EA, as depicted in the unauthorised disturbance area shown in **Annexure A** to this notice.
7. The unauthorised disturbance area was determined by the department to have commenced on or around 30 April 2024.
8. During the meeting held between the department and Queensland Coking Coal Pty Ltd on 14 June 2024 Queensland Coking Coal Pty Ltd confirmed that it is responsible for the unauthorised disturbance area.
9. The department has conducted a review of satellite imagery and estimates the unauthorised disturbance area to be approximately 2 hectares (ha).
10. On 22 April 2024, the department decided the application for an ERC decision, that does not include rehabilitation liability for the unauthorised disturbance area shown in **Annexure A** to this notice.
11. Under section 426 of the Act, it is an offence for a person to carry out an ERA unless the person holds or is acting under, an EA for the activity.

12. Queensland Coking Coal Pty Ltd has unlawfully carried out and continue to carry out the unauthorised ERA in the unauthorised disturbance area, on EPC1233.

B. Steps required

As the authorised person, I consider that the following reasonable steps are necessary to remedy the contravention of section 426 of the Act:

- (1) Within **7 days of the date of this notice**, Queensland Coking Coal Pty Ltd must cease carrying out the unauthorised ERA in the following areas of the unauthorised disturbance area:
 - (a) Bulk sample pit.

which is outside the authorised area of disturbance shown in Figure A1: Project layout (**Annexure B** to this notice) unless, and until Queensland Coking Coal Pty Ltd hold, or is acting under, an EA for ERA 9 and 10.
- (2) Queensland Coking Coal Pty Ltd must notify the department in writing within **24 hours** of ceasing the unauthorised ERA in accordance with requirement 1.
- (3) By **4pm on 15 July 2024**, Queensland Coking Coal Pty Ltd must:
 - (a) commence rehabilitation of the unauthorised disturbance area in accordance with **Table 1** of this notice and complete the rehabilitation by **15 July 2025**; or alternatively
 - (b) lodge with the department a properly made amendment application for an EA for the unauthorised ERA in the unauthorised disturbance area; and
 - (c) do all things necessary to progress the application; and
 - (d) if the application is refused, commence rehabilitation of the unauthorised disturbance area in accordance with **Table 1** of this notice, and complete the rehabilitation within **12 months**.
- (4) Where Queensland Coking Coal Pty Ltd complete rehabilitation as per requirement (3)(a), an AQP¹ must prepare and submit a report to the department via CWES_Mackay@des.qld.gov.au by **15 August 2025** which certifies the rehabilitation requirements have been met as specified in **Table 1 – Rehabilitation Requirements**.

¹ **AQP** (Appropriately Qualified Person) 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

Table 1: Rehabilitation Requirements

Domain	Land Use	Rehabilitation Objectives	Completion Criteria
Unauthorised disturbance area – Bulk sample pit	Native Ecosystem	Safe for humans and animals and stable on decommissioning and into the foreseeable future	<ol style="list-style-type: none"> 1. Bulk sample pit is backfilled to the pre-disturbance landform and certified as geotechnically stable by an AQP. 2. Subsoil of a suitable quality, as signed-off by an AQP, has been applied, spread and compacted to design specifications. 3. All erosion and sediment control systems have been installed as per the design and are functioning properly as verified by an AQP. 4. There are no areas of surface ponding. 5. Any erosion classified as ‘moderate’ or ‘severe’ as defined in Appendix 1 - Erosion classification framework has been remediated. 6. Erosion monitoring has been completed and the average erosion rate is <5 t/ha/year. 7. Permanent drainage channels to be designed in accordance with the <i>Guideline: Works that interfere with water in a watercourse for a resource activity— watercourse diversions authorised under the Water Act 2000</i>.
		Not a source of environmental harm to the surrounding environment. Native communities endemic to the surrounding area established (similar to RE11.5.9).	<ol style="list-style-type: none"> 8. Soil health and suitability is assessed and documented by an AQP to confirm topsoil is suitable for the land use and target vegetation establishment. 9. The need for soil amelioration has been investigated and soil ameliorants such as fertiliser, gypsum and/or organic matter have been applied at rates determined by an AQP. 10. Topsoil is applied to a minimum depth of 0.25m. 11. Organic mulch is applied at a rate of at least 5t/ha of hay or organic material on all slopes. 12. Topsoil to meet the following suitability targets: <ol style="list-style-type: none"> a. pH in the range of 5.5 - 8.5 (average); b. Electrical Conductivity (EC) ≤1.5 dS/m (1,500 µS/cm); and c. Exchangeable sodium percentage (ESP) <6%. 13. Seeding is completed at an average rate of 2-3 kg/ha for trees and shrubs, 9-11 kg/ha for grasses and 8-10 kg/ha for sterile cover crops.

Domain	Land Use	Rehabilitation Objectives	Completion Criteria
			<p>14. With the exception of a non-permanent cover crop species, the seed mix contains only those species listed in Appendix 2 – Seed Mix Species List for the relevant land use and reflect the pre-disturbance regional ecosystem distribution.</p> <p>15. Vegetation groundcover >80% on all slopes with gradient >10% and groundcover >50% on slopes with gradient <10% is achieved.</p> <p>16. Rehabilitated areas have less than 0.2% cover of <i>Parthenium hysterophorus</i> AND rehabilitated areas are to have less than 0.1% cover of <i>Harrisia martinii</i> AND any invasive plants listed under the <i>Biosecurity Act 2014</i> are not to exceed densities of 1 individual per hectare, as confirmed by an AQP from annual monitoring.</p> <p>17. At least 60% of established target tree species show natural recruitment.</p>

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 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, 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 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 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.

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 \$1,288,710.00 for a corporation.
- The maximum penalty for contravening a direction notice is 600 penalty units, totalling \$464,400.00 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 Juliana Gaona, Environmental Officer on telephone number (07) 3708 8905.



17/06/2024

Cate Puschmann
Acting Manager Compliance (Coal)
Department of Environment, Science and
Innovation
Authorised Person

Environmental Protection Act 1994

Enquiries:
Compliance Centre: **Mackay**
Email:
CWES_Mackay@des.qld.gov.au
Telephone: (07) 4999 6861

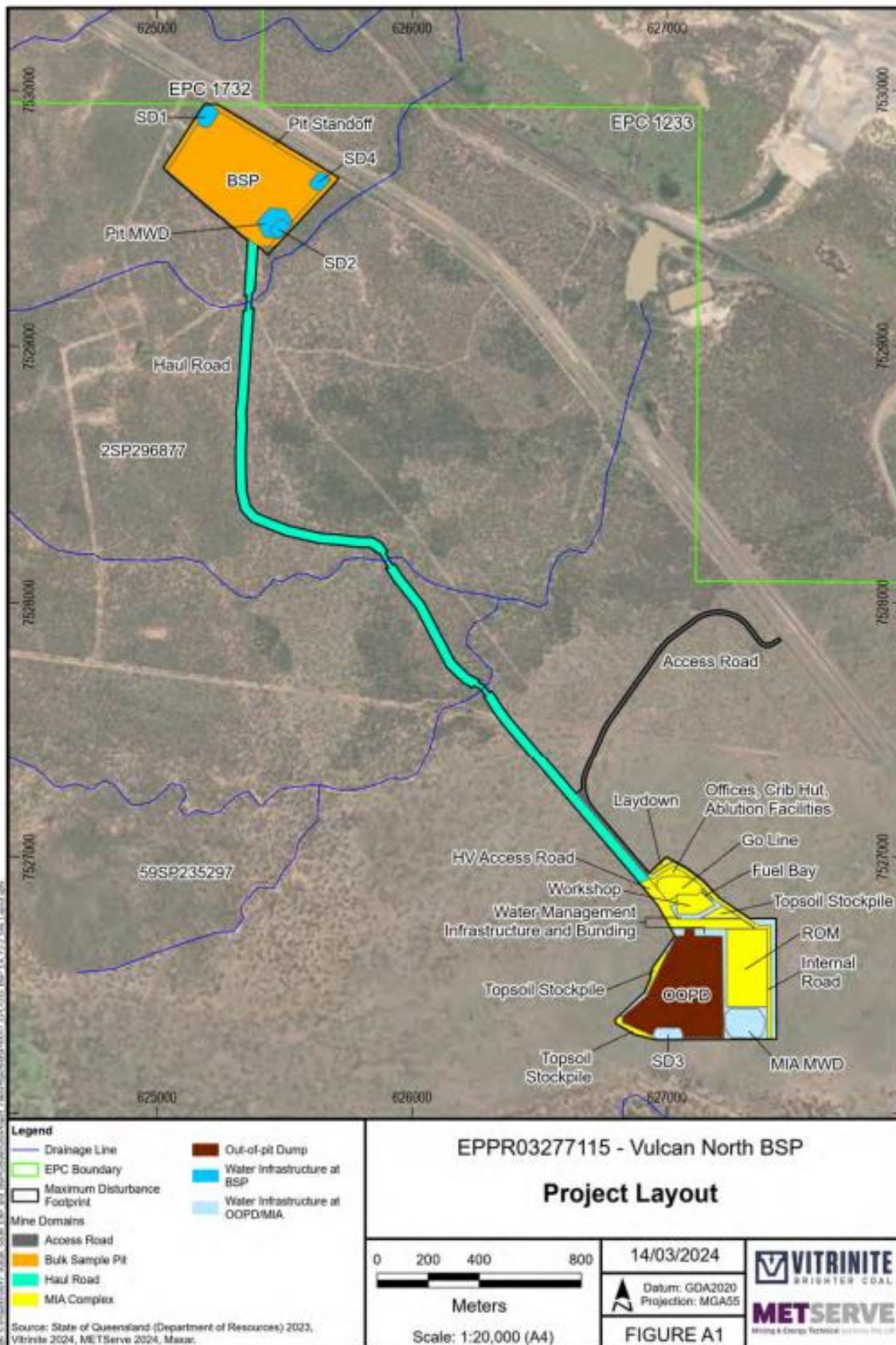
Annexure A – Unauthorised Disturbance Area



Planet Imagery, 13 June 2024, EPC1233

Red indicates the unauthorised disturbance area

Annexure B – Figure A1: Project Layout



Appendix 1: Erosion classification framework

Erosion classification	Minor	Moderate	Severe
Sheet erosion	Shallow soil deposits downslope.	Partial exposure of roots; moderate soil deposits downslope.	Loss of surface horizon; subsoil exposure; root exposure; substantial soil deposits downslope.
Rill/gully erosion	<15 rills and <0.3m deep	15-30 rills and <0.3m deep	>30 rills and/or any >0.3m deep
Tunnel erosion	Absent	Absent	Present
Mass movement	Absent	Absent	Present

Appendix 2: Seed Mix Species List

Native Ecosystem

11.5.9 - *Eucalyptus crebra* and other *Eucalyptus* spp. and *Corymbia* spp. woodland on Cainozoic sand plains and/or remnant surfaces

Trees

Dominant: Eucalyptus crebra, Corymbia clarksoniana, Acacia leptostachya, Bursaria incana, Petalostigma banksii

*Frequent: Eucalyptus crebra, Corymbia clarksoniana, Casuarina cristata*¹, *Petalostigma pubescens, Acacia cowleana, Acacia leptostachya, Alphitonia pomaderoides, Antidesma parvifolium, Bursaria incana, Gardenia indet., Geijera salicifolia, Grevillea glauca, Larsenaikia ochreatea, Petalostigma banksii, Siphonodon indet.*

Shrubs

Dominant: Acacia conferta, Acacia disparrima subsp. Calidestris, Acacia cowleana, Gardenia indet., Petalostigma pubescens, Grewia retusifolia, Petalostigma banksia, Eucalyptus crebra, Persoonia falcata

Frequent: Erythroxylum austral, Acacia conferta, Acacia cowleana, Acacia disparrima subsp. calidestris, Acacia holosericea, Alphitonia pomaderoides, Breynia oblongifolia, Coelospermum reticulatum, Gardenia indet., Grevillea parallela, Petalostigma pubescens, Eucalyptus crebra, Grewia retusifolia, Acacia leptostachya, Corymbia clarksoniana, Indigofera australis, Persoonia falcata, Petalostigma banksia

Ground

Dominant: Eremochloa bimaculate, Brunoniella acaulis, Desmodium brachypodum, Aristida holathera var. holathera

Frequent Grasses: Alloteropsis semialata, Aristida calycina var. calycina, Chrysopogon fallax, Eragrostis spartinooides, Eremochloa bimaculata, Panicum effusum, Ancistrachne uncinulata, Aristida holathera var. holathera, Calyptochloa cylindrosperma, Ectrosia indet., Heteropogon contortus, Mnesithea Formosa, Paspalidium indet., Scleria brownii, Themeda triandra

¹ *Casuarina cristata* is not listed in the technical description for 11.5.9; however, it has been included as it occurs locally and is an important species for the Glossy Black-cockatoo.