

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.

Cypress Petroleum Pty Ltd
Level 3A, 243 Edward Street
BRISBANE QLD 4000

Your reference: EA0001491

Our reference: STAT-E-100684875

11/07/2024

Dear Directors,

Take notice: That under the *Environmental Protection Act 1994* (the Act), this environmental enforcement order (EEO) is issued to Cypress Petroleum Pty Ltd (ACN: 613 738 088) (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment, Science and Innovation (the department).

The EEO is issued with respect to the activities of Cypress Petroleum Pty Ltd on land described as Authority to Prospect (ATP) 2037 (the premises).

A. Grounds

This EEO is issued on the following grounds and relate to the relevant matter:

1. In accordance with section 359 (e)(ii), the department requires you to take reasonable measures to secure compliance with the following conditions of environmental authority EA0001491 (the EA) dated 25 March 2024:
 - a. PESCC 9 of EA0001491 which states: '*Petroleum activities that require earthworks, vegetation clearing and/or placing fill, other than that associated with the construction of linear infrastructure, are not permitted in or within: (a) 200 metres of any wetland, lake or spring; or (b) 100 metres of the outer bank of any other watercourse.*'.
 - b. PESCC 38 of EA0001491 which states: '*significantly disturbed areas that are no longer required for the ongoing conduct of the petroleum activities must be progressively rehabilitated within 6 months (unless an exceptional circumstance in the area to be rehabilitated (e.g. a flood event) prevents this timeframe being met) so that:*



- (a) the areas are reshaped to a stable landform*
- (b) the areas are re-profiled to contours consistent with the surrounding landform*
- (c) surface drainage lines are re-established*
- (d) top soil is reinstated.'*

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

1. Cypress Petroleum Pty Ltd (Cypress) are the holder of environmental authority EA0001491 (the EA) effective 25 March 2024.
2. The EA provides authorisation and obligations in relation to activities carried out under the Act on Authority to Prospect (ATP) 2037.
3. Condition PESCC 38 requires that *'Significantly disturbed areas that are no longer required for the ongoing conduct of the petroleum activities must be progressively rehabilitated within 6 months (unless an exceptional circumstance in the area to be rehabilitated (e.g. a flood event) prevents this timeframe being met) so that:*
 - (e) the areas are reshaped to a stable landform*
 - (f) the areas are re-profiled to contours consistent with the surrounding landform*
 - (g) surface drainage lines are re-established*
 - (h) top soil is reinstated.'*
4. PESCC 9 of EA0001491 requires that *'Petroleum activities that require earthworks, vegetation clearing and/or placing fill, other than that associated with the construction of linear infrastructure, are not permitted in or within: (a) 200 metres of any wetland, lake or spring; or (b) 100 metres of the outer bank of any other watercourse.'*
5. On 19 December 2023, Cypress met with the department and provided information regarding potential non-compliances with the EA at the premises.
6. On 10 January 2024, the department received an investigation report for activities conducted by Cypress at both ATP2037 & ATP2038 which stated: *'Canyon 2 gravel pit is within a mapped lacustrine wetland (hydrological natural), containing wetlands (1 to 50%)'*. The report also includes a map labelled as *'Canyon 2 EA0001490 ATP2037 & ATP2038'*, which shows Canyon 2 (Moonbi) Gravel Pit is located within a mapped wetland.
7. On 25 January 2024, authorised officers of the department conducted an inspection of ATP2037 and observed wetland dependent vegetation surrounding the Moonbi gravel pit.
8. During the inspection a Cypress representative confirmed that the area in which the Moonbi gravel pit is located was undisturbed, wetland dependant vegetation prior to gravel pit construction, which occurred in early 2023 for the purpose of supplying gravel for the Canyon 2 well site.
9. The EA defines wetlands as: *'a wetland defined under the Queensland Wetlands Program and are areas of permanent or periodic/intermittent inundation, with water that is static or flowing fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed 6 metres. To be classified as a wetland, the area must have one or more of the following attributes:*
 - at least periodically, the land supports plants or animals that are adapted to and dependent on living in wet conditions for at least part of their life cycle; or*
 - the substratum is predominantly undrained soils that are saturated, flooded or ponded long enough to develop anaerobic conditions in the upper layers; or*
 - the substratum is not soil and is saturated with water, or covered by water at some time.'*
10. Available satellite imagery confirms that Moonbi gravel pit is within mapped Wetland containing Palustrine habitat (1 to 50%).
11. Available satellite imagery further confirms that significant disturbance began in the area of the Moonbi gravel pit between 6 January 2023 and 14 January 2023.

12. On 30 January 2024, the department issued Cypress with a letter outlining potential non-compliances identified during the site inspection.
13. On 8 February 2024, Cypress provided a written response stating: *'the former management regarding the proposed well locations was not communicated adequately to operational staff and that the works were subsequently undertaken without appropriate consideration to any amendments required to the EAs.'*
14. On 16 February 2024, Cypress were issued a formal warning for the location of the Moonbi gravel pit and a well pad that were both in non-compliance with condition PESCC 9.
15. On 18 March 2024, the department sent correspondence further outlining conditions within EA0001491 which related specifically to the Moonbi gravel pit, including condition PESCC 38.
16. On 27 March 2024, Cypress provided an update on the current status of Moonbi gravel pit which stated: *'Omega would like to engage with DESI to develop a practical plan to transfer the pit to the landholder and avoid completing an exercise that could involve disturbing more areas by operating heavy machinery.'*
17. The department's guideline titled *'Transferring petroleum infrastructure to landholders'* states that borrow pits are specifically excluded from infrastructure able to be transferred to a landholder specifically where *'the EA holder is obligated to carry out rehabilitation in order to restore or replace originally lost biodiversity values.'*
18. On 13 May 2024, the department issued a letter to Cypress stating *'Given the pit is unauthorised disturbance, it is not permitted to be transferred to the landholder and must be rehabilitated. Following discussion with its technical experts, the department considers that rehabilitation in accordance with your EA conditions is the best environmental outcome for the wetland in order to restore lost biodiversity values.'*
19. The department considers it necessary to require you to take reasonable measures to achieve compliance with condition PESCC 9 and condition PESCC 38 of the EA.

The standard criteria and human rights were considered prior to issuing this EEO.

B. Requirements

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

1. By **5pm on 30 August 2024** you must submit to the department a rehabilitation action plan (RAP), completed by an **appropriately qualified person(s) (AQP)**, for the rehabilitation of the full extent of the Moonbi gravel pit (located at GDA2020 -27.57380, 150.01215). The RAP must include:
 - a. Rehabilitation objectives, performance indicators and success criteria; and
 - b. A schedule of actions to be carried out to achieve the rehabilitation objectives, including completion dates for each action to achieve compliance with the timeframes of this EEO; and
 - c. Actions to ensure that:
 - i. Further disturbance is prevented; and
 - ii. Re-profiling of the disturbed area is undertaken utilising available stockpiled material, topsoil and cleared vegetation in the existing disturbance area only; and
 - iii. Re-profiling achieves a landform that is stable and not subject to slumping; and
 - iv. Native species of vegetation equivalent to adjacent undisturbed wetland areas are established and are self-sustaining; and

- v. Erosion and sediment controls measures are installed and maintained; and
 - vi. The release of contaminants to waters is prevented; and
 - vii. Weed species are actively managed.
- d. Identification of potential risks to rehabilitation success and suitable control measures that must be implemented; and
 - e. A monitoring and maintenance program, to be undertaken by an **AQP**, that assesses and maintains the rehabilitation area in accordance with the rehabilitation objectives, performance indicators and success criteria.
2. By **5pm on 25 October 2024** you must commence rehabilitation of the Moonbi gravel pit (located at GDA2020 -27.57380, 150.01215) in accordance with the RAP.
 3. By **5pm on 20 December 2024** you must have completed rehabilitation actions in the Moonbi gravel pit (located at GDA2020 -27.57380, 150.01215) and you must commence the monitoring and maintenance program detailed in the RAP.
 4. By **5pm 1 August 2025** you must submit a report to the department via email to southwest.es@des.qld.gov.au detailing the actions completed under the RAP and results from the monitoring program to validate the success of the rehabilitation actions.

Definitions

appropriately qualified person(s) (AQP) means a person who has qualifications, training, skills, and 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, legislation, methods, or literature.

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.

G. Signature and contact details

Should you have any queries in relation to the notice, please contact Zali Domrow at **Toowoomba** compliance centre at Mail: PO Box 731 TOOWOOMBA QLD 4350 or Email: southwest.es@des.qld.gov.au or on 07 4529 8396.



Signature

11 July 2024

Date

Delegate: Joe Winzenberg
Department of Environment, Science and
Innovation
Environmental Protection Act 1994

Administering Authority Details
Department of Environment, Science and
Innovation PO Box 731, TOOWOOMBA QLD
4350