Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Contravention of condition of environmental authority

Queensland Government

Department of the Environment, Tourism, Science and Innovation

Order id:	STAT-E-100727725
Issued to:	Edmonbrook Pty Ltd [ACN: 010 383 276] For the purpose of this notice "you" means the recipient of this notice or your authorised representative.
Registered office:	EXTRADO, UNIT 14, 21 TECHNOLOGY DRIVE, AUGUSTINE HEIGHTS, QLD, 4300
Site address:	Russells Road, PINE MOUNTAIN, QLD, 4305 on Lot/plan 385/CH31214 ("the premises")
Issued by:	John Rice, Team Leader, Energy Extractive and Southwest Compliance, Department of the Environment, Tourism, Science and Innovation at 4/117 Brisbane Street Ipswich, an authorised person of the administering authority ("the delegate") _____ Signed by delegate
Date:	23 December 2024
Relevant matter/ enforcement grounds:	Section 359 (e)(ii) to secure compliance with conditions of your environmental authority (EA), specifically conditions C1, D1 and D3 of EPPR00422813 (comprising registration certificate ENRE00752408 and development approval IDPE00892408) effective 20 August 2008 (herein referred to as "the EA"); and Section 359 (c) to secure compliance with the general environmental duty.
Service method:	Via registered post and email

Why are we writing to you?

The delegate reasonably suspects that you have contravened sections 319 and 430 of the *Environmental Protection Act 1994* (the Act) at the premises and has issued this Environmental Enforcement Order (EEO) to you under sections 359 of the Act to remedy the contravention, avoid further contraventions and keep the Department of the Environment, Tourism, Science and Innovation ("the department") informed.

What are you required to do?

Please read this EEO carefully and carry out all the required actions listed below by the required dates.

Terms used in this order have the meaning defined in the Background and Definitions section of the EEO, or if not defined, in the Act.

If you have any questions about this EEO, please contact Shane Brook by email Shane.Brook@des.qld.gov.au or telephone (07) 3894 8153.

Required actions:

1. You must submit all reports and documents required by this notice to the department via email to Ipswich.esr@des.qld.gov.au.

ABN 46 640 294 845

2. On or before **5pm on 22 January 2025**, you must engage an **Appropriately Qualified Person** (AQP) to complete the requirements of this notice and provide confirmation of the engagement to the department, including evidence of relevant qualifications and experience of the AQP.
3. On or before **5pm on 19 February 2025**, you must have required the AQP to complete an audit of all sediment and erosion control measures and stormwater infrastructure associated with the premises and submit a complete and final report to the department. The audit and associated report must:
    (a) Include an assessment of all existing and planned sediment and erosion control measures and stormwater management infrastructure and whether they are adequate to achieve compliance with conditions of your environmental authority (EPPR00422813), namely conditions D2, D11 and D13, and the **general environmental duty** under section 319 of the Act. Stormwater management infrastructure includes but is not limited to concentrated flow paths, clean water diversions, channels, batter chutes/spillways (where applicable), stormwater retention and detention ponds/basins;
    (b) Specify actions to be completed such that existing and planned erosion control measures and stormwater management infrastructure will achieve compliance with your EA and **general environmental duty**;
    (c) Specify actions to be completed so that concentrated flow paths are designed and constructed to convey stormwater runoff from rain events up to and including the 1 in 5-year critical duration average recurrence interval (ARI) storm event;
    (d) Specify actions to prevent contaminated stormwater entering mapped watercourses on the premises;
    (e) Specify actions to remove and/or stabilise sediment deposited by contaminated stormwater runoff at the premises that may be mobilised and discharged to waters. The actions must include any interim measures to prevent the ongoing release of deposited sediment to waters, and must not result in impacts to vegetation and waterways, and must achieve a safe, stable and non-polluting landform;
    (f) Include all calculations and assumptions used to develop actions under requirements 3(b), 3(c), 3(d) and 3(e);
    (g) Specify dates for completion of each action identified under requirements 3(b), 3(c), 3(d), and 3(e) that must:
        (i) Consider the risk of further unauthorised contaminant releases to waters;
        (ii) Demonstrate the discharge of your **general environmental duty** and consideration of the department's Stormwater and Environmentally Relevant Activity Guideline (ESR/2015/1653); and
        (iii) Have a completion date no later than 19 March 2025.
4. On or before **5pm on 19 March 2025**, you must have completed the implementation of all actions identified under requirement 3.
5. By **5pm on 2 April 2025**, you must require the AQP to carry out an audit of all sediment and erosion control measures, stormwater management infrastructure, and routine erosion and sediment control inspection procedures associated with the premises and provide a report to the department discussing the integrity, design and adequacy of the measures to manage the erosion risk and stormwater of the site. The audit must identify and record any corrective actions or improvements, including timeframes for completion, to maintain the integrity of each control measure.
6. You must complete the corrective actions within the specified timeframe as identified by the AQP under requirement 5.
7. By **5pm on 16 April 2025**, you must require the AQP to produce written procedures for the management of stormwater and erosion control measures that maintain your compliance with your EA and the GED.
8. By **5pm on 23 April 2025**, you must commence implementation of the written procedures developed under requirement 7.

Background and Definitions

1. The department is the administering authority and has responsibility for enforcing the Act.
2. You are the holder of Environmental Authority EPPR00422813 (comprising registration certificate ENRE00752408 and development approval IDPE00892408) dated 20 August 2008 (EA).
3. The department is satisfied that you are responsible for the operation and maintenance of the premises under the EA.
4. On 6 June 2024, authorised persons from the department inspected the premises and observed:

   (a) The Edmonbrook Pty Ltd site was determined to be a "high erosion risk hazard" site, as per the criteria and principles stated in the Guideline – Stormwater and environmentally relevant activities, published by the department (Stormwater and Environmentally Relevant Activity Guideline (ESR/2015/1653);

   (b) Erosion and sediment control measures were not maintained and had been modified in a way that enables sediment-laden water to leave the site and enter waters without settlement or treatment;

   (c) Exposed areas were not managed in a way to minimise erosion, such as by application of ground cover, flow control or other armouring techniques to reduce the erosion and mobility of sediment;

   (d) Paths of concentrated stormwater flows are not managed or channelled through appropriate channels, batter chutes, drainage lines or similar structures to direct stormwater to sedimentation pond;

   (e) The sedimentation ponds were significantly undersized having regard to the surface area of the quarry's working pits and stockpiling areas, the surface characteristics and the projected 1 in 5-year ARI 24-hour storm event based upon the locality and Bureau of Meteorology rainfall data for the region;

   (f) The capacity of sediment dams on site appeared to be reduced by an absence of appropriate management practices, including management of impounded water following rain events to ready the site to manage impounded stormwater at subsequent rainfall events; and

   (g) Edmonbrook Pty Ltd had failed to appropriately store chemicals, namely hydrocarbons, within a secondary containment system or otherwise in accordance with Australian Standard AS1940, and that this has resulted in a release of hydrocarbons to land.

5. On 19 July 2024, authorised person from the department inspected the site and undertook a drone survey of the site.

6. On 20 December 2024, authorised persons from the department inspected the premises. The main gate was open for entry, and officers entered the site under s. 452(1)(c) of the Act. No personnel from Edmonbrook Pty Ltd were present. Departmental officers took various photographs and videos, noting that:

   (a) Sediment-laden water was accumulated in the site's sedimentation pond, and was overtopping the spillway that was constructed through the wall of the sedimentation basin;

   (b) The same spillway appeared to be considerably deeper than it was on the 6 June 2024 inspection, with evidence of further excavation and deepening of the spillway;

   (c) There was a continual flow of sediment-laden water passing through the spillway, despite that the fact that any appreciable rainfall had ended about 2 days before the inspection;

   (d) Sediment-laden water was being released from the site without any functionally effective erosion and sediment controls in place to prevent or minimise such releases; and

   (e) Works had been undertaken to remedy concerns identified on 6 June 2024 regarding the storage of chemicals.

7. The department notes that erosion and sediment control structures that were installed following an audit by Lockyer Designs in 2014 appear to have been decommissioned, with no adaptation of sediment control systems having been made despite changes in the layout of the working pits and stockpiling activities.

8. Edmonbrook produced a document titled Stormwater Management Plan (prepared by Lockyer Designs, dated 2104) as their active erosion and sedimentation plan, however the current layout of the site and the infrastructure in the plan have not been installed or have been decommissioned.

9. Generally, it was noted that extractive and screening activities being undertaken on the site with little regard to the need to adapt and maintain stormwater management infrastructure and with management and treatment of sediment-laden water in mind.

10. Condition C1 of your EA states:

    The environmentally relevant activities must be carried out by such practicable means necessary to prevent or minimise the release or likelihood of release of contaminants to waters.

11. The department alleges that on 6 June 2024 you failed to comply with condition C1.

12. Condition D1 of your EA states:

    The environmentally relevant activities must be carried out by such practicable means necessary to prevent or minimise the contact of incident rainfall and stormwater runoff with wastes or other contaminants, and prevent or minimise the likelihood of release of any such contaminated runoff from the approved place.

13. The department alleged that on 6 June 2024 and on 20 December 2024 you failed to comply with condition D1 of your EA.

14. Condition D3 of your EA states:

    Drainage through and from all trafficable areas and productive activities must be designed to minimise surface flow velocities.

15. The department alleges that on 6 June 2024 you failed to comply with condition D3 of your EA.

16. The **general environmental duty** is detailed in Section 319 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 reasonable and practicable measures to prevent or minimise the harm (the general environmental duty).

17. With reference to Section 319 of the Act, the general environmental duty, the department alleges that you failed in your responsibility to ensure appropriate processes, systems and infrastructure was in place to assess and control the stormwater runoff risks associated with your activities in a way that minimises the risks of environmental harm.

18. The release of sediment contaminated stormwater runoff from Edmonbrook Pty Ltd's activities has potential to adversely affect environmental values and downstream ecosystems.

19. The discharge of contaminants into waters, in the form of sediment-laden stormwater runoff from the premises, has the potential to negatively impact the ecological health and amenity of Watercress Creek and its associated tributaries, which constitutes environmental harm.

20. The release of contaminants from your site to land, waters or surrounding areas is neither expressly nor impliedly permitted by the conditions of Environmental Authority EPPR00422813.

21. You failed to implement adequate measures to prevent or minimise risks of environmental harm.

22. You failed to store chemicals, namely hydrocarbons, in accordance with recognised Australian Standards, and this contributed to a release of contaminants to land.

23. The department believes that you have not met the general environmental duty under section 319 of the Act and measures are necessary to secure compliance with the general environmental duty.

24. Section 430 of the Act says:

    A person must not contravene a condition of the authority.

25. In summary, the delegate considers you are contravening sections 319 and 430 of the Act and it is reasonable to require you to secure your compliance with the/those conditions.
26. The delegate has considered the circumstances (including the standard criteria and human rights) and determined that the required actions are reasonable to remedy or otherwise address the relevant matters.
27. This EEO takes effect from the date service and remains in force until stayed, amended, revoked or finalised.

Definitions that apply to this notice:

1 in 5-year critical duration average recurrence interval (ARI) storm event: is defined in the Stormwater and Environmentally Relevant Activity Guideline (ESR/2015/1653) as a **24 hour storm event with an ARI of 1 in 5 years** means the maximum rainfall depth from a 24 hour duration precipitation event with an average recurrence interval of once in 5 years. *For example, at location XX an Intensity-Frequency-Duration table for a 24 hour duration event with an average recurrence interval of 1 in 5 years identifies a rainfall intensity of 7.09mm/hour. The rainfall depth for this event is therefore 24 hour x 7.09mm/hour = 170.16mm.*

"Appropriately qualified person(s)" (AQP) means someone with professional qualifications, training, skills and experience relevant to the requirements of this notice. The person or persons must be able to give authoritative assessment, advice and analysis using the appropriate protocols, standards, methods and literature.

The appropriately qualified person(s) should have, or collectively have, the following capabilities:

(a) A detailed understanding of relevant sections of the following guidelines and legislation:
  (i) *Environmental Protection Act 1994* and Environmental Protection Regulation 2019;
  (ii) Environmental Protection (Water and Wetland Biodiversity) Policy 2019;
  (iii) Stormwater and Environmentally Relevant Activity Guideline 2024;
  (iv) Queensland Urban Drainage Manual 2017;
  (v) IECA (2008) Best Practice Erosion and Sediment Control.

(b) An understanding of hydrology and hydraulics, including the ability to size and determine stabilisation requirements of drainage structures and treatment devices.

(c) An understanding of soil as it relates to revegetation and erosion. Specifically, the ability to conduct an effective soil sampling program, interpret results and design management strategies to address problem soils (pH, sodic, dispersive, and saline).

(d) An understanding of appropriate use of the revised universal soil loss equation (RUSLE) to estimate soil loss.

(e) An understanding of the erosion, drainage and sediment controls considered best practice in Australia, and knowledge on the correct installation, operation and maintenance of these controls.

(f) Ability to prepare erosion and sediment control plans of a standard that is suitable for construction.

(g) Has experience in erosion and sediment control and a suitable environmental or engineering degree from a recognised institution

"General environmental duty" means anyone who carries out an activity that causes or is likely to cause environmental harm is responsible to take all reasonably practicable measures to prevent or minimise the harm (in accordance with section 319 of the *Environmental Protection Act 1994*).

"Premises" means Lot 385 Plan CH31214

Warnings and information about this EEO

A PERSON WHO IS BOUND BY THIS EEO AND WHO FAILS TO COMPLY WITH THIS EEO, WITHOUT A REASONABLE EXCUSE, COMMITS AN OFFENCE UNDER THE ACT.

- The maximum penalty for wilfully contravening an EEO is 1655 penalty units, totalling $257,742.00 for an individual, or $1,288,710.00 for a corporation.

- The maximum penalty for contravening an EEO is 600 penalty units, totalling $92,880.00 for an individual, or $464,400.00 for a corporation.

Note that under section 493 of the Act that each executive officer of the corporation may be taken to have also committed an offence, of failing to ensure the corporation complies with the Act.

If you propose to dispose of the premises or business to which the EEO relates, you must advise the buyer of the existence of this EEO. Failure to provide written notice to the buyer of the existence of the order is an offence under section 369C of the Act with a maximum penalty of 50 penalty units, totalling $7,740.00 for an individual, or $36,700.00 for a corporation.

Further information about EEOs can be found on the department's website.

Review and appeal rights

Under Chapter 11, Part 3 of the Act, a dissatisfied person may apply for a review of this EEO within 10 business days of receiving this EEO; and a dissatisfied person who is dissatisfied with the review decision may appeal against the decision to the Court.

A request for review is to be made using the approved form 'Application for review of original decision' (available at www.qld.gov.au). Applications for reviews are to be sent to Permit and Licence Management, Department of the Environment, Tourism, Science and Innovation: via email at palm@des.qld.gov.au, or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

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.

Privacy statement

Section 540 of the Act requires the department 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 redaction in part is required by the Act. 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.

Accessibility

Contact us if you need this information in an accessible format such as large print or audio.

Interpreter assistance



If you need interpreter assistance or want this document translated, please contact us and advise your preferred language. If you are deaf, or have a hearing or speech impairment, contact us through the National Relay Service.