

Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Carrying out environmentally relevant activities without an environmental authority



Order Ref: STAT-E-100758606

Issued To: Ruh-Roh-Raggy Pty Ltd (ACN 648 884 780)
McDuff Accountants
'Fairfield Corporate Park'
Unit 8, 35 Ethel Street
YEERONGPILLY QLD 4105

Department of the
**Environment, Tourism,
Science and Innovation**

For the purpose of this notice "you" means the recipient of this notice or your authorised representative.

Site Address: Lot 73 CH3156, 42 – 124 Forsyths Road Limestone Ridges Qld 4305 ("the premises")

Issued By: Tim Brain, Manager (Compliance), Department of the Environment, Tourism, Science and Innovation, an authorised person of the administering authority ("the delegate")

A handwritten signature in blue ink, appearing to read "T. Brain", followed by a horizontal line.

Date: 5 February 2025

Relevant Matter/ Enforcement Grounds: Section 521(5)(c) Review of original decision and sections 362 and 359(f)(i) contravention of section 426 the *Environmental Protection Act 1994* (the EP Act) that is likely to continue or be repeated.

Service Method: Via registered post and email

Why are we writing to you?

The delegate reasonably suspects that you have contravened section 426 of the *Environmental Protection Act 1994* (the Act) at the premises and has issued this Environmental Enforcement Order (EEO) to you under section 362 on the basis of grounds in section 359(f)(i) of the Act to remedy the contravention, avoid further contraventions, restore the environment 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 EP Act.

If you have any questions about this EEO, please contact Jarrod Williams by email GoldCoast.ES@des.qld.gov.au or telephone 07 5626 6871.

Required actions:

1. Immediately on receipt of this notice, you must stop disposing of waste (including waste fibre cement board) within the **void** or anywhere else at the premises and must not recommence that activity.

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2. By **7 April 2025**, you must have removed a minimum of 10,000m³ of fibre cement board material from the **void** and anywhere else at the premises, and transported it to a place that can lawfully receive it.
3. By **8 May 2025**, you must have removed all of the fibre cement board material from the **void** and anywhere else at the premises, and transported it to a place that can lawfully receive it.
4. By **15 May 2025**, you must:
 - a) Email current photos of the premises to GoldCoast.ES@des.qld.gov.au to demonstrate your compliance with the required actions 1 to 3 of this EEO (STAT-E-100758606); and
 - b) Provide written documentation to GoldCoast.ES@des.qld.gov.au to demonstrate the lawful removal of all fibre cement board from the premises and receipt at a place that can lawfully receive it. For any waste fibre cement board material removed from the premises, the documentation must include, but not be limited to: transport receipts; receipts of disposal locations; and quantities (in tonnes).

Background and definitions

1. The department is the administering authority and has responsibility for enforcing the Act.
2. You occupy and have management and control of the premises.
3. On 11 October 2024 authorised persons from the department observed processed and unprocessed waste fibre cement board deposited within a void and in stockpiles at the premises.
4. Department aerial imagery shows approximately 16,000m³ of processed and unprocessed waste fibre cement board has been deposited within a void at the premises.
5. You have indicated that processed and unprocessed waste fibre cement board deposited in the void on the premises is:
 - a. being received from Jackal Renewables Pty Ltd; and
 - b. being deposited within the void at the premises as a '*blended manufactured aggregate product*' in '*bound applications*' in accordance with the *End of Waste Code Fibre Cement Board (ENEW07359417)* (EOWC-FCB).
6. Department records indicate that:
 - a. Jackal Renewables Pty Ltd is a Registered Resource Producer under the EOWC-FCB; and
 - b. You are a Registered Resource User under the EOWC-FCB.
7. The department has imagery from drone flights undertaken on:
 - a. 26 October 2023, showing no waste fibre cement board at the premises;
 - b. 28 June 2024, showing stockpiles of waste fibre cement board and of some this material deposited into the southern end of the void;
 - c. 30 August 2024, showing stockpiles of waste fibre cement board and more of this material deposited into the southern end of the void than in the previous image; and
 - d. 11 October 2024, showing stockpiles of waste fibre cement board and more of this material deposited into the southern end of the void than in the previous image.
8. The drone imagery of the waste fibre cement board on 28 June 2024 and 30 August 2024 indicates that the waste fibre cement board in the void is comprised of larger pieces of fibre cement board mixed with material of a small particle size (as illustrated in Figure 2).
9. Conditions 7.2 and 7.3 of the EOWC-FCB state the following:
 - 7.2 *The approved resource is waste fibre cement board that complies with Requirement (6.3) of this EOW code and is used in the **bound applications** stated in Condition (7.3).*

7.3 Use of the resource in bound applications is limited to manufacturing of the following⁹:

- a) asphalt;
- b) **blended manufactured aggregate product**;
- c) cement products;
- d) cementitious mixes;
- e) clay bricks and pavers; and
- f) concrete products.

10. The EOWC-FCB contains the following definitions:

'Bound applications' means where the resource is **encapsulated** or chemically transformed **and incorporated into a final product** that complies with relevant Australian Standards¹¹ for that product. For example, in brick making, the resource can be one of the feedstocks to be mixed in ground clay with water, formed into the desired shape, and drying and firing to become hardened material; in construction, bound materials are soils or aggregates that have a binder such as cement, lime-based binders, gypsum or fly ash added, which then hardens by a chemical/hydraulic reaction with water.

'Blended manufactured aggregate product' means waste fibre cement board being used as **one of the feedstocks** mixed to manufacture blended aggregate products as construction material, which are compressed and compacted to a base layer, providing stability and structural integrity for building, construction, landscaping, and/or civil engineering purposes. This form of blended manufactured aggregate product must be **graded** for its intended purpose.

- 11. The waste fibre cement board deposited in the void is approximately 7m in depth and appears to be largely uncompacted and not graded to be a uniform size.
- 12. In an application made to the department on 16 December 2024 for a review of the original decision to issue an environmental enforcement order, you propose that an appropriate industry standard is the "Technical Specification MRTS05 Unbound Pavements" (DTMR standard) and that the specified minimum degree of compaction, the California Bearing Ration (CBR) of 15 can be exceeded by product made from waste fibre cement board,
- 13. The DTMR standard describes the placement of material in layers and then the use of appropriate mechanical equipment (rollers etc) to achieve compaction. Observations by officers from the department during the site visit, and drone imagery, indicate that the waste fibre cement board has not been deposited and compacted in a way described in the DTMR standard. Drone imagery also indicates that the mixing of the waste fibre cement board with other materials to form pavement like material (blended manufactured aggregate) is not occurring for the bulk of the material.
- 14. The DTMR standard is also for unbound pavements rather than the bound applications, as described by the EOWC-FCB.
- 15. You hold an environmental authority for mining (reference number EPSL00865713) on mining lease ML 50138 and the mining lease overlays the majority of the premises. The environmental authority for mining requires rehabilitation of areas where mining has ceased but does not authorise the use of waste fibre cement board to fill voids. The eligibility criteria associated with the EA does not allow for an environmentally relevant activity (ERA) described in Schedule 2 of the Environmental Protection Regulation to be carried out on the mining lease.
- 16. It is considered that the deposition of fibre cement board into a void at the premises does not comply with conditions 7.2 and 7.3 of the EOWC-FCB as:
 - a. The fibre cement board has not been encapsulated and incorporated into a final product and therefore it is considered that it has not been used in 'bound applications' in accordance with condition 7.2 of the EOWC-FCB; and
 - b. Observations of the fibre cement board in the void indicate that it has not been graded and has not been blended with any other feedstocks and therefore it is considered that it has not been used to

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manufacture a 'blended manufactured aggregate product' in accordance with condition 7.3 of the EOWC-FCB.

17. Section 155(4) of the *Waste Reduction and Recycling Act 2011* (WRR Act) states – “If a person stops using a resource in a way, or for a purpose, that complies with an end of waste code or end of waste approval—
 - (a) the person stops being a resource user; and
 - (b) the resource stops being a resource and becomes waste.”
18. In accordance with s. 155(4) of the WRR Act, as the resource (waste fibre cement board) has not been used in a way, or for a purpose, that complies with EOWC-FCB:
 - a. You have stopped being a resource user; and
 - b. The fibre cement board is a waste.
19. Section 426 of the EP Act 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.”
20. ERA 60 is defined in Schedule 2 of the Environmental Protection Regulation 2019 (EP Reg) as –
 - (1) *Waste disposal (the relevant activity) consists of only 1 of the following—*
 - (a) *operating a facility for disposing of—*
 - (i) *only regulated waste; or*
 - (ii) *regulated waste and any, or any combination, of the following—*
 - (A) *general waste;*
 - (B) *limited regulated waste;*
 - (C) *if the facility is in a scheduled area—no more than 5t of untreated clinical waste in a year;*
 - (b) *operating a facility for disposing of—*
 - (i) *only general waste; or*
 - (ii) *general waste and either, or a combination, of the following—*
 - (A) *a quantity of limited regulated waste that is no more than 10% of the total amount of waste received at the facility in a year;*
 - (B) *if the facility is in a scheduled area—no more than 5t of untreated clinical waste;*
 - (c) *operating a facility for disposing of only inert waste;*
 - (d) *maintaining a decommissioned waste disposal facility.*
21. It is considered that depositing of waste fibre cement board into a void at the premises constitutes ERA 60.
22. A search of the department's records indicates that you do not hold an environmental authority (EA) to lawfully conduct ERA 60 at the premises.
23. The delegate has considered the circumstances (including human rights) and determined that the required actions are reasonable to remedy or otherwise address the relevant matters.
24. This EEO takes effect from the date of service and remains in force until stayed, amended, revoked or finalised.

Definitions that apply to this notice:

“Authorised representative” is a representative that has been nominated by the person this Order relates to, for acting on their behalf when dealing with the Queensland Government to manage matters. For more information, read the guideline Authorisation letter to nominate an Authorised Holder Representative (available at www.qld.gov.au using the publication number ESR/2019/5168 as a search term).

“Void” means the quarry hollow/pit area as depicted in Figure 1.

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 \$266,951 for an individual, or \$1,334,757 for a corporation.
- The maximum penalty for contravening an EEO is 600 penalty units, totalling \$96,780 for an individual, or \$483,900 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.

Further information about EEOs can be found on the [department's website](#).

Review and appeal rights

In accordance with section 521(10)(b) you are advised that you have the right to appeal this decision to the Planning and Environment Court in accordance with the Act. The review and appeal information sheet is attached and can also be located on line by using ESR/2015/1742 as a search term.

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.

Figure 1. Void (circled in red)



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Figure 2. Image of waste fibre cement board deposited into the void and indicating larger broken pieces of board mixed with fine material (30 August 2024).



