

Environmental Enforcement Order

NOTICE ID	STAT-E-100759129
Date of issue	14 November 2024
Issued to	Thomson Resources Ltd (ACN: 138 358 728) (TMZ)
Registered address	63 Sinclair Street, WOLLSTONECRAFT, NSW, 2065
Site address (the premises)	8872 Stanthorpe Texas Road, Texas, Queensland 4385
Land reference	Mining Lease (ML) 100106 on land described as Lot 28 Crown Plan MPH14454 and Lot 2 Survey Plan SP140743
CC to	• Michael Povey, Director of TMZ • Kevin Lynn, Director of TMZ • Brett Thompson, Site Senior Executive of ML100106, appointed by TMZ on 11 November 2024
Administering Authority	Chief Executive of the Department of the Environment, Tourism, Science and Innovation (the department)
Legal reference	Pursuant to s362 Environmental Protection Act 1994
Service method	☒ Registered post ☐ Hand delivered ☒ Also by email ☐ Orally (s369(2))
Contact	If you have any questions about this EEO, please contact: Toowoomba Compliance Centre Email: southwest.es@des.qld.gov.au Telephone: (07) 4529 8336

Please read the [Information Sheet - Recipient of an Environmental Enforcement Order \(desi.qld.gov.au\)](https://www.desi.qld.gov.au/information-sheet-recipient-of-an-environmental-enforcement-order) for further information (search for ESR/2024/6802 on www.desi.qld.gov.au).

Terms used in this Environmental Enforcement Order (EEO) have their meaning defined in the **Definitions** section in **Appendix A** of the EEO or, if not defined, in the Environmental Protection Act 1994 (the Act).

Why the department is issuing this Order to you:

For the purpose of this Notice, “you” means the recipient of this Notice or your authorised representative.

You have a proactive **general environmental duty** to prevent and minimise any environmental harm. You also have a proactive **duty to restore the environment** if environmental harm has been caused by you.



The department has responsibility for enforcing the Act. The delegate for the department is issuing this EEO to you, pursuant to Pursuant to s362 of the Environmental Protection Act 1994 (the Act), to secure compliance with the Act in relation to activities being undertaken at the premises.

This EEO is issued to you under:

1. A contamination incident has occurred, being an incident involving contamination of the environment that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm (s360 of the Act);
2. You are a prescribed person for the contamination incident pursuant to section 361 of the Act because
 - you permitted the incident to happen (s361(a);
 - at the time of the incident, you were the occupier of a place at or from which the happened (s361(b)(i)); and
 - you were the owner, or person in control, of a contaminant involved in the incident (s361(b)(ii)).
3. The department reasonably considers that the stated actions (requirements) are necessary to assess the nature and extent of the environmental harm, or the risk of further environmental harm from the contamination incident; to keep the administering authority informed; and to prevent or minimise contamination.

Grounds for issuing this Order:

1. Thomson Resources Ltd (ACN 138 358 728) (**TMZ**) is the holder of the Environmental Authority (EA) EPML04238116 and Mining Lease (ML) 100106.
2. EA authorises environmentally relevant activities including mining and associated ancillary activities at the premises, subject to the conditions of the EA.
3. EA is currently suspended, however, under section 278B of the Act, provisions relating to environmental management and general environmental offences still apply.
4. The department understands that TMZ has entered into a contract to sell the premises to another entity.
5. On 28 October 2024, the Department of Resources approved an indicative transfer of mining lease 100106 to "Danola Pty Ltd".
6. Despite the above, TMZ was the holder of ML100106 and the EA on 11 and 12 November 2024 when the contamination incident occurred.
7. On 11 November 2024, the departmental weather station located at the premises near Terminal Dam and Process Ponds recorded 81mm of rainfall. Most of this rain fell between 7pm and 8:30pm.
8. At approximately 11:25am on 12 November 2024, the Site Senior Executive (as appointed by TMZ) notified the department via phone call that the northern section of the area known as "Heap Leach Pad 4" (HLP4) had slumped during the rain event resulting in a release of sediment and water into the clean water diversion drain (the contamination incident).
9. The clean water diversion drain runs around the perimeter of disturbed areas on site being HLP4, Terminal Dam and process ponds. The purpose of this diversion drain is to divert clean water from entering disturbed areas at the premises.
10. The clean water diversion drain directs overland flow into an un-named drainage line below the Terminal Dam spillway. This drainage line is a tributary of Dry Creek.

11. On 13 November 2024, Authorised Persons of the department entered the premises under s452(1)(l) of the Act.
12. Authorised Persons conducted in-situ field water quality sampling of pooled water within the clean water diversion (adjacent to HLP4) and within the un-named drainage line/tributary of Dry Creek. Those field readings are listed in Table 1.

Table 1 – Field Measurements taken by authorised persons on 13 November 2024

Location Description	GPS	pH
65m downslope from HLP4 within Clean Water Diversion Drain	-28.839623, 151.263453	4.08
Pooled water #1 within unnamed tributary to dry creek	-28.836363, 151.259781	5.00
Pooled water #2 within unnamed tributary to dry creek	-28.836274, 151.259796	4.88
Pooled water #3 within unnamed tributary to dry creek	-28.836475, 151.259534	4.88

13. The results of sampling indicate that waters are low in pH.
14. Runoff from the clean water diversion enters the Terminal Dam spillway structure, downslope of the authorised release point and downslope of the plastic covered section of the spillway.
15. Authorised Persons observed a 'teal/grey' coloured sediment within the clean water diversion. The colour of this sediment was similar to the material that had slumped on HLP4. This teal/grey sediment was observed to be deposited within the clean water diversion, immediately downslope of the Terminal Dam Spillway (after the plastic covered spillway ceased), and within the un-named tributary of Dry Creek (pooled water sample locations #1, #2 and #3 in Table 1).
16. The material was not observed to be deposited within the authorised Terminal Dam Spillway release point (which is located on the plastic covered section on the spillway and immediately where Terminal Dam would overflow).
17. The teal/grey sediment was deposited within the unnamed tributary 75 metres past the confluence of the drainage line and the spillway structure.
18. It is therefore determined that the teal/grey sediment has come from the slumped area of HLP4.
19. The release of contaminated sediment to the receiving environment is not authorised.
20. The sediment material located in HLP4 is known to contain contaminants that have the potential to adversely affect environmental values.
21. Environmental harm is defined in section 14 of the Act as: *1) 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. 2) 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.*
22. Environmental value is defined in section 9 of the Act as:

- a. *a quality or physical characteristic of the environment that is conducive to ecological health; or*
 - b. *a quality or physical characteristic of the environment that is conducive to public health, safety or amenity; or*
 - c. *a quality or physical characteristic of the environment that contributes to its biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; or*
 - d. *another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.*
23. Material environmental harm is defined in section 16 of the Act as: *Material environmental harm is environmental harm—*
- a. *that is not trivial or negligible in nature, extent or context; or*
 - b. *that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount but less than the maximum amount; or*
 - c. *that results in costs of more than the threshold amount but less than the maximum amount being incurred in taking appropriate action to—*
 - i. *prevent or minimise the harm; and*
 - ii. *rehabilitate or restore the environment to its condition before the harm*
24. The presence of teal/grey sediment and the corresponding low pH of water within the clean water diversion and within the unnamed tributary suggests that contamination from the release event has mobilised to the downstream catchment, including potentially Dry Creek. Dry Creek is a tributary of Alpin Creek and eventually the Dumaresq River.
25. In October 2016, the Department of Science, Information Technology and Innovation undertook a water quality and biological assessment of Alpin Creek Catchment. It was found that “*Alpin Creek and its tributaries appears to have good water quality and be in moderate ecological health, containing diverse and abundant aquatic biota. Any alteration to the water quality downstream of the Texas Silver Mine has the potential to disturb and alter a potentially significant aquatic ecological community*”.
26. The Dumaresq River flows across the Queensland border into New South Wales. The Dumaresq River forms part of the Border Rivers Catchment, which is one of the northern-most catchments of the Murray-Darling Basin.
27. The *Environmental Protection (Water and Wetland Biodiversity) Policy 2019* and the Queensland Border Rivers and Moonie River Basins Environmental Values and Water Quality Objectives (dated October 2020), prescribes water quality objectives for the relevant surface waters of the Border Rivers Catchment. In this instance, the relevant water type is “Traprock” which supports various environmental values including:
- a. Aquatic ecosystems (Freshwater macroinvertebrates); and
 - b. Human use (irrigation and farm supply, stock water, aquaculture, human consumption, recreation, industrial, cultural)
28. The Queensland Border Rivers and Moonie River Basins Environmental Values and Water Quality Objectives (dated October 2020) lists the aquatic ecosystem water quality objectives for Traprock

under Moderately Disturbed (MD) and High Ecological Value (HEV) under high and low flow scenarios. These are detailed in Table 2.

Table 2: Traprock Water Quality Objectives

Water type	Management intent / Level of protection	BORDER RIVERS AND MOONIE RIVER BASINS SURFACE WATERS Aquatic ecosystem water quality objectives (Also refer to WQOs contained in Table 4 & Table 5)												
		Note: WQOs for indicators are shown as a range of 20th, 50th and 80th percentiles to be maintained or achieved (e.g. 3–4–5), lower and upper limits (e.g. pH: 7.2–8.2), or as a single value (e.g. <15). For single value WQOs, medians of test data are compared against the draft WQO (refer to section 3 for more details). HEV—high ecological value; SD—slightly disturbed; MD—moderately disturbed; ID—Insufficient Data Sources: S1: Local datasets/reporting; S2: Murray-Darling Basin Plan 2012, Schedule 11 (A2, B1, B2, C2). Unless otherwise indicated, attribute the source for all values to S1.												
		Amm N (µg/L)	Oxid N (µg/L)	Total N (µg/L)	FRP (µg/L)	Total P (µg/L)	Chl-a (µg/L)	DO (% sat)	Turb (NTU)	SS (mg/L)	pH	Conductivity (µS/cm)	Sulfate (mg/L)	Alkalinity (mg/L as CaCO ₃)
TRAPROCK (s1)	MD	LOW FLOW <0.8 m ³ /s (cumecs) at gauge 416404C – Bracker Creek at Terraine (CLOSED) <0.3 m ³ /s (cumecs) at gauge 416312A – Oaky Creek at Texas												
		10	6	520	8	30	ID	60–110% (s2)	4	5	7.1–8.0	290	25	40
		HIGH FLOW ≥0.8 m ³ /s (cumecs) at gauge 416404C – Bracker Creek at Terraine (CLOSED) ≥0.3 m ³ /s (cumecs) at gauge 416312A – Oaky Creek at Texas												
		ID	ID	600	ID	40	ID	60–110% (s2)	9	10	6.9–7.7	220	18	55
	HEV	LOW FLOW <0.8 m ³ /s (cumecs) at gauge 416404C – Bracker Creek at Terraine (CLOSED) <0.3 m ³ /s (cumecs) at gauge 416312A – Oaky Creek at Texas												
		8–10–10	1–6–15	350–520–730	6–8–10	20–30–50	ID	60–110% (s2)	2–4–11	5–5–10	7.1–7.6–8.0	220–290–470	13–25–45	25–40–90
		HIGH FLOW ≥0.8 m ³ /s (cumecs) at gauge 416404C – Bracker Creek at Terraine (CLOSED) ≥0.3 m ³ /s (cumecs) at gauge 416312A – Oaky Creek at Texas												
		ID	ID	420–600–750	ID	30–40–60	ID	60–110% (s2)	4–9–25	5–10–20	6.9–7.4–7.7	180–220–310	10–18–30	30–55–100

29. The pH measurements taken by Authorised Persons on 13 November 2024 were below aquatic ecosystem water quality objectives for Traprock under all flow scenarios for both moderately disturbed and high ecological value catchments.

30. [NATIONAL WATER QUALITY MANAGEMENT STRATEGY - Australian and New Zealand Guidelines for Fresh and Marine Water Quality \(2000\) - Volume 2 - Aquatic ecosystems](#) states that:

- “Most natural freshwaters have a pH in the range 6.5–8.0”*
- “changes to pH may affect the physiological functioning (e.g. enzymes, membrane processes) of biota.”*
- “Chronic effects have been reported below pH 5, with harmful effects on eggs and fry (ANZECC 1992). Loss of fish populations have been attributed to spawning failure and diminished hatching success at moderate (less than 6.0) pH levels (CCREM 1991).”*
- “Almost all water quality guidelines around the world (e.g. (ANZECC 1992, CCREM 1991, Alabaster & Lloyd 1982, USEPA 1986b) recommend that pH should be maintained in the range 6.5 to 9.0 to protect freshwater aquatic organisms.”*

31. The department is therefore reasonably satisfied that both the release of sediment from the HLP4 is the cause of low pH waters in the receiving environment and that the continued presence of this material in a place where it can reasonably be expected to move with further rainfall is likely to cause environmental harm that:

- is not trivial or negligible in nature, extent or context; or
- that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount for material environmental harm; or
- that results in costs of more than the threshold amount for material environmental harm in taking appropriate action to—
 - prevent or minimise the harm; and

- ii. rehabilitate or restore the environment to its condition before the harm.

Required actions:

Requirements take effect from the date of service and remain in force until the date specified, unless this Order is amended, repealed, finalised or stayed beforehand.

1. By 5:00pm on 18 November 2024, you must:

- (a) Remove all contaminated sediment from the Clean Water Diversion Drain (as delineated by the red line in Appendix B, Figure 1) that is associated with the incident (i.e. material from Heap Leach Pad 4 (HLP4)).
- (b) Either:
 - a. Remove contaminated sediment to a site lawfully able to accept the material by a person licenced to remove it, or
 - b. Store contaminated sediment on site on impervious material and in a way that it cannot move and cause environmental harm.
- (c) Submit a report to the department demonstrating your compliance with Requirement 1 of this EEO. Include photos of the clean water diversion clean-up process and written documentation to demonstrate the lawful removal and disposal of material from the premises (if relevant). This documentation includes the following; regulated waste transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations.

2. By 5:00pm on 15 November 2024, you must:

- (a) Sample water quality daily for a period of fourteen (14) days for the parameters detailed in **Table F4** of the EA.
- (b) Water quality samples must be collected from the following locations (or from a water source as close as practicable) (also shown in Appendix B, Figure 1 & 2):
 - a. **"SW21a"**: -28.85286,151.23933
 - b. **"IAP01"**: -28.85985,151.24989
 - c. **"HLP4"**: -28.83948,151.26413
 - d. **"DL"**: -28.83647,151.25953
 - e. **"W3"**: -28.83687, 151. 25859
 - f. **"IAP03"**: -28.907983, 151.252447
 - g. **"IAP07"**: -28.871407, 151.163635
- (c) Ensure that all water quality monitoring is undertaken in accordance with the departments Monitoring and Sampling Manual.
- (d) Ensure that all water quality samples are analysed at a NATA accredited laboratory.

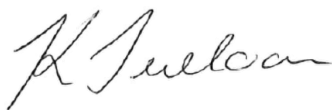
3. By 5:00pm on 22 November 2024 you must take all necessary action(s) to ensure that the containment drain around HLP4 is designed and constructed to contain any potential future releases (water or sediment) from HLP4.

4. By 5:00pm on 6 December 2024, you must:

- (a) Provide a report to the department that is prepared by an appropriately qualified person. The report must:
 - a. Analyse and interpret all results of water quality monitoring undertaken under Requirement 2.

- b. Determine the extent of any environmental impact to Dry Creek, Alpin Creek and the Dumaresq River.
- c. Include all laboratory analysis certificates.
- d. Confirm and certify that Requirement 3 has been met.
- e. Make recommendation(s) on any further actions that should be taken to remediate the receiving environment.

All reports required under this notice are to be sent via email: southwest.es@des.qld.gov.au or via mail to Department of Environment, Tourism, Science and Innovation to PO Box 731 TOOWOOMBA QLD 4350

Issued by

Kirstie Treloar
Manager (Compliance)
Delegate of the Administering Authority

Department of the Environment, Tourism, Science
and Innovation
PO Box 731
TOOWOOMBA, QLD, 4350

Considerations

Human rights were considered prior to issuing this EEO.

Offences

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.

Appendix A: Definitions used in this Order (that are not exactly as the Act defines or implies them)

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).
The EA	Means environmental authority EPML04238116
Land	This refers to the cadastral reference of the premises referenced in this Order.
Appropriately qualified person	Means a person who has the appropriate level of demonstrated expertise, suitable experience, knowledge, qualifications and competency in the relevant subject matter.

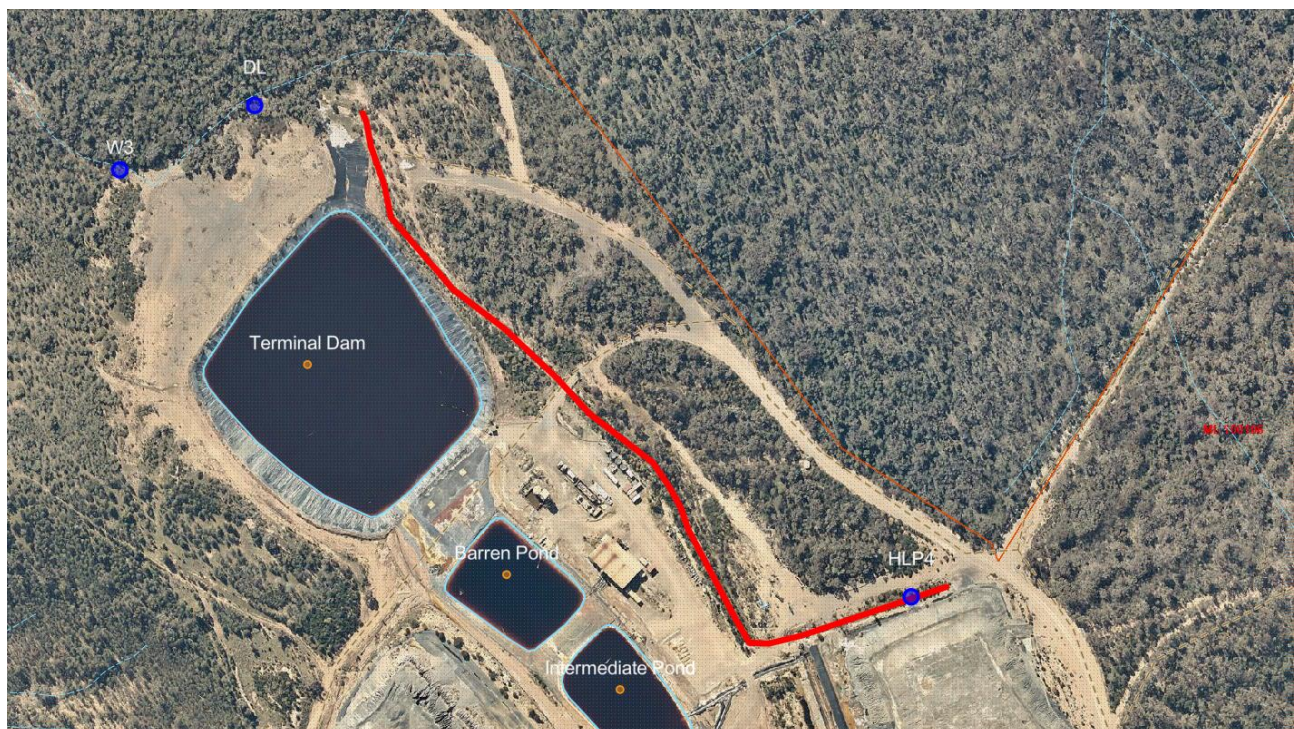
Appendix B:

Figure 1: Map showing location of “on site” water monitoring locations per Requirement 2. Red line shows extent of clean water diversion drain that must be cleaned per Requirement 1.



Figure 2: Map showing location of “off site” water monitoring location SW21a and IAP01 per Requirement 2



Figure 3: Map showing location of “off site” water monitoring location IAP03 per Requirement 2



Figure 4: Map showing location of “off site” water monitoring location IAP07 per Requirement 2

Penalties and obligations

It is important that you know the impact to you personally as an individual or as a corporation for not meeting your 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. **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.
- 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. **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.

Right of review and appeal

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.

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 to 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. 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.

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](#)

