Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Carrying out environmentally relevant activities without an environmental authority

Queensland Government

Department of the Environment, Tourism, Science and Innovation

Order Ref:	STAT-E-100762458
Issued To:	HINTERLAND WRECKERS AND COMMERCIAL PTY LTD (you) ACN 645 682 613 14 Manufacturer Drive MOLENDINAR QLD 4214 For the purpose of this notice "you" means the recipient of this notice or your authorised representative.
Site Address:	5 Shepherd Place MOLENDINAR QLD 4214 9/RP153653 ("the premises")
Cc:	PO BOX 105 GATTON QLD 4343
Issued By:	Ben Leach, A/Senior Environmental Officer, Department of the Environment, Tourism, Science and Innovation, an authorised person of the administering authority ("the delegate")  Signed by delegate
Date:	20 December 2024
Relevant Matter/ Enforcement Grounds:	Section 359(c) to secure compliance with the general environmental duty (actions 1, 2 and 4) Section 359(f)(i) contravention of section 426 that is likely to continue or be repeated (actions 1, 3 and 4)
Service Method:	Via registered post and email

Why are we writing to you?

The delegate reasonably suspects that you have contravened sections 319 and 426 of the *Environmental Protection Act 1994* (the Act) at the premises and has issued this Environmental Enforcement Order (EEO) to you under sections 359(c) and 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 Act.

If you have any questions about this EEO, please contact Ben Leach by email goldcoast.es@des.qld.gov.au or telephone (07) 5626 6844.

Environmental Enforcement Order

Required actions:

1. **Immediately** on receipt of this notice, you must stop receiving, sorting and dismantling waste at the premises and must not recommence the activity until you hold or are acting under an environmental authority (EA) for that activity.
2. By **5pm on 15 January 2025**, you must remove all **contaminants** released to land and prevent any further release of **contaminants**.
3. By **5pm on 21 February 2025**, you must remove all waste in excess of the six cubic metre threshold and lawfully transport it to a place that can lawfully receive it.
4. If you remove the waste from the premises, you must provide written documentation to the department to demonstrate the lawful removal and disposal of the waste from the premises by **5pm on 21 February 2025**. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations.
5. The written documentation must be provided to GoldCoast.ES@des.qld.gov.au or via mail to Department of the Environment, Tourism, Science and Innovation, PO Box 4244, Robina QLD 4230

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 23 October 2024, authorised persons from the department visited the premises and observed:
    a. that in excess of six (6) tonnes or six (6) waste vehicles had been received and continued to be stored at the premises before being moved to a waste facility.
    b. a lack of preventative measures to ensure that **contaminants** are not released to the environment.
4. Section 426 of the Act says:

    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.

5. An *ERA* includes the following:
    a. Operating a facility for receiving and sorting, dismantling or bailing waste; or receiving and temporarily storing waste before it is moved to a waste facility (ERA 62).
6. *Waste* is anything (a) left over, or an unwanted by-product from an industrial, commercial, domestic or other activity (b) surplus to the industrial, commercial, domestic or other activity generating the waste. A waste can still have value. A resource is not a waste only if it has an end of waste code.
7. There are specific exclusions and exemptions in ERA62, including waste in-transit in a container for no more than 5 days, declared disaster waste or storing and sorting waste below specific thresholds such as 6 tonnes or $6m^3$ of general waste.
8. The delegate considers that you are carrying out an *ERA* at the premises and that none of the exclusions or exemptions in that ERA apply to you.
9. An *EA* is a permit under the Act that approves an *ERA* applied for in an application.
10. The delegate has searched departmental records and considers you do not hold and are not acting under an EA for the activity occurring at the premises.
11. In summary, the delegate considers you are contravening section 426 of the Act, and the contravention will continue or be repeated.
12. Section 319 of the Act says:

    A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonably practicable measures to prevent or minimise the harm (the general environmental duty "GED").

13. The Act mandates an EA application and assessment process for the ERA occurring at your premises because a **contaminant** may be released from that activity and that release has the potential to cause environmental harm.
14. The assessment process involves assessing impacts on environmental values (such as soil, air and water). The department can then refuse the application or approve the application with conditions to protect environmental values and prevent or minimise environmental harm.
15. Due to the way you are operating the premises, the delegate considers that there is an additional risk of **contaminants** from activities at your premises (which is not being appropriately managed) causing environmental harm.
16. In summary, by carrying out an ERA without an EA and the way the facility is being operated, you are likely to cause environmental harm. Further, you are not taking all measures to prevent or minimise that harm and have contravened the GED.
17. The delegate is issuing this EEO to you to secure compliance with the GED and because you have contravened section 426 of the Act ('the relevant matters").
18. 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.
19. 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).

"Contaminants" Means a contaminant as defined under s.11 of the Act and includes but is not limited to oils, all fluids, any material used to absorb, contain or otherwise treat contaminants, heavy metals, all burnt or partially burnt waste and debris associated with the contamination incident, gross pollutants, and any other contaminant capable of causing environmental harm.

"Waste" include all whole waste vehicles, scrap metal, end-of life vehicles, end of life tyres, waste oils, waste car parts and any other wastes stored at the premises as a result of operating the ERA 62 activity.

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 1,655 penalty units, totalling $1,288,710.00 for a corporation.
- The maximum penalty for contravening an EEO is 600 penalty units, totalling $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.

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.