

Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Contravention of condition of environmental authority



Department of the
Environment, Tourism,
Science and Innovation

Order id: STAT E-100767041

Issued to: Alphadale Pty Ltd
ACN 050 409 008
25 Beverly Crescent
Broadbeach Waters QLD 4218

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

Site address: Big Rush Mine - Mining Lease (ML) 10168, ML10175 and ML10192 (“the premises”)

Cc: Kingsley Allen – Director
Paul Beattie - Director c/- 15 Boonaree Close, Mount Sheridan, QLD, 4868

Issued by: Kirstie Treloar, Manager Compliance, Department of the Environment, Tourism, Science and Innovation, an authorised person of the administering authority (“the delegate”)

A handwritten signature in black ink, appearing to read 'K. Treloar', written over a horizontal line.

Signed by delegate

Date: 27 November 2024

Relevant matter/ enforcement grounds: This Environmental Enforcement Order (EEO) is issued to you in accordance with the enforcement ground set out in section 359(e)(ii) of the *Environmental Protection Act 1994* (the Act), to secure compliance with condition/s of your environmental authority EPML00771413 (the EA).

Section 430(3) states, *the person must not contravene a condition of the authority.*

Section 297 states, *it is a condition of an environmental authority for a resource activity that the holder must not carry out, or allow the carrying out of, a resource activity under the authority unless—*

- a) *an ERC decision is in effect for the resource activity when the activity is carried out; and*
- b) *the holder has paid a contribution to the scheme fund or given a surety for the authority under the Mineral and Energy Resources (Financial Provisioning) Act 2018; and*
- c) *the holder has complied with the requirements under the Mineral and Energy Resources (Financial Provisioning) Act 2018 for paying a contribution to the scheme fund, or giving a surety for the authority, as required from time to time.*

Service method: Via registered post and email

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Why are we writing to you?

The delegate reasonably suspects that you have contravened section 430 of the *Environmental Protection Act 1994* (the Act) at the premises and has issued this EEO to you under section 362 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 EEO 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 Nicole Jarmey by email Nicole.Jarmey@des.qld.gov.au or telephone (07) 4722 5322.

Required actions:

1. On or Before **5:00pm** on **10 January 2025**, you must pay outstanding surety in the amount of \$5,114,470.25; **OR**
2. On or Before **5:00pm** on **10 January 2025**, you must enter into an arrangement with the Scheme Manager (statutory officer supported by Queensland Treasury) for payment of outstanding surety in the amount of \$5,114,470.25; **AND**
3. By **5:00pm** on **10 January 2025**, you must email written confirmation of full payment **OR** agreed payment arrangements for the environmental authority, to ESTownville@des.qld.gov.au to demonstrate your compliance with either action 1 or 2.

Background and Definitions

1. You are the holder of EA EPML00771413 (the EA) for a resource activity, effective 3 February 2016.
2. You are responsible for the operation and maintenance of the premises under the EA where the resource activity is carried out.
3. From 1 April 2019, financial provisioning requirements for resource activities under the Act were replaced with the Financial Provisioning Scheme (FPS) under *the Mineral and Energy Resources (Financial Provisioning) Act 2018*. The FPS is administered by the Scheme Manager, a statutory officer supported by Queensland Treasury.
4. On 09 January 2023, an application for an Estimated Rehabilitation Cost (ERC) decision under section 298 of the Act was received by the department in relation to the EA.
5. On 05 March 2024, the department decided that:
 - The ERC for the EA is \$5,290,006.25 (excl. GST); and
 - The ERC decision is in effect from 5 March 2024 to 5 February 2029.

6. The FPS Scheme Manager issued the following invoices for surety:
 - INV002799 on 13 September 2022, with due date 8 November 2023, amount of \$4,170,316.42. No amount has been paid, such that the full amount is owing.
 - INV004110 on 13 March 2024, with due date 29 April 2024, amount of \$944,153.83. No amount has been paid, such that the full amount is owing.
7. On 26 July 2024, the department received an update from the FPS confirming an outstanding surety of \$5,114,470.25 associated with the EA.
8. The department alleges that as of 26 July 2024 you failed to comply with a condition of your EA where section 297 of the Act states, *it is a condition of an environmental authority for a resource activity that the holder must not carry out, or allow the carrying out of, a resource activity under the authority unless—*
 - a) *an ERC decision is in effect for the resource activity when the activity is carried out; and*
 - b) *the holder has paid a contribution to the scheme fund or given a surety for the authority under the Mineral and Energy Resources (Financial Provisioning) Act 2018; and*
 - c) *the holder has complied with the requirements under the Mineral and Energy Resources (Financial Provisioning) Act 2018 for paying a contribution to the scheme fund, or giving a surety for the authority as required from time to time.*
9. Section 430 of the Act states:

The person must not contravene a condition of the authority.
10. In summary, the delegate considers you have contravened section 430 of the Act, and it is reasonable to require you to take the required actions to secure your compliance with the condition of the EA.
11. 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.
12. 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 EEO relates to, for acting on their behalf when dealing with the Queensland Government to manage matters. For more information, refer to 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).

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 and offence under the Act.

- The maximum penalty for wilfully contravening an EEO is 6,250 penalty units or 5 years imprisonment, totalling \$1,008,125 for an individual, or \$5,040,625 for a corporation.
- The maximum penalty for contravening an EEO is 4,500 penalty units, totalling \$725,850 for an individual, or \$3,629,250 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.

Environmental Enforcement Order

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 \$8,065.00 for an individual, or \$40,325.00 for a corporation.

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

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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 to 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 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. 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](http://www.nrs.gov.au).