

Environmental Enforcement Order

NOTICE ID	STAT-E-100800091
Date of issue	24 January 2025
Issued to	Chum Street Pty Ltd (A.C.N 644 908 421)
Registered address	1 Chum Street, NEW CHUM, QLD 4303
Site address (the premises)	1 Chum Street, NEW CHUM, QLD 4303
Land reference	ML4553, ML4559, ML4714, ML50077, collectively referred to as “the premises”
Administering Authority	Chief Executive of the Department of Environment, Science and Innovation (the department)
Legal reference	<i>Pursuant to s.362 of the Environmental Protection Act 1994</i>
Service method	☒ Registered post ☐ Hand delivered ☐ Also by email ☐ Orally (s369(2))
Contact	If you have any questions about this EEO, please contact: Jeremy Bennett, Telephone (07) 3894 8164 Email: ipswich.esr@des.qld.gov.au Telephone: (07) 3894 8153

Please read the [Information Sheet - Recipient of an Environmental Enforcement Order \(desi.qld.gov.au\)](#) 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 s.362 of the Act, to secure compliance with the Act in relation to activities being undertaken at the premises.

This EEO is issued with respect to the activities undertaken at the premises are in contravention of section 440ZG and 319 of the Act.



This EEO is issued to you under:

Ground 1: s.359(f) – the person is contravening any of the following provisions, or has contravened any of the provisions in circumstances that make it likely the contravention will be repeated –

...

(iv) section 440ZG;

Ground 2: s.359(c) - It is necessary to issue an EEO to secure your compliance with the general environmental duty (GED).

Background and relevant matters:

The EEO is issued on the following grounds:

1. You occupy and control the land described as ML4553, ML4559, ML4714, ML50077, located generally at 1 Chum Street, NEW CHUM QLD 4303 (the premises).
2. You are the holder of EA EPML00634213 for environmentally relevant activity (ERA) 20a - Clay pit mining, dimension stone mining or mining gemstones - of at least 5000t but no more than 100,000t in a year.
3. You are the person responsible for environmental management of the premises and the activities carried out therein.
4. The department considers the installation and management of stormwater and sediment control infrastructure, as integral to the activity as it is relevant to the operations on site, permitted under your EA.
5. In accordance with section 359 of the Act, it is a ground, *inter alia*, to issue an environmental enforcement order if either or both of the following apply—
 - (a) if the person is contravening or has contravened s. 440ZG; or
 - (b) to secure compliance with the general environmental duty under s. 319 of the Act.

Grounds for issuing this Order:

1. Chum Street Pty Ltd asserts that earthworks being undertaken at the site are a mining activity, namely preparing the site for its post-mining land use, although at this time, no development permit is in effect under the *Planning Act 2016* for that use.
2. On 14 August 2024, the department inspected the premises in response to wet weather events on 12 and 13 August 2024.
3. Authorised persons observed, noted and photographed evidence that water contaminated with sediment was releasing from the premises from ML4559 through an unauthorised release location to a drainage line that is stormwater drainage.
4. On 12 September 2024, the department issued a Notice requiring relevant information under s. 451 of the Act to Chum Street Pty Ltd and also to Ardent Group Pty Ltd acting in its capacity as a consultant to Chum Street Pty Ltd. In response to the s. 451 notices, the department was advised that 123.5mm of rain was recorded at the premises. A range of additional information and documents were received and considered.
5. The department has reviewed rainfall data from meteorological stations in the vicinity of Ebbw Vale between 11 August 2024 and 14 August 2024, including those associated with the Bureau of Meteorology (BOM) and other private weather stations. The department notes that the rainfall reported by Chum Street Pty Ltd is consistently higher than those of nearby meteorological stations, often by

orders of magnitude. The Ebbw Vale BOM meteorological station is located about 40m from the boundary of the Chum Street Pty Ltd site.

6. The department notes, from reviewing drone imagery, that a large eucalypt tree slightly overhangs Chum Street Pty Ltd's weather station and suspects that the proximity of the weather station within the drip zone of that tree may increase the amount of rainfall falling onto Chum Street Pty Ltd's weather station resulting in commensurate exaggeration of rainfall intensity.

Relevant to Ground 1 – Section 440ZG of the Act

7. s. 440ZG of the Act states, in part—

“440ZG Depositing prescribed contaminants in waters and related matters

A person must not—

- (a) unlawfully deposit a prescribed water contaminant—

- (i) in waters; or
- (ii) in a roadside gutter or stormwater drainage;
- (iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.

- (b) unlawfully release stormwater, run-off into waters, a roadside gutter or stormwater drainage that results in the build-up of earth in waters, a roadside gutter or stormwater drainage.

8. s. 440ZD (Definitions for pt 3C) of the Act states—

“440ZD Definitions for pt 3C

In this part—

deposits see section 440ZE.

earth means sand, soil, silt or mud.

prescribed water contaminant means—

- (a) earth; or
- (b) a contaminant prescribed under s. 440ZF.”

9. s. 440ZE (Meaning of deposits for pt 3C) states, in part—

“440ZE Meaning of deposits for pt 3C

- (1) A person **deposits** a contaminant in waters or at another place if the person—

- (a) drops, places or throws the contaminant in the waters or onto the place; or
- (b) releases the contaminant, or otherwise causes it to move, into the water or onto the place...”

10. The drainage line adjacent to, and leading from, the premises near Ebbw Vale Memorial Park is a drainage line that feeds into the Bremer River, which is identified under the Act and the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019* as having environmental values and water quality objectives specified in the document *WQ1436 Bremer River Environmental Values and Water Quality Objectives Part of Basin 143* available on the department's website.

11. The environmental values of the Bremer River, and by extension the drainage lines and other tributaries flowing to the Bremer River, are classed as lowland freshwaters under *WQ1436 Bremer River Environmental Values and Water Quality Objectives Part of Basin 143* with environmental values and are a *water* for the purposes of the Act, including s. 440ZG.

12. On 14 August 2024, departmental officers attended the Ebbw Vale Memorial Park and observed the what appeared to be sediment-laden water was being released from the premises to the drainage line that flows through Ebbw Vale Memorial Park.
13. Departmental officers collected samples of the suspected sediment-laden waters at the unauthorised release location, and upstream and downstream of the release location. Certificates of Analysis (CoA) identified total suspended solids (TSS) as 12mg/L and 22mg/L at upstream sampling locations which were stagnant, 82mg/L and 86mg/L travelling under the premises boundary fence, 165mg/L and 107mg/L as contaminants entered the waterbody and 278mg/L downstream of the release location.
14. It was visually evident contaminants were accumulating downstream of the release location, which was confirmed by the sampling results, and that there was no other stormwater infrastructure servicing the area that might be contributing to or causing the release.

Chum Street Pty Ltd released sediment-laden water from the premises to waters and were neither expressly nor impliedly authorised to release sediment-laden waters to a water under the Act [including
15. the conditions of environmental authority (EA) EPML00634213.
16. There is no lawful authority in effect under the Act [including a condition of EA EPML00634213] that permits or excuses a release of sediment-laden water to waters.
17. Chum Street Pty Ltd failed to comply with the general environmental duty under s. 319 of the Act, the reasons for this belief are articulated further below in this order.

Relevant to Ground 2 – Section 319 of the Act – the General Environmental Duty (GED)

18. Section 319 of the Act requires you to take all reasonably practical steps to prevent or minimise environmental harm resulting from your activities.
19. Environmental harm is defined under s. 14 of the Act as *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*.
20. The premises is characterised as a high erosion hazard site under the department's Stormwater guideline ([ESR/2015/1653 Stormwater guideline - Environmentally relevant activities](#))
21. Chum Street Pty Ltd has—
 - a. failed to comply with well-established standards regarding the prevention or minimisation of erosion (e.g. [ESR/2015/1653 Stormwater guideline - Environmentally relevant activities](#), International Erosion Control Association (IECA) best practice guidelines);
 - b. removed ground covers across a large area and failed to implement effective measures to prevent or minimise erosion and uncontrolled flow of stormwater that contributes to further erosion;
 - c. sequenced earthworks prior to obtaining planning and land use approval, resulting in protracted delays in hardening or stabilising earthworks and in constructing weather-hardened controls, and leaving large areas of soils exposed for an amount of time exceeding recommended timeframes in the IECA manual and other best practice guidelines;
 - d. failed to design and construct or operate stormwater management and associated erosion and sediment control structures in accordance with any identifiable engineering standards, i.e. manuals and [ESR/2015/1653 Stormwater guideline - Environmentally relevant activities](#);
 - e. failed to maintain and operate the site's erosion and sediment control structures that prevents or minimises the likelihood of a release of sediment-laden waters to waters, such as, for example, by managing impounded water.

22. For the reasons stated in paragraphs 21(a) to 21(e) above, the department considers that Chum Street Pty Ltd has failed to comply with the GED.

Relevant to all

23. On 25 November 2024, the department sent Chum Street Pty Ltd a letter inviting the company to make a submission about why enforcement action should not be taken in relation to the 14 August 2024 event.
24. On 6 December 2024, Chum Street Pty Ltd, via MacDonnells Law, submitted a response to the department's letter that spoke to measures that Chum Street Pty Ltd had implemented to harden and enhance the sites' erosion and sediment controls.
25. On 10 December 2024 and following a rain event on 9 December 2024 of about 14mm, departmental officers inspected the Chum Street Pty Ltd site from the boundary of the Ebbw Vale Memorial Park and took photographs of the erosion and sediment control measures that were visible from the park noting that:
- a. on-site sedimentation ponds appeared to have no freeboard;
 - b. erosion measures appeared fragile and exhibited rill erosion;
 - c. attempts to harden and establish ground cover on erosive surfaces appeared cosmetic and unlikely to be effective noting that hydro mulch etc. had been sprayed onto subsoils with limited organic content that would reduce germination and establishment of ground cover;
 - d. diversion gullies and areas designated for concentrated stormwater flow were constructed of the same erosion clays as the balance of the site, with no evidence of attempts to harden areas of concentrated surface flows.
26. On 11 December 2024, on which 58mm of rainfall is recorded (source Bureau of Meteorology), departmental officers inspected the site from the Ebbw Vale Memorial Park, observing substantial amounts of sediment-laden water being released from the site, and further noted and photographed that erosion and sediment control structures that were visible from the park and noted that they were collapsing under the movement of water and contributing to the release of sediment.
27. On 12 December 2024, departmental officers undertook a drone flight again from the Ebbw Vale Memorial Park over the site to inspect the condition of erosion and sediment control structures and verify the release points for waters etc. identifying three release points from the site from which sediment-laden waters were being released.
28. The department has considered Chum Street Pty Ltd's letter dated 6 December 2024 in making its decision.
29. The department considers that it is necessary to issue the environmental enforcement order:
- a. to require Chum Street Pty Ltd to take steps to manage stormwater and prevent or minimise releases of sediment-laden water from the site;
 - b. that works undertaken on site following the 14 August 2024 release event were largely cosmetic and failed to address the core issues underpinning the failure of erosion and sediment control structures that contributed to the release of sediment-laden water from the site in contravention of s. 440ZG of the Act.
30. The department's own [ESR/2015/1653 Stormwater guideline - Environmentally relevant activities](#) describes the best practice guidelines for stormwater management and articulates principles for the management of stormwater. For a mine site licensed to undertake an environmentally relevant activity (ERA), it should have constructed flow paths, such as drainage lines, diversion drains, channels which

have been designed, constructed, effectively armoured and maintained to convey the runoff from events up to and including an average recurrence interval (ARI) of 1 in 10 critical duration storm event without causing water contamination, sheet, rill or gully erosion, sediment, or damage to structures or property.

31. For events up to and including a 1 in 10 ARI a sediment basin must be designed, constructed and operated to retain the runoff at the site. The release of stormwater from these basins if an event exceeds a 1 in 10 ARI must still achieve a total suspended solids (TSS) concentration of no more than 50mg/L.

Required actions:

The Requirements of this order 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. You must submit all reports and documents required by this notice to the department via email to ipswich.esr@des.qld.gov.au.
2. By **5:00pm on 31 January 2025**, you must engage an independent **Appropriately Qualified Person(s) (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. By **5pm on 21 February 2025**, you must have engaged an **AQP** to completely audit all sediment and erosion measures and stormwater infrastructure associated with the premises and submit a report to the department. The audit and associated report must:
 - (a) Include an assessment of all stormwater infrastructure on site, assessing if it is appropriately designed and 'fit-for-purpose';
 - (b) Develop procedures for appropriate management of waters on site which have been in contact with contaminants;
 - (c) 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 A2-1, C1-3 and C2-1 of the environmental authority EPML00634213. Stormwater management infrastructure includes but is not limited to concentrated flow paths, clean water diversions, channels, stormwater retention and detention ponds including 'water management structure B';
 - (d) Specify actions to be completed so that concentrated flow paths are designed and constructed to convey stormwater runoff from rain events of up to and including the 1 in 10 year critical duration average recurrence interval (ARI) storm event;
 - (e) Specify actions to prevent sediment deposited by contaminated stormwater runoff from the premises from mobilising to potentially discharge to waters offsite;
 - (f) Include all calculations and information and assumptions used to develop actions under requirement 3(b), 3(c), 3(d) and 3(e); and
 - (g) Specify dates for 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**; and
 - ii) Demonstrate the site's **general environmental duty**; and
 - iii) Have a completion date no later than **Friday 21 March 2025**.

This report is to be sent via email: ipswich.esr@des.qld.gov.au or via mail to Department of the Environment, Tourism, Science and Innovation to PO Box 1014, IPSWICH QLD 4305.

Issued by



Sinead Summerville
Compliance Delivery Manager
Energy Extractive and Southwest Compliance
Environmental Services and Regulation
Delegate of the Administering Authority

Department of the Environment, Tourism, Science
and Innovation
PO Box 1014
IPSWICH QLD 4305

Considerations

The standard criteria, principles of environmental protection, emission criteria and human rights were considered prior to issuing this EEO, specifically as it pertains to the ground that Chum Street Pty Ltd failed to comply with the general environmental duty under s. 319 of the Act.

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).
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.
Environmental harm	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.
General Environmental Duty (GED)	Means anyone who carries out an activity that causes or is likely to cause environmental harm is responsible to take all reasonable and practicable measures to prevent or minimise the harm (in accordance with section 319 of the <i>Environmental Protection Act 1994</i>).
Land	This refers to the cadastral reference of the premises referenced in this Order.
Rehabilitation	Means as defined under Environmental Authority EPML00634213.
Resource	Waste being a <i>resource</i> is not a waste, only if it complies with an end of waste code. For more information, go to End of waste codes Business Queensland .
Site	Means as defined under Environmental Authority EPML00634213.
Waters	Means as defined under Environmental Authority EPML00634213.

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](#)

