

Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Environmental enforcement order may be issued



Order id: STAT-E-100800091
Issued to: Chum Street Pty Ltd (ACN 644 908 421)

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: Chum Street Mine - 1 Chum Street, NEW CHUM, QLD 4303 & ML4553, ML4559, ML4714, ML50077 (the premises)

Cc via email: con@qldpropertygroup.com.au

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: 12 March 2025

Relevant matter/ enforcement grounds: This varied Environmental Enforcement Order (EEO) is issued to Chum Street Pty Ltd (ACN 644 908 421) (you) in accordance with the enforcement ground(s) set out in the relevant sections of the *Environmental Protection Act 1994* (the Act), to secure compliance with the Act and with the conditions of your environmental authority (EA) EPML00634213.

Section 359 (e)(ii) to secure compliance with condition/s of your environmental authority, specifically conditions A2-1, A3-1, A5-1, A5-3, C1-3, C2-1, and C1-1 of EPML00634213 effective 14 December 2018.

Section 359 (c) to secure compliance with the general environmental duty.

Section 359 (f) (iv) to remedy the unlawful deposit of a prescribed water contaminant, namely sediment, in waters in contravention of section 440ZG where circumstances make it likely that contravention will 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 430 of the *Environmental Protection Act 1994*, section 319 of the Act and section 440ZG of the Act at the premises and has issued this Environmental Enforcement Order (EEO) to you under section 362 of the Act to remedy the contravention, avoid further contraventions and keep 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 Jeremy Bennett by email lpswich.esr@des.qld.gov.au or telephone (07) 3894 8164.

Environmental Enforcement Order

Required actions:

1. From **9am on 19 March 2025**, and until otherwise advised by the department you must take all reasonable and practicable active management actions to prevent the release of sediment from the premises to waters.
2. From **9am on 19 March 2025**, and until otherwise advised by the department, water released from the Brick Works Pond (Monitoring Point 2 in the EA) must have a maximum concentration of 20 mg/L total suspended solids.
3. By **5pm on 19 March 2025**, you must provide written confirmation to the department that an independent and Appropriately Qualified Person(s) (AQP) has been engaged to complete the Required actions 4 of this EEO. The confirmation must include the name of the AQP and evidence of relevant qualifications, experience and independence.
4. By **5pm on 30 May 2025**, you must have an independent and AQP(s) audit the management of stormwater and erosion and sediment control measures and stormwater infrastructure at the premises. The audit must include:
 - (a) an assessment of the conditions at the premises including soil properties, water movement, vegetation, topographic features, and current rehabilitation plan;
 - (b) an assessment of all stormwater infrastructure and stormwater management measures at the premises, assessing if infrastructure and management measures are appropriately designed and constructed to control drainage from the site and to achieve a performance standard of no release of contaminants beyond the boundary of the premises;
 - (c) an assessment of all erosion and sediment control measures installed at the premises assessing if the measures are appropriately designed and constructed to achieve a performance standard of no release of contaminants beyond the boundary of the premises;
 - (d) identify and design all additional works and/or actions necessary to achieve the performance standard of no release of contaminants beyond the boundary of the premises;
 - (e) identify areas of the premises that can be progressively re-vegetated with a suitable and persistent ground cover to stabilise the land;
 - (f) develop a project plan (Gantt chart with clear dates) that can be implemented by the recipient to undertake all works and/or actions necessary to achieve the standard of no release of contaminants beyond the boundary of the premises;
 - (g) prepare and submit to the department an audit report including a certification that the above actions, when implemented, will achieve the outcome of no release of contaminants beyond the boundary of the premises.
 - (h) The audit report must include all calculations, data, analysis, drawings, references, modelling, dependencies and assumptions used to complete the audit.
5. By **5pm on 13 June 2025**, you must provide the department a revised Integrated Environmental Management Strategy (IEMS) for the EA that complies with the conditions of the EA.
6. By **5pm on 1 November 2025**, you must have implemented the project plan developed under Required action 4 (f) of this EEO.
7. By **5pm on 1 November 2025**, you must establish a minimum of 80% persistent vegetated groundcover across the entire surface area of ML4559 and ML4553.
8. By **5pm on 1 November 2025**, you must have an independent and AQP design an operational erosion and sediment control plan for the premises. The erosion and sediment control plan must include procedures and instructions for ongoing maintenance, monitoring, investigation and management of the premises to achieve the performance standard of no release of contaminants to waters.
9. By **5pm on 1 November 2025**, you must have an independent and AQP design an operational stormwater management plan for the premises. The stormwater management plan must include procedures and instructions for ongoing maintenance, monitoring, investigation and management of the premises to achieve the performance standard of no release of contaminants to waters.
10. By **5pm on 1 December 2025**, you must provide a completion report that has been prepared by an independent and AQP to the department. The completion report must include:

Environmental Enforcement Order

- (a) A description of all works/actions and timing of those works/actions carried out under the project plan.
- (b) an audit of all works and/or actions against the design.
- (c) current photos or visual media of the premises.
- (d) a survey(s) of the site using remote sensing and/or satellite imagery to measure and report on the persistent vegetative ground cover percentage achieved across ML4559 and ML4553.
- (e) Details of any QA/QC for the works.

11. You must submit all reports and documents required by this notice to the department via email to ipswich.esr@des.qld.gov.au

Definitions

The department is the administering authority who has responsibility for enforcing the *Environmental Protection Act 1994*.

Authorised representative means 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, 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).

Independent means a third-party professional not in the permanent or historical contractual employ of Chum Street Pty Ltd.

'ML4559 and ML4553' for the purpose of this EEO means the part of the mining leases located west of the Cunningham Highway only.

Appropriately qualified person means a person who has professional qualifications, training, skills, and experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.

Stormwater management infrastructure includes but is not limited to concentrated flow paths, clean water diversions, channels, stormwater retention and detention ponds.

Background

1. You are the holder of EA EPML00634213 dated 14 December 2018.
2. The department is satisfied that you are responsible for the operation and maintenance of the premises under the EA.
3. The department is satisfied that you are carrying out rehabilitation at the premises.
4. The department is satisfied that you have no development approval under the *Planning Act 2016* that authorises development at the ML4553 and ML4559 portion of the premises.
5. On 5 June 2024, authorised persons from the department visited the premises in response to a community notification and met with Joanne SALMON of Ardent Group Pty Ltd, authorised representative for Chum Street Pty Ltd. SALMON advised that:
 - a. the most recent rainfall event was on 16 May 2024.
 - b. Erosion and sediment control measures at the site are not designed for filter and release
 - c. volumes of water stored in sediment ponds are not monitored frequently
 - d. the release of contaminants to water is only approved at the Brick Works
 - e. sediment pond waters are used for onsite dust suppression.

Environmental Enforcement Order

- f. a mulch berm at the lower outlet of Water Management Structure B had recently been beefed up.
- g. she disagreed with the authorised persons concern that the sediment pond capacity was insufficient due to a low point at the NE of Water Management Structure B, stating that a release was low risk.
- h. earthworks were expected to be finished by August 2024 pending any further delays.
- i. SALMON called Adam FIELDING the site manager to discuss a resolution to concerns.
- j. FIELDING advised that he planned to install an earthen bund and drain to redirect waters to Water Management Structure B and away from the site boundary.

Authorised persons made observations and took photographs that demonstrate that:

- k. There were large areas of land that had been cleared of all vegetation and grasses (bare earth) with some terracing evident.
 - l. There were trucks and heavy earthmoving machinery located at the premises
 - m. Rill erosion was evident across the premises.
 - n. Water Management Structure B was holding a large volume of sediment laden water
 - o. Fresh mulch berms were located in the NE corner of the premises
 - p. there was a vegetated buffer and mulch berm maintained across the lower edge of the Water Management Structure B.
6. On 1 July 2024, in response to a community notification received, authorised persons from the department visited the premises and observed at Jordan Street, Ebbw Vale:
- a. Water flowing from the premises underneath a fence to a stormwater drain. The water did not appear to be laden with sediment however the discharge demonstrates that diffuse runoff from the site enters the stormwater drain.
7. On 2 July 2024, the department emailed SALMON and advised of the observation on 1 July 2024, provided evidence of the observation, and requested that Chum Street Pty Ltd *“review their erosion and sediment control measures for stormwater management on site to ensure on site operations and controls are effective in accordance with the conditions of the EA”*.
8. On 14 August 2024, authorised persons from the department visited the premises in response to wet weather events on 12 and 13 August 2024, met with SALMON and observed at Railway Street, Ebbw Vale:
- a. That water contaminated with sediment was releasing from the premises to a stormwater drainage line adjacent to the Ebbw Vale memorial park.
 - b. That the stormwater drainage line adjacent to the Ebbw Vale memorial park flows to the N/NE and feeds into the Bremer River.
 - c. That sediments were accumulating downstream of the location that they were leaving the premises.
 - d. That there were no other sources of stormwater to the drainage line that could have been contributing to contaminant release (sediment).
 - e. That large areas of land were cleared on the premises leaving large areas of exposed clay soil.
 - f. That rill erosion was evident across the premises.

Environmental Enforcement Order

- g. That dams containing sediment laden water were holding a large volume of water; Water Management Structure A had an approx. freeboard of 0.5 metres and Water Management Structure B appeared to be at or nearing capacity.
 - h. That Water Management Structure B had no easily identifiable embankment to prevent a release to the stormwater drain.
 - i. Authorised persons took insitu water quality samples of pH and Turbidity (NTU) and laboratory samples for analysis of pH, EC and TSS. Results indicate that:
 - i. Upstream of the observed release water quality at one location on Railway St was (pH 7.46, NTU 1.2, EC 202µS/cm and TSS 12 mg/L). And at a second location in the drainage line at the boundary fence and adjacent to park was (pH 6.60, NTU 23.3, EC was 89µS/cm and TSS was 22 mg/L).
 - ii. Downstream of the observed release (Monitoring point 1, Schedule C – Table 1 of the EA) pH was 7.53, Turbidity was 121.34 NTU, EC was 655µS/cm and TSS was 278 mg/L.
 - j. Authorised persons asked SALMON if Chum Street would be doing anything about the release to which she replied that there isn't much they can do as you cannot get machinery on to this part of the site and the rain is forecast to stop.
 - k. SALMON confirmed that she had conducted water quality sampling of her own.
 - l. Authorised persons observed the pond at the Brick Works site to be at capacity.
 - m. SALMON stated that she didn't believe that the Brick Works pond had overtopped but later acknowledged that it was releasing.
 - n. Authorised persons observed a release from the Brick Works pond (Monitoring point 2, Schedule C – Table 1 of the EA) and took a sample of release (pH 7.49, 20.20 NTU, EC 242 µS/cm and TSS 47 mg/L).
 - o. Due to the unauthorised release of contaminants from ML4559, Monitoring Point 1, Schedule C – Table 1 of the EA adjacent to the Ebbw Vale memorial park is affected by the activity, being located downstream of the release. Consequently, Monitoring Point 1 had a high TSS concentration. Apparent contravention of the release criteria at Monitoring Point 2 could not be established and the department took no further action against the potential contravention of EA condition C1-1.
9. On 15 August 2024, SALMON advised in a telephone call with the department that the Water Management Structure B and the Brick Works Pond had released and that when site access was safe for machinery FIELDING would assess the site with a view to installing a long bund across the low point of Water Management Structure B to increase the holding capacity of the structure.
 10. On 16 August 2024, a record of the inspection of 14 August was emailed to SALMON and further relevant information necessary for the department to investigate the matter was requested to be provided by 30 August 2024. A later email from SALMON (on 30 August 2024) did not provide the information but instead requested the department to explain the powers being used to request the relevant information or if a response was voluntary.
 11. On 12 September 2024, the department issued both Ardent Group Pty Ltd and Chum Street Pty Ltd each with a notice under section 451 of the Act requiring the relevant information to be provided by 27 September 2024. The information required included:
 - a. information on design and construction of erosion and sediment control measures at the premises

Environmental Enforcement Order

- b. information on recommended procedures for the management of erosion and sediment at the premises including procedures for maintenance, operational practices, impounded water management, monitoring and sampling of event release.
- c. Photos and videos of any observations made of the erosion and sediment control measures at the premises between 7 August 2024 and 14 August 2024 and of any works undertaken in response to the release event.
- d. Records of maintenance or works undertaken on the erosion and sediment control measures at the premises between 7 August 2024 and 14 August 2024 and of any works undertaken in response to the release event.
- e. All monitoring records and results including full laboratory report and QA/QC documentation for sampling conducted for the purposes of complying with the Act* at the premises from 1 July 2023 to 14 August 2024.

** Complying with the Act includes complying with the conditions of an EA, Complying with the general environmental duty and Complying with section 440ZG.*

- f. Rainfall data for the premises from 7 August 2024 to 14 August 2024 from the on-site weather station.
12. On 27 September 2024, the department received relevant information from both Ardent Group Pty Ltd and Chum Street Pty Ltd.
13. On 25 November 2024, the department issued Chum Street Pty Ltd with a letter identifying potential contravention of section 440ZG of the Act, section 430 (3) of the Act and condition A2-1 of the EA, and section 319 of the Act.
14. On 6 December 2024, Chum Street Pty Ltd gave the department a letter by email. The letter advises the department that following the August 2024 rainfall event Chum Street had acted to:
- a. Increase the bund height of Water Management Structure B by 0.75m.
 - b. Apply soil binder to exposed batters and other high-risk areas across the site during September and October 2024 to reduce potential for erosion and any subsequent sedimentation
 - c. Stabilise permanent batters with hydromulch during September and October 2024, to reduce the area of disturbance and erosion potential; and
 - d. Install additional sediment control measures on sloping tracks to reduce runoff velocity and capture sediment prior to engaging water management structures.

And that Chum Street would take future actions to:

- e. Explore options to passively treat water on site, including installation of flocculant blocks in drainage paths leading to water management structures to enable efficient dosing of stormwater during rainfall events
 - f. Explore additional options for passive dosing including broadcasting gypsum across exposed areas that may be impacted by rainfall and lead to surface water runoff
 - g. Explore updating the existing Environmental Management Plan to reflect the additional measures.
 - h. Provide an updated Environmental Management Plan to the department by 13 December 2024.
15. On 10 December 2024, authorised persons from the department visited the premises in response to a wet weather event on 9 December 2024 and observed:
- a. That dams appeared to have no available capacity for additional water storage.

Environmental Enforcement Order

- b. That rill erosion was evident across the premises.
 - c. That hydro mulch had been sprayed on hard surfaces that appeared to be consistent with subsoils with limited organic matter present.
 - d. That diversion channels and areas of land where water flows were concentrated and constructed of erodible clays consistent with the balance of the premises.
- 16. On 11 December 2024, authorised persons from the department visited the premises in response to a wet weather event on 11 December 2024 and observed:
 - a. Substantial flow of sediment laden water leaving the premises and entering a stormwater drain
 - b. That erosion and sediment control structures visible from the Ebbw Vale memorial park were collapsing under the movement of water and contributing to the release of sediment in waters.
- 17. On 12 December 2024, authorised persons from the department visited the premises and undertook a survey of the area using a drone. Observations were:
 - a. Three locations where sediment laden waters were being released from the premises were observed.
- 18. The Bremer River and all tributaries are part of basin 143, for which environmental values and water quality objectives are scheduled under Schedule 1 of the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019*.
- 19. Environmental values of the Bremer River, Lower Bremer River Fresh Waters Section 2 are:

Moderately disturbed aquatic ecosystems, irrigation, farm supply/use, stock water, secondary recreation, visual recreation, industrial use and cultural and spiritual values.
- 20. The relevant water quality objectives are:

Total suspended solids (mg/L) – 9 (Low flow); 10 (High flow)

pH – 6.5 -8.0

Conductivity (µS/cm) – 1500 (Low flow); 600 (High flow)
- 21. The release of a prescribed water contaminant (sediment laden waters) to waters (a stormwater drain) from a release location that is not an authorised release location in the EA is unlawful.
- 22. Sediment is a prescribed water contaminant under Schedule 10 of the *Environmental Protection Regulation 2019*, and pursuant to section 44OZF (2) of the Act is likely to cause environmental harm.
- 23. It is alleged that you have acted unlawfully by broadscale clearing of vast areas of sloping land on the mining lease and you have left the land exposed to erosive forces and stormwater runoff for a significant period of time (approx. 18 months). In doing so you have carried out an activity in an improper manner.
- 24. The Erosion and Sediment Control Plan for the premises provided by you states:
 - a. Avoid stripping and excavating until necessary; and
 - b. Where practicable maintain vegetation in a healthy state during the construction process; and
 - c. All disturbed areas are to be seeded, as specified, within seven days of final trimming.
- 25. The Environmental Management Plan Incorporating IEMS (June 2024) for the premises provided by you states:
 - a. The rehabilitation method will include:

Environmental Enforcement Order

- i. Vegetation clearing where regrown over disturbed areas (limited as necessary)
- ii. Topsoil stripping (as necessary)

26. Figure on Page 6 - Current disturbance of the IEMS shows “Current disturbed areas” on ML4559 associated with the mining activity including; extraction area, stockpile area, coal fines stockpile, access track, bitumen area, sediment trap, historic waste disposal area, spoil dump area.
27. Satellite imagery shows that the surface area of the mining lease was predominantly vegetated in May 2023.
28. At some time in late 2023, you have cleared almost 2/3 of the surface area of ML4559 (and most of ML4553). A significantly greater area of land than the “current disturbed areas” in the IEMS.
29. The IEMS is required to be implemented under condition A 5-1 of the EA.
30. The potential environmental harm caused could have been prevented if reasonable and practicable measures as described in the Erosion and Sediment Control Plan and the IEMS were carried out in a proper manner in accordance with the conditions of the EA.
31. The department alleges that on 14 August 2024 you failed to comply with condition A2-1.
32. Condition A2-1 of your EA states:
- The holder must:*
- a) *Install all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority; and*
 - b) *Maintain such measures, plant and equipment in a proper and efficient condition; and*
 - c) *Operate such measures, plant and equipment in a proper and efficient manner.*
33. The EA does not authorise a release of contaminated stormwater or sediment laden water to waters from any location except in compliance with the contaminant limits stated in Schedule C – Table 2 and from the Brick Works Pond, Monitoring Point 2 (Schedule C – Table 1).
34. The IEMS states that:
- a. Part 6.1 Water Quality Management Plan
 - i. Success Criteria
 - 1. Contaminants are not released to any waters
 - 2. No adverse impacts to existing surface water from site operations
 - 3. No visual signs of significant erosion occurring onsite.
 - 4. Surface water quality results are compliant with licence limits
 - ii. Management Actions
 - 1. Ensure integrity of the stormwater infrastructure and that it is in effective working order.
 - iii. Routine Monitoring
 - 1. Monitor surface water onsite and – no visible discolouration (i.e., turbidity plume) (At all times)
 - iv. Corrective Actions
 - 1. If success criteria are not met, examples of corrective actions may include:

Environmental Enforcement Order

- a. Ensure erosion and sediment controls are appropriate and effective
- b. Ensure integrity of the stormwater infrastructure
- c. Undertake a water quality investigation to determine the cause and impact of water quality results exceeding the success criteria.

v. Reporting

1. Record site observations, actions and notifications in site diary (Daily as required)
2. Maintain database of monitoring results (Annually).

b. Part 6.2 Stormwater, Erosion and Sediment Control Plan

i. Success Criteria

1. Contaminants are not released to any waters
2. No adverse sediment impacts to downstream drainages from site operations
3. Water quality objectives meet the following:
 - a. Coarse sediment is retained on site
 - b. No turbidity plume in receiving water
4. Total suspended solids of water leaving site from monitoring point 2 does not exceed 110% of the value of monitoring point 1 (as defined in the EA) or if concurrent sampling is not possible must not exceed a value of 20 mg/L.

ii. Management actions

1. Clean stormwater runoff shall be diverted around disturbed areas
2. Dirty stormwater runoff shall be directed by catch bunds or catch drains to sediment ponds/basins
3. Perimeter controls, e.g., mulch/earth bunds to be maintained inside site boundary
4. Ensure integrity of the stormwater infrastructure and that it is effective in minimising the likelihood of release of contaminants to downstream drainage lines.

iii. Routine monitoring

1. Monitor stormwater discharges – no sheen or slick on surface, no turbidity plume. (At all times)
2. Inspect all sediment and erosion control structures to ensure that they are functioning as intended (Pre/post rainfall event and prior to wet season)
3. Remove sediment build up from sediment control structures (As required)

iv. Corrective Actions

1. If success criteria are not met, examples of corrective actions may include:
 - a. Re-instating failed erosion and sediment control structures; and
 - b. Increase capacity of sediment basins.

Environmental Enforcement Order

v. Reporting

1. Record site observations, actions and notifications in site diary (Daily as required)
 2. Record inspection notes and observations (As required and following rainfall events)
35. Authorised persons observations detailed at paragraphs 5 to 17 of this EEO demonstrate that the erosion and sediment control measures installed at the place are inadequate to ensure compliance with the conditions of the EA.
36. Relevant information requested by the department under section 451 of the Act is detailed at paragraph 11 of this EEO.
37. The relevant information provided on 27 September 2024 in response to the departments request under section 451 of the Act included:
- a. Water quality monitoring results for 20 February 2024 (SB1) and 14 August 2024.
 - b. No site diary recording maintenance or works carried out on the erosion and sediment control measures.
 - c. No inspection notes or observations
 - d. No database of results
38. Authorised persons observations detailed at paragraphs 5 to 17 of this EEO and your response to the request for relevant information demonstrate that maintenance and operation of the measures installed at the premises is not proper or efficient or carried out in accordance with the IEMS for the EA.
39. The department alleges that on 27 September 2024 you failed to comply with condition A3-1.
40. Condition A3-1 of your EA states: *Record, compile and keep for a minimum of five (5) years all monitoring results required by this environmental authority and make available for inspection all or any of these records upon request by the administering authority.*
41. On 16 August 2024, and again on 12 September 2024 the department requested that you provide records of monitoring results.
42. On 16 August 2024, the department requested *“the last 3 years of monitoring data (including the COAs) including the most recent monitoring (14/08/2024) for the Brick Works sediment pond (Monitoring Point 2) by 30 August 2024”*
43. You did not comply with the request.
44. On 12 September 2024, the department requested *“all monitoring records and results, including full laboratory report and documentation, for sampling conducted for the purposes of complying with the Environmental Protection Act 1994 at the premises from 1 July 2023 to 14 August 2024.”*
45. On 27 September 2024, you only provided water quality monitoring results for 20 February 2024 (SB1) and 14 August 2024.
46. Condition C1-1 of your EA requires you to monitor water quality at Monitoring Point 2 at the frequency of “event release” which is defined in your EA, Schedule H as *“when water is released or at least four times a year”*.
47. Condition A5-1 of the EA requires you to implement the IEMS.
48. The IEMS requires you to monitor routinely as stated at Paragraph 34 of this EEO and Part 7.2 of the IEMS.
49. It is alleged that you have:
- a. Failed to comply with the requirement to record, compile and keep monitoring results required by the EA; and

Environmental Enforcement Order

- b. Failed to make available for inspection all or any of these records upon request by the administering authority.
- 50. The department alleges that between 5 June 2024 and 12 December 2024 you failed to comply with condition A5-1.
- 51. Condition A5-1 of your EA states:

The holder of this environmental authority must:

 - a) *Develop an Integrated Environmental Management System (IEMS) which provides for the effective management by the registered operator of the actual and potential environmental impacts resulting from the carrying out of the ERAs; and*
 - b) *Implement and maintain the IEMS for the carrying out of the ERAs and*
 - c) *For the purposes of condition (A5-1) an IEMS includes the document entitled “Environmental Management Overview Strategy incorporating Integrated Environmental Management System (Mining and Manufacturing Activities), Claypave Pty Ltd, October 2002 lodged in connection with the relevant application.*
- 52. On 27 September 2024, you provided the document “*Environmental Management Plan Incorporating IEMS, Chum Street Pty Ltd, Environmental Authority No. EPML00634213, Mining Lease Nos. 4553, 4559, 4714, 50077*” authored by Ardent Group Pty Ltd, June 2024 Version 02.
- 53. The department alleges that you have failed to implement the IEMS whilst you are carrying out the ERA in the following ways:
 - a. On 12 September 2024, the department requested that you provide records of monitoring (see Paragraph 11 of this EEO).
 - b. There are no records or evidence of routine monitoring required by Part 7.2 and the various plans included in the IEMS.
 - c. There are no records of a site diary.
 - d. There are no records of maintenance works being carried out on erosion and sediment control measures.
 - e. There was no notification or incident report by Chum Street Pty Ltd to the department
 - f. There are no records of monitoring results associated with environmental investigations being carried out by Chum Street Pty Ltd in accordance with the IEMS despite being aware of the release of sediment laden water (contaminants) not in accordance with the conditions of the EA.
- 54. The IEMS document provided by you does not include the EMOS described at A5-1 c).
- 55. The department alleges that on 27 September 2024 you failed to comply with condition A5-3.
- 56. Condition A5-3 of your EA states: *The holder of this environmental authority must not implement or amend an IEMS (including any environmental management plan) that contravenes any condition of this environmental authority or any development condition applicable to carrying out the ERAs.*
- 57. The Environmental Management Plan incorporating the IEMS provided by you to DETSI does not include the 2002 EMOS.
- 58. The department alleges that on 14 August 2024 and 12 December 2024 you failed to comply with condition C1-3.
- 59. Condition C1-3 of your EA states: *Contaminants must not be released from the site to any waters or the bed and banks of any waters, except as mentioned in condition (C1-1).*

Environmental Enforcement Order

Condition C1-1 of your EA states: Process water or storm water contaminated by the ERAs must be monitored at the locations and frequencies defined in Schedule C – Table 1 and monitoring of water released from point 2 must comply with the contaminant limits defined in Schedule C – Table 2.

Schedule C – Table 1 (Receiving water monitoring locations and frequency)

Monitoring Point	Latitude	Longitude	Description of Location	Monitoring frequency
1 (Background)	S27°36.388'	E152°49.375'	Northern boundary of ML4559 adjoining Jordan St, EBBW VALE	When monitoring point 2 is sampled.
2	S27°36.22'	E152°49.933'	Discharge point at north-west corner of brick works plant.	"event release"

NOTE: This does not apply to dams containing hazardous waste

Schedule C – Table 2 (Receiving water contaminant limits)

Parameter	Units	Minimum	Maximum
pH	-	6.5	8.5
Total Suspended Solids	mg/L	-	Must not exceed 110% of the value at monitoring point 1 ¹ or if concurrent sampling is not possible must not exceed a value of 20 ² .
Conductivity	µS/cm	-	1500

¹ for the same monitoring event

² Environmental Protection (Water) Policy 2009 Bremer River environmental values and water quality objectives – Table 2a Water quality objectives to protect aquatic ecosystem environmental value. NOTE: This does not apply to dams containing hazardous waste.

Schedule H – Definitions

"event release" means when water is released or at least four times a year.

"dam" means a containment or proposed containment whether permanent or temporary, which is designed to contain, divert or control flowable substances. However this does not include a fabricated or manufactured tank or container designed to a recognised standard.

"hazardous waste" means any substance, whether liquid, solid or gaseous, derived by or resulting from, the processing of minerals that tends to destroy life or impair or endanger health.

"waters" includes river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

60. On 14 August 2024 and 12 December 2024 contaminants in the form of sediment laden water were released from the premises to waters from locations that are not Monitoring Point 2 listed in Schedule C – Table 1.
61. The department alleges that on 14 August 2024 and 12 December 2024 you failed to comply with condition C2-1.

Environmental Enforcement Order

62. Condition C2-1 of your EA states: *There must be no release of stormwater runoff that has been in contact with any contaminants at the site to any waters, roadside gutter or stormwater drain, except as mentioned in condition (C1-1).*

Condition (C1-1) and relevant definitions are stated at paragraph 59 of this EEO.

63. On 14 August 2024 and 12 December 2024 stormwater laden with contaminant (sediment) was observed to be running overland and off the premises before entering a stormwater drain from locations that are not Monitoring Point 2 listed in Schedule C – Table 1

64. The department alleges that between 1 July 2023 and 14 August 2024 you failed to comply with condition C1-1.

65. Condition C1-1 and relevant definitions are stated at paragraph 59 of this EEO.

66. Water quality monitoring is required to be conducted at Monitoring Point 1 and 2 at the frequency “event release” which is defined as when water is released or at least four times a year.

67. The results of monitoring provided by you in response to the notice requesting relevant information indicates that this monitoring has not routinely occurred.

68. Section 430 of the Act says:

A person must not contravene a condition of the authority.

69. In summary, the delegate considers you have contravened section 430 of the Act, and it is reasonable to require you to secure your compliance with those conditions.

70. Section 440ZG of the Act says:

A person must not—

a) *Unlawfully deposit a prescribed water contaminant—*

i. In waters; or

ii. In a roadside gutter or stormwater drainage; or

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; or

Example of a place for subparagraph (iii)—

A building site where soil may be washed into an adjacent roadside gutter

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.*

Note—

See section 493A (When environmental harm or related acts are unlawful).

Section 440ZD of the Act says:

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 section 440ZF.*

Stormwater drainage means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

Section 440ZE of the Act says:

(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 waters or onto the place.*

Environmental Enforcement Order

- (2) A person deposits a contaminant at a place if—
- The person is an occupier of the place or the contaminant is under the person's control; and
 - Someone deposits the contaminant at the place in a way mentioned in subsection (1); and
 - The person does not remove the contaminant from the place within a reasonable time after becoming aware that the contaminant has been deposited at the place.
- (3) A person deposits earth at a place if the person carries on earthworks or another activity that exposes the earth at the place.
- (4) A person deposits earth at a place if—
- The person is an occupier of the place; and
 - Someone deposits the earth at the place in a way mentioned in subsection (3); and
 - The person does not stop the earth being exposed at the place within a reasonable time after becoming aware that the earth has been exposed at the place.
- (5) A reference in subsections (2) to (4) to a place does not include waters.
- (6) For subsections (1) to (4), none of the subsections limits any of the other subsections.

Section 440ZF of the Act says:

- A regulation may prescribe a contaminant for this part.
- The Minister must not recommend to the Governor in Council the making of a regulation under subsection (1) unless the Minister is satisfied the contaminant is likely to cause environmental harm if it enters waters.

Schedule 10 Section 65 of the *Environmental Protection Regulation 2019* Prescribed water contaminants
6 ashes, clay, gravel, sediment, stones and similar organic or inorganic matter.

- The department alleges that on 14 August 2024 and 12 December 2024 you failed to comply with section 440ZG of the Act.
- Sediment, a prescribed water contaminant under the *Environmental Protection Regulation 2019* was released from the premises due to the activities carried out at the premises by you to develop the land, removing vegetation and not installing adequate erosion and sediment control measures.
- Sediment has moved from the place into a stormwater drain.
- The department alleges that on 14 August 2024 you have failed to comply with section 319 of the Act.
- The reasons for alleging that you have breached your general environmental duty are stated in this notice with respect to the reactive nature of the actions that you have taken to date to manage erosion and stormwater risk at the site whilst carrying out development.
- Sediment, a prescribed water contaminant, has been released to waters at concentrations that exceed published water quality objectives for the Bremer River and its tributaries (see Paragraphs 8, 18, 19 and 20) and has the potential to cause environmental harm.
- Sediment in waters can negatively impact habitat, the natural food chain, vegetation growth and the health of aquatic organisms.
- 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.
- This EEO takes effect from the date service and remains in force until stayed, amended, revoked or finalised.

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 a requirement of an EEO is 6250 penalty units or 5 years imprisonment, totalling \$1,008,125.00 for an individual, or \$5,040,625.00 for a corporation.

Environmental Enforcement Order

- The maximum penalty for contravening a requirement of an EEO is 4500 penalty units, totalling \$725,850.00 for an individual, or \$3,629,250.00 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.

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

Further information about EEOs can be found on the [department's website](#) (ESR/2024/6802).

Appeal rights

Under Chapter 11, Part 3 of the Act, a dissatisfied person who is dissatisfied with the review decision may appeal against the decision to the Court.

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](#).