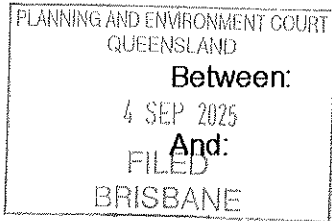


In the Planning and Environment Court
Held at: Brisbane

10 w.p.



DANOLA PTY LTD ACN 009 160 918

Appellant

**CHIEF EXECUTIVE OF THE
DEPARTMENT OF THE ENVIRONMENT,
TOURISM, SCIENCE AND INNOVATION**

Respondent

FINAL ORDER

Before Her Honour Judge Kefford

Date of Hearing: 4 September 2025

Date of Order: 4 September 2025

THIS MATTER HAVING come on by way of an appeal made pursuant to section 531(1) of the *Environmental Protection Act 1994* (Qld) (**EP Act**) against the internal review decision of the Respondent (**Review Decision**) issued on 27 May 2025 to vary its original decision to issue an Environmental Enforcement Order (STAT-E-100828645) made pursuant to section 362 of the EP Act on 3 April 2025, in respect of activities of the Appellant at the Texas Silver Mine located at 8872 Stanthorpe Texas Road, Texas, on mining lease ML1006106.

UPON THE COURT BEING SATISFIED THAT there has been service of the Notice of Appeal in accordance with the provisions of the EP Act.

IT IS ORDERED BY CONSENT OF THE PARTIES THAT:

1. Pursuant to section 532(3) of the EP Act, the time for the Appellant to file the Notice of Appeal be extended to 31 July 2025;
2. The appeal be allowed in part;
3. The Varied Environmental Enforcement Order dated 27 May 2025 be set aside and replaced with the Environmental Enforcement Order contained at Annexure A to this Order; and
4. Each party bear its own costs of the appeal.

Filed on: 4 September 2025

Filed by: Department of the Environment, Tourism, Science and Innovation

Service address: 400 George Street, Brisbane QLD 4000

Phone: 3330 4757

Email: marlena.litchfield@detsi.qld.gov.au



Registrar

NJK
4.9.25

FINAL ORDER

Filed on behalf of the Respondent
Form PEC-7

**Department of the Environment, Tourism,
Science and Innovation**

400 George Street
Brisbane QLD 4000
3330 4757

marlena.litchfield@detsi.qld.gov.au

ANNEXURE A

Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Contravention of condition of environmental authority



Order id: STAT- E-100828645

**Department of the
Environment, Tourism,
Science and Innovation**

Issued to: Danola Pty Ltd (ACN 009 160 918)
For the purpose of this notice you means the recipient of this notice or your authorised representative.

Registered address Level 11, 307 Queen Street, BRISBANE, QLD, 4000

Site address Mining Lease (ML) 100106. 8872 Stanthorpe Texas Road, Texas, Queensland 4385

Issued by: Dayna Claybourn, Manager Compliance, Department of the Environment, Tourism, Science and Innovation (the department), an authorised person of the administering authority (the delegate)

A handwritten signature in black ink, appearing to read "D. Claybourn", followed by a horizontal line.

Signed by Dayna Claybourn

Date: 27 May 2025

- Relevant matter/
enforcement
grounds:**
1. Section 359 (c) of the *Environmental Protection Act 1994* (the Act) – to secure compliance with the “general environmental duty”. The general environmental duty is defined pursuant to section 319(1) of the Act as follows:

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)
 2. Section 359 (e)(ii) of the Act - to secure compliance with condition/s of your environmental authority (EA) EPML04238116. The conditions of the EA which are directly relevant are conditions A3, H1, H17 and H23 which are as follows:
 - **A3 - The environmental authority holder must:**
 - a) *install all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority;*
 - b) *maintain such measures, plant and equipment in a proper and efficient condition;*
 - c) *operate such measures, plant and equipment in a proper and efficient manner; and*
 - d) *ensure all instruments and devices used for the measurement or monitoring of any parameter under any condition of this environmental authority are properly calibrated.*
 - **H1 – The consequence category of any structure must be assessed by a suitably qualified and experience person in accordance with the Manual for assessing consequence categories and hydraulic performance of structures (ESR/2016/1933) at the following times:**

Environmental Enforcement Order

- a) *Prior to the design and construction of the structure, if it is not an existing structure; or*
- b) *Prior to any change in its purpose or the nature of its stored contents.*
- **H17** - *The holder must, immediately on becoming aware that the MRL has been reached, act to prevent the occurrence of any unauthorised discharge from the regulated dam.*
- **H23** – *Each regulated structure must be inspected each calendar year by a suitably qualified and experienced person.*

Issued via registered post and email

Why are we writing to you?

The delegate reasonably suspects that you have contravened section 430 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 the Toowoomba Compliance Centre via email southwest.es@des.qld.gov.au

Required actions:

1. **By 5pm 31 October 2025**, a suitably qualified and experienced person must complete a consequence category assessment of West Dam, New Dam, Middle Dam and the Pit. This assessment must:
 - a) Be undertaken in accordance with the department's Manual for assessing consequence categories and hydraulic performance of structures (ESR/2016/1933); and
 - b) Include assessment of the Pit against the 'dam break' scenario; and
 - c) Include certification by the suitably qualified and experienced person in the form set out in the department's Manual for assessing consequence categories and hydraulic performance of structures (ESR/2016/1933).
2. **By 5pm 31 October 2025**, you must provide a copy of the consequence category assessment undertaken as per required action 1 to the department by email to southwest.es@des.qld.gov.au.
3. **By 5pm 31 October 2025**, a suitably qualified and experienced person must complete the annual inspection of all regulated structures on site. The inspection must:
 - a) be undertaken *after* the consequence category assessment has been completed; and
 - b) be completed in accordance with conditions H24 and H25 of the Environmental Authority (EPML04238116); and
 - c) produce an annual inspection report.
4. **By 5pm 31 October 2025**, the annual inspection report required under required action 3 must be provided to the department by email to southwest.es@des.qld.gov.au. The report must be a separate document from the consequence category assessment. The report must also include:
 - a) A review and justification of the Design Storage Allowance (DSA) and Mandatory Reporting Level (MRL) assigned to each regulated structure at the site; and

Environmental Enforcement Order

- b) An assessment of the structural integrity of West Dam and East Sump considering observed seepage and determination of the associated risk of failure; and
 - c) An assessment of the integrity and suitability of the continued operation of each regulated structure at the site to contain contaminated water.
5. By 5pm 31 October 2025, a suitably qualified and experienced person must develop an Operational Plan for the Pit which includes the maximum safe operating water storage level for the structure, and provide a copy of the Operational Plan to the department by email to southwest.es@des.qld.gov.au.

Background and Definitions

1. Danola Pty Ltd (ACN 009 160 918) (Danola) is the sole holder of the Environmental Authority (EA) EPML04238116 and Mining Lease (ML) 100106.
2. Danola became the EA holder on 13 December 2024, when the ML and EA were transferred from Thomson Resources Ltd. Prior to the tenure being transferred, representatives of Danola were engaged in site operations.
3. The EA authorises environmentally relevant activities including mining and associated ancillary activities at the premises, subject to the conditions of the EA.
4. There is disturbed land and infrastructure on the premises including an open cut pit, waste rock dump, heap leach pads, processing ponds, a processing plant and water storages that have the potential to generate contaminated water and/or seepage.
5. There are significant risks of environmental harm associated with the activities authorised by the EA on the premises. This includes, but not limited to:
 - (a) environmental risks associated with disturbance to the land resulting from the activities;
 - (b) environmental risks associated with the mobilisation of contaminants in rainfall runoff from disturbed areas;
 - (c) environmental risks associated with the discharge of mine wastes (e.g. process waters); and
 - (d) environmental risks associated with equipment, plant and infrastructure utilised in the carrying out of activities (e.g. residual process chemicals, chemical and fuel storages etc).
6. Active management of these risks through the installation, maintenance and operation of measures, plant and equipment is required to mitigate the potential for environmental harm and with the conditions of the EA.
7. One of the primary ways by which the environmental risks set out in paragraph 5 above are managed at the premises, is through capturing and containing contaminated water, to prevent the release of contaminated water from the premises.
8. The water storages at the premises that capture and/or contain contaminated water include Terminal Dam and the Process Ponds (Barren, Intermediate and Pregnant), East Dam and East Sump, West Dam and West Sump, the Pit, Middle Dam and New Dam.
9. The department holds data in relation to the contaminated water quality onsite for the period 2022 - 2024. This water typically contains high acidity (low pH levels), salts and metal concentrations (including zinc, aluminium and copper).
10. The contaminated water is of particularly poor quality and typically exceeds relevant Australian and New Zealand Guidelines for Fresh and Marine Water Quality guideline levels and the EA authorised contaminant release limits.
11. The environmental values and water quality objectives for the receiving waters are listed in the document titled Queensland Border Rivers and Moonie River basins Environmental Values and Water Quality Objectives (des.qld.gov.au).

Environmental Enforcement Order

12. Water storages at the premises, referred to in paragraph 8 above (with the exception of West Sump and New Dam) were the subject of a report titled 'Warwick Gold Pty Ltd 2022 Regulated Dams Inspection, 25 July 2023 (the Report).
13. The Report states that *"Warwick Gold Pty Ltd engaged Engeny to carry out the 2022 annual inspection of the regulated structures onsite at the Texas Silver Project. The inspection was carried out in accordance with the Queensland Government Department of Environment and Science (DES) requirements as set out in the Environmental Authority (EA) EPML04238116. The inspections for 2022 have been undertaken retrospectively with inspections completed in April 2023 due to sale of the site."*
14. The Report states that *"hydraulic compliance of each structure was assessed against the hydraulic performance requirements documented in the Manual for Assessing Consequence Categories and Hydraulic Performance of Structures (DES, 2016) (the Manual) and the Environmental Authority."*
15. The Manual sets out the department's requirements for consequence category assessment and certification of the design of 'regulated structures'.
16. The Report summarised the consequence categories for relevant water storages as follows:

Structure	Failure to Contain – Overtopping	Failure to Contain – Dam Break	Overall Consequence Category
Terminal Dam & Process Ponds	High	High	High
East Dam	Significant	High	High
East Sump	Significant	High	High
The Pit	High	N/A – no plausible failure mode	High
West Dam	Significant	Significant	Significant
Middle Dam	Significant	Significant	Significant

17. Given the consequence category, each of these water storages is a regulated structure.
18. The Report notes that the consequence categories for structures were last assessed in 2018 (Water Solutions, 2018) with West Dam reassessed in 2021.
19. The Water Solutions report (2018) determined consequence categories for structures on site, based on activities being undertaken by a former holder, MRV Metals. Of note, West Dam and Middle Dam were listed as 'originally a clean water storage' and that future transfer of contaminated water to West Dam and Middle Dam would not be undertaken. New Dam was stated to be a 'clean water storage' that was not actively being used and not considered to be a regulated structure.
20. In 2021, West Dam's consequence category was reassessed due to a potential change in the nature of the stored contents and remained as "significant".
21. A Water Management Options Assessment was developed by Engeny on 12 May 2022. In that report, it was stated that the transfer of mine affected water into West Dam from other storages onsite containing water of lesser quality than that of West Dam (such as from East Dam or the Pit) may potentially result in a change of consequence category from 'Significant' to 'High'.
22. On 30 January 2025, authorised persons observed continued seepage from West Dam and East Sump.
23. The seepage at West Dam and East Sump along with the integrity of the regulated structure is required to be inspected and assessed each calendar year, and a suitably qualified and experience person prepare an 'annual inspection report', in accordance with EA conditions H23 and H24 and the EA definitions.

Environmental Enforcement Order

24. As no annual inspection was carried out for 2024, Danola does not have a current status of the risk presented by the seepage. Given the priority levels and recommendation types given by the suitably qualified and experienced person in the Report, it would be appropriate that the annual site inspection for 2025 is carried out as soon as reasonably practicable to fulfil the general environmental duty.
25. On 30 January 2025, authorised persons observed mine affected water being pumped from East Dam to West Dam. The water quality in East Dam is known to contain higher concentrations of contaminants compared to West Dam.
26. On 30 January 2025, authorised persons were advised that mine affected water had been transferred from Barren Pond to New Dam and mine affected water had been transferred from West Dam to Middle Dam. Weekly water level reports supplied by Danola indicate the water was transferred between 17 – 23 January 2025. Danola intended to utilise New Dam and Middle Dam for storage and treatment of mine affected water.
27. Danola's actions have changed the purpose and/or the nature of the stored contents of New Dam, Middle Dam and West Dam. No new consequence category assessment has been undertaken for these structures prior to the transfer and/or storage of mine affected water containing concentrations of contaminants capable of causing environmental harm. This is considered an alleged contravention of condition H1(b) of the EA.
28. The department considers that the assessment for the Pit (Failure to Contain – Dam Break scenario) is no longer reflective of site operations and should be reviewed. The 2018 assessment states *"The Pit is dug into the rock of the hill, and it does not appear likely that a significant sudden dam break failure event could occur at the Pit location."*
29. The 2018 assessment also identified concern if Pit water levels approach the spillway as the Pit does not have a formed spillway. Additionally, the low point on the side of the pit is a pile of rock and earth and as the pit water level gets close to the spillway level, seepage through this area would be expected to increase.
30. The 2018 assessment further stated, *'In the longer term the likelihood of significant water being stored in the Pit is considered low'*.
31. On 25 November 2022, due to elevated water levels, a Registered Professional Engineer Queensland from the former Department of Resources (DoR) identified a safety risk associated with a sudden dam break of the Pit low wall/spillway embankment. The comments from DoR were that *"The embankment is a non-engineered structure which doesn't appear to have appropriate compaction or materials for its construction. Therefore, dam breach failure is highly likely to occur once the water level overtops and/or where the embankment retains water."* The identified risk of sudden dam failure at Pit differs from the findings of the 2018 assessment (outlined in paragraph 28).
32. As such the CCA for the Pit should be reassessed to include consideration of the dam break event scenario in accordance with the Manual and a current Operational Plan should be developed in order to manage the structure at a safe operating level.
33. On 17 November 2024, West Dam reached MRL. At the date of this notice, the dam continues to exceed MRL as the water level continues to increase due to rainfall and water transfer activities on site.
34. In accordance with condition H17 of the EA, once MRL has been reached the EA holder must act to *"prevent the occurrence of any unauthorised discharge from the regulated dam"*. Danola has continued to transfer water to West Dam following the MRL being exceeded. Increasing the water inventory of the structure is counterproductive to preventing an unauthorised discharge and is considered an alleged breach of condition H17 of the EA.
35. Given a new CCA for West Dam has not been completed, the risk of pumping mine affected water into West Dam, whilst it is exceeding MRL, is likely underrepresented.
36. A critical component of ongoing environmental risk management and mitigation associated with regulated structures is an annual inspection by a suitably qualified and experienced person. The inspection typically assesses the condition and adequacy of all components of the regulated structures, and provided recommended actions to ensure the integrity of the structure is maintained.

Environmental Enforcement Order

37. Regulated structures on ML100106 were not inspected during the 2024 calendar year by a suitably qualified and experienced person.
38. During a meeting with the department on 28 January 2025, Danola representatives confirmed that no annual inspection had been undertaken of the regulated structures on site for 2024. Danola acknowledged the report was due but did not provide a timeframe for conducting an inspection of the regulated structures.
39. Danola is responsible for the 2025 regulated structures inspection, as required by condition H23 of the EA.
40. The Report identified several recommendations (section 8) relating to dam safety and EA compliance that will need to be addressed by Danola as the current EA holder responsible for management of the site.
41. The 2025 annual inspection should be carried out as soon as reasonably practicable to fulfill the general environmental duty and will inform Danola of current environmental risks and how best to manage the regulated structures for the upcoming 2025 wet season (begins 1 November).
42. Without a contemporary assessment from a suitably qualified and experienced person, Danola cannot ensure that the regulated structures are being maintained and operated in a proper and efficient condition, as required by condition A3 of the EA. Danola equally cannot ensure it is complying with its General Environmental Duty with respect to the operation and maintenance of the regulated structures.
43. The department considers that given the facts and circumstances detailed above, that enforcement grounds exist for Danola to secure compliance with the conditions of the EA and the general environmental duty.
44. 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.
45. 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:

Annual inspection report means an assessment prepared by a suitably qualified and experienced person containing details of the assessment against the most recent consequence assessment report and design plan (or system design plan);

- a) against recommendations contained in previous annual inspections reports;
- b) against recognised dam safety deficiency indicators;
- c) for changes in circumstances potentially leading to a change in consequence category;
- d) for conformance with the conditions of this authority;
- e) for conformance with the 'as constructed' drawings;
- f) for the adequacy of the available storage in each regulated dam, based on an actual observation or observations taken after 31 May each year but prior to 1 November of that year of accumulated sediment, state of the containment barrier and the level of liquids in the dam (or network of linked containment systems); and
- g) for evidence of conformance with the current operational plan.

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).

Operational Plan includes:

- a) normal operating procedures and rules (including clear documentation and definition of process inputs in the DSA); and

Environmental Enforcement Order

- b) contingency and emergency action plans including operating procedures designed to avoid and/or minimise environmental impacts including threats to human life resulting from any overtopping or loss of structural integrity of the regulated structure.

Suitably qualified and experienced person means a person who is a Registered Professional Engineer of Queensland (RPEQ) under the provisions of the Professional Engineers Act 2002, and has demonstrated competency and relevant experience and who is a civil engineer with the required qualifications in dam safety and dam design. It is permissible that a suitably qualified and experienced person obtain subsidiary certification from an RPEQ who has demonstrated competence and relevant experience in either geomechanics, hydraulic design or engineering hydrology.

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, totalling \$1,008,125.00 for an individual, or \$5,040,625.00 for a corporation.
- 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.

Note you must also give the administering authority notice within 10 business days of ceasing activities to which this EEO relates. Failure to provide notice of ceasing to carry out activities is an offence under section 369D 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](#).

Review and 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

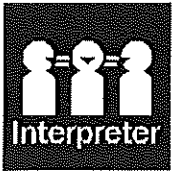
Section 540 of the Act requires the department to maintain a register of certain documents and information authorised under the Act. A copy of this document will be kept on the public register. The register is available for inspection by members of the public who are able take extracts or copies of the 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.

Environmental Enforcement Order

Environmental Enforcement Order

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.