Environmental Enforcement Order

Section 362 of the Environmental Protection Act 1994
Contravention of condition of environmental authority

Queensland Government

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

ORDER ID:	STAT-E-100834725
ISSUED TO:	Blackwater Quarries Pty Ltd ACN 632 994 542 20L SHERATON ROAD DUBBO NSW 2830 For the purpose of this notice "you" means the recipient of this notice or your authorised representative.
SITE ADDRESS:	2403 Blackwater Cooroorah Rd, Blackwater QLD 4717 ("the premises")
CC:	bensmallbone@regionalgroupaustralia.com.au
ISSUED BY:	Louise Pinn, Compliance Delivery Manager, Department of the Environment, Tourism, Science and Innovation, an authorised person of the administering authority ("the delegate")
DATE:	16 May 2025
RELEVANT MATTER/ ENFORCEMENT GROUNDS:	Section 359 (e)(ii) of the *Environmental Protection Act 1994* for contravening section 430 in circumstances that make it likely the contravention will continue to be repeated.
SERVICE METHOD:	Via email

Why are we writing to you?

The delegate reasonably suspects that you have contravened section 319, 430, and 440ZG of the *Environmental Protection Act* 1994 (the Act) at the premises and has issued this Environmental Enforcement Order (EEO) to you under section 362 of the Act to remedy the contraventions, avoid further contraventions and keep the Department of the Environment, Tourism, Science and Innovation (the department) informed.

What are you required to do?

Please read this EEO carefully and carry out all the required actions listed below by the required dates.

Terms used in this 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 Rahul Sreekumar by email cwes_rockhampton@des.qld.gov.au or telephone 07 30 783 005.

Required actions:

Actions relevant to erosion and sediment management.

1. By 5:00pm on 02 July 2025, you must engage an independent Appropriately Qualified Person(s) (AQP) to complete specified requirements of this notice and provide confirmation of the engagement to the department, including evidence of relevant qualifications and experience of the AQP.
2. By 5:00pm on 25 July 2025, you must have required the AQP to complete an audit of all sediment and erosion control 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 existing and planned sediment and erosion control measures, and stormwater management infrastructure, and whether they are adequate to achieve compliance with conditions WA1 and WA2 of the EA. Stormwater management infrastructure includes but is not limited to concentrated flow paths, clean water diversions, channels and batter chutes (where applicable), stormwater retention and detention ponds; and
    b. specify actions to be completed such that existing and planned erosion control measures and stormwater management infrastructure will achieve compliance with condition WA1 and WA2 of the EA. Actions must demonstrate conformance with the general environmental duty and consideration of the department's Stormwater and Environmentally Relevant Activity Guideline (ESR/2015/1653).
    c. specify actions to prevent contaminates originating from the premises from entering the Mackenzie River; and
    d. specify actions to remove and/or stabilise sediment on and off the premises, which has been deposited by contaminated stormwater runoff from the premises that may be mobilised and discharged to waters. The actions must include any interim measures to prevent the ongoing release of deposited sediment to waters and must not result in impacts to vegetation and waterways, and must achieve a safe, stable and non-polluting landform.
    e. Include all calculations and assumptions used to develop actions under requirements 2(a), 2(b),2(c) and 2(d); and
    f. Specify dates for completion of each action identified under requirements 2(a), 2(b),2(c) and 2(d); that must consider the risk of further unauthorised releases to waters and have a completion date of no later than 30 September 2025.

3. By 5:00pm on 24 October 2025, you must have completed the implementation of all actions identified under requirement 2.
4. By 5:00pm on 24 November 2025, you must require the AQP to carry out an audit of all sediment and erosion control measures, stormwater management infrastructure, and routine erosion and sediment control inspection procedures associated with the premises and provide a report to the department discussing the integrity, design and adequacy of the measures to manage the erosion risk and stormwater of the site. The audit must identify and record any corrective actions or improvements, including timeframes for completion, to maintain the integrity of each control measure.
5. You must complete the corrective actions within the specified timeframe as identified by the AQP under requirement 4.
6. By 5:00pm on 01 December 2025, you must require the AQP to produce an erosion and sediment control management plan as part of the written procedures required by condition G9 of the EA. This plan must include scheduled internal inspections to evaluate erosion risks and assess the effectiveness of the implemented sediment and erosion control measures to comply with conditions WA1 and WA2 of the EA.

Actions relevant to chemical storage.

7. By 5.00pm on 23 May 2025, you must conduct an inspection of the hydrocarbon bunds on the premises and assess their ability to comply with condition L2 of the EA.
8. By 5.00pm on 30 May 2025 you must provide evidence of the actions taken under requirement 7 to the department along with a timeline for any subsequent works if applicable.
9. By 5.00pm on 30 May 2025, you must install a secondary containment system for all containers storing over 15 litres of chemicals or fuels or remove the containers from the premises. If in this action, you remove the waste from the premises, you must provide written documentation to the department to demonstrate the

lawful removal and disposal of the waste from the premises by 30 May 2025. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations.

Actions relevant to all.

10. You must provide a progress update for the actions identified under requirement 2 and 9 within 3 days of the first business day of each month via CWES_Rockhampton@des.qld.gov.au, including details of any delays and any measures being taken in response to those delays.
11. You must submit all reports and documents required by this notice to the department via email to CWES_Rockhampton@des.qld.gov.au

Background and definitions

The department is issuing you with an EEO pursuant to section 362(1) of the Act as it is satisfied that the following enforcement grounds exist:

1. In accordance with section 359(e)(ii) of the Act, to require you to take reasonable measures to secure compliance with the following conditions of environmental authority EPPR00510013:

a. **Condition G4** of the EA which states:
Other than as permitted by this environmental authority, the release of a contaminant into the environment must not occur
b. **Condition G9** of the EA which states:
The activity must be undertaken in accordance with written procedures that:
    1. identify potential risks to the environment from the activity during routine operations, closure and an emergency
    2. establish and maintain control measures that minimise the potential for environmental harm ensure plant, equipment and measures are maintained in a proper and effective condition
    3. ensure plant, equipment and measures are operated in a proper and effective manner
    4. ensure that staff are trained and aware of their obligations under the *Environmental Protection Act 1994*
    5. ensure that reviews of environmental performance are undertaken at least annually.
c. **Condition WA1** of the EA which states:
Other than as permitted within this environmental authority, contaminants must not be released to any waters.
d. **Condition WA2** of the EA which states:
Erosion protection measures and sediment control measures must be implemented and maintained to minimise erosion and the release of sediment.
e. **Condition G10** of the EA which states:
Chemicals and fuels in containers of greater than 15 litres must be stored within a secondary containment system.
f. **Condition L2** of the EA which states:
Other than as permitted within this environmental authority, contaminants must not be released to land.

2. In accordance with section 358(e)(iii) of the EP Act, to require you to take reasonable measures to secure compliance with section 440ZG of the EP Act. Section 440ZG of the EP Act states the following:
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

(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'.

The facts and circumstances forming the basis for these grounds are:

1. You occupy land described as Lot 10 Plan SP308968, located at 2403 Blackwater Cooroorah Rd, Blackwater QLD 4717 (the premises).
2. Blackwater Quarries Pty Ltd (you) are the holder of Environmental Authority (EA) EPPR00510013 issued on 19 April 2023, which authorises the following activities at the premises:
    1. Environmentally relevant activity ERA 16(2)b - extracting, other than by dredging, in a year more than 100,000t but no more than 1,000,000t
    2. Environmentally relevant activity ERA 16(3)b screening, in a year more than 100,000t but no more than 1,000,000t
3. The issue of an EEO is an environmental management decision. Under section 31 of the *Environmental Protection Regulation 2019*, activity is defined as including that part, if any, of an activity relating to the following – (a) preparing a place for the activity before carrying out the activity; (b) rehabilitating a place after it has been used for the carrying out the activity.
4. The department considers the chemical and fuel storage as well as the management of stormwater and sediment and erosion controls on the premises, is part of the activity as it is relevant to your extractive operations permitted under your EA.

Relevant to Ground 1 – Erosion and sediment control (conditions WA2, G9)

5. On 19 March 2025, you provided the department with the written procedures titled Blackwater Quarries Pty Ltd – Environmental Management Plan.
6. The Blackwater Quarries Pty Ltd – Environmental Management Plan states that "run off from disturbed areas must be filtered prior to discharge to storm water or waterways. Sediment control devices should be located up gradient of sensitive areas such as creeks, steep embankments, and storm water inlets" and that "All sediment control structures need to be adequate in size to cope with the amount of water anticipated and regularly maintained".
7. On 24 March 2025, authorised persons of the department attended the premises to conduct a compliance inspection. Persons observed the following evidence of inadequate erosion controls:
    i. A gravel stockpile was situated on the premises uphill from the Mackenzie Creek. No erosion controls surrounding the stockpile had been implemented and evidence of gravel travelling downhill was noted.
    ii. At the location of the premises known as the Levee Road lookout point, a large hole was eroded through to the hill leading to Mackenzie Creek. There were no controls to prevent further erosion or access for runoff water.
    iii. Multiple areas of the levee road had recently been patched with fine gravel that was loose and unstable. Behind the new bunding, authorised persons observed substantial erosion and slope blowout, indicating a lack of bunding maintenance causing increased concentration of runoff in these sections. Persons noted a path of gravel and earth material to be leading from these sections to Mackenzie Creek.
8. During the inspection, Blackwater Quarries representatives informed authorised persons that the bunding had been installed during the weekend before the inspection (within one to two days) and agreed the new material was not stable.
9. On 24 March 2025, authorised persons contacted Blackwater Quarries representatives to express the concern for the new bunding with a prolonged period of rain forecasted. Blackwater Quarries representatives stated they could remove and replace the bunding with appropriate material before the site received rainfall.
10. On 26 March 2025, Blackwater Quarries representatives contacted the department to confirm that the fine bunding material had been removed and replaced with larger and therefore less erodible rock material.

11. On 14 April 2025, in correspondence with the department, Blackwater Quarries representatives stated the uncontained gravel stockpile had been removed and relocated to a dedicated stockpile area within the controlled catchment.
12. By failing to implement and maintain sediment and erosion control measures appropriately the department is satisfied that you have failed to comply with condition WA2 of the EA.

Relevant to Ground 1 & 2 – Release to waters (condition WA1, Section 440ZG of the act)

1. As established above, sediment from the activity has been unlawfully deposited into the Mackenzie River via drainage as a direct cause of the failure to maintain sediment and erosion controls on site.
2. As per section 440ZG of the Act, to deposit a contaminant in waters includes releasing the contaminant or to placing in a way so the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters.
3. As per the definitions within the environmental authority EA EPPR00510013, to release a contaminant into the environment includes to fail to prevent the contaminant from being deposited, discharged emitted or disturbed.
4. Sediment is a prescribed water contaminant under section 440ZF and Schedule 10 item (6) of the *Environmental Protection Regulation 2019*.
5. Furthermore, the department considers that further rain is likely to result in future releases of stormwater contaminated with sediment being released from the premises due to inadequate sediment and erosion control measures
6. By failing to implement and maintain sediment and erosion control measures appropriately, it is alleged that you have released sediment to waters in contravention of section 440ZG(a) (iii) of the EP Act and condition WA1 of the EA.

Relevant to Ground 1– Contaminant release to land (conditions L2)

1. The Blackwater Quarries Pty Ltd – Environmental Management Plan previously references instructions to "Ensure spillage controls are in place to prevent or limit environmental contamination, and that ventilation is adequate for storage, handling and use".
2. On 24 March 2025, authorised persons of the department attended the premises to conduct a compliance inspection.
3. During the inspection the authorised persons observed contaminants being released to land via the following:
    i. One (1) intermediate bulk container (IBC) unit was leaking diesel onto the ground.
    ii. One (1) waste oil bin was leaking oil.
    iii. Waste oil grime was observed between the diesel tank, concreted bund and around the chemical containment storage shed.
4. On 14 April 2025, in correspondence with the department, you provided an action plan to address the alleged contravention of EA condition L2, stating the removal of contaminated soil had been completed and was awaiting removal.
5. As per the definitions within the environmental authority EA EPPR00510013, to release a contaminant into the environment includes to fail to prevent the contaminant from escaping.
6. By failing to prevent the hydrocarbons from escaping confinement and entering the land it is alleged that you have contravened condition L2 of the EA.

Relevant to Ground 1– Secondary containment system (conditions G10)

1. On 24 March 2025, authorised persons of the department attended the premises to conduct a compliance inspection.
2. During the inspection, authorised persons observed the following containers which contained over 15 litres of fuels/chemicals were stored outside of a secondary containment system:
    i. Multiple Intermediate bulk container (IBC) units containing diesel were double stacked on wallet pallets, and one of these units was observed to be leaking diesel to land.
    ii. Multiple IBC units containing a biodegradable dust suppression additive were stored directly on land.
    iii. A single IBC unit containing detergent was stored on the ground.
3. On 14 April 2025, in correspondence with the department, you provided an action plan to address the alleged contravention of EA condition G10, these included:
    i. The removal and disposal of IBC units by a licensed contractor.
    ii. The installation of a new secondary containment system for required hydrocarbon storage.
    iii. Audit and test of existing hydrocarbon bunds to be undertaken with following rectification works when required.
4. By failing to store the aforementioned IBC units inside a secondary containment system, it is alleged that you have contravened condition G10 of the EA. Furthermore, due to the way you are operating the premises, the department considers that there is an additional risk of soil contamination from activities at your premises which is not being appropriately managed and is causing or likely to cause environmental harm.

Relevant to all

1. The department considers it necessary to require you to take reasonable measures to fulfill your GED and to achieve compliance with conditions G10, L2, WA1 and WA2 of your EA.
2. This EEO takes effect from the date served and remains in force until stayed, amended, revoked or finalised.
3. The EEO was issued on **16 May 2025.**

Definitions that apply to this notice:

Activity means the environmentally relevant activities, whether resource activities or prescribed activities, to which the environmental authority relates**.**

Administering authority means the Department of the Environment, Tourism, Science and Innovation or its successor or predecessors**.**

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.
The appropriately qualified person(s) should have, or collectively have, the following capabilities:

a) A detailed understanding of relevant sections of the following guidelines and legislation:
    i) *Environmental Protection Act 1994* and *Environmental Protection Regulation 2019*
    ii) Environmental Protection (Water and Wetland Biodiversity) Policy 2019
    iii) Stormwater and Environmentally Relevant Activity Guideline 2024
    iv) Queensland Urban Drainage Manual 2017
    v) IECA (2008) Best Practice Erosion and Sediment Control
b) An understanding of hydrology and hydraulics, including the ability to size and determine stabilisation requirements of drainage structures and treatment devices.
c) An understanding of soil as it relates to revegetation and erosion. Specifically, the ability to conduct an effective soil sampling program, interpret results and design management strategies to address problems soils (pH, sodic, dispersive, and saline).
d) An understanding of appropriate use of the revised universal soil loss equation (RUSLE) to estimate soil loss.
e) An understanding of the erosion, drainage and sediment controls considered best practice in Australia, and knowledge on the correct installation, operation and maintenance of these controls.

General environmental duty 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 *Environmental Protection Act 1994*).

Land means any land, whether above or below the ordinary high-water mark at spring tides (i.e. includes tidal land).

Measures means as defined under the Environmental Authority EPPR00510013

Premises means Lot 10 Plan SP308968

Release of a contaminant into the environment means as is defined under the Environmental Authority EPPR00510013

Secondary containment system means a system designed, installed and operated to prevent any release of contaminants from the system, or containers within the system, to land, groundwater, or surface waters.

Waters means as defined under the Environmental Authority EPPR00510013

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.

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. 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.

Review and appeal rights

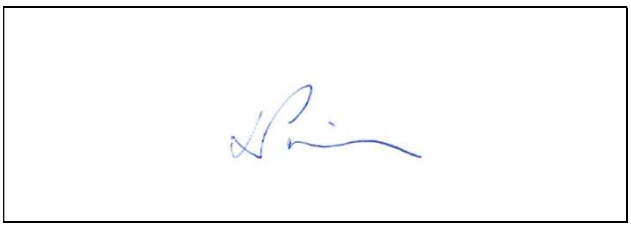
Under Chapter 3, Part 11 of the Act, a dissatisfied person may apply for a review of this EEO within 10 business days of receiving this EEO; and a dissatisfied person who is dissatisfied with the review decision may appeal against the decision to the Court within 22 business days after receiving notice of the review decision. You may have other legal rights or obligations and should seek your own legal advice.

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 and Science: 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.

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.

Pursuant to section 540 of the Act, the department is required 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 alteration 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.



Louise Pinn

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

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