Notice

Environmental Protection Act 1994

Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Cannon and Connelly Investments Pty Ltd
Townsville Bulk Storage and Handling
26 Balmoral Dr NORTH WARD QLD 4810

Your reference: EPPR01522413, STAT1065

Our reference: CA41823

13 October 2016

Dear Ms Connelly,

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Cannon and Connelly Investments Pty Ltd trading as Townsville Bulk Storage and Handling (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

The EPO is issued in respect to the activities of Cannon and Connelly Investments Pty Ltd (Townsville Bulk Storage and Handling) on land described as Lot 448 Plan SP126597, Lot 449 Plan SP126587, Lot 450 Plan 126597 and Lot 460 Plan SP242513 situated at Berth 10, Lennon Drive of the Port of Townsville (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. Section 358 (d) (i) of the Act states that the administering authority may issue an EPO to secure compliance with the general environmental duty; and
2. Section 358 (d) (iii) of the Act states that the administering authority may issue an EPO to secure compliance with a condition of an environmental authority.

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

1. On 25 May 2016 the Department of Environment and Heritage Protection (EHP) issued Environmental Authority (EA) EPPR01522413 to Cannon and Connelly Investments Pty Ltd (Cannon and Connelly) trading as Townsville Bulk Storage and Handling (TBSH). The EA was assessed and conditioned based

ABN 46 640 294 485

on the information provided in the application titled "Application for Amendment of Environmental Authority EPPR01522413 version 1.6 dated 10 March 2016".

2. On 8 June 2016, TBSH advised EHP that certain equipment (namely the Page and McRae Hopper equipment) that was detailed in the application for use when unloading Zinc concentrate would not be available and commissioned until October or November 2016.
3. On this basis, TBSH proposed an interim arrangement involving the use of an industrial dust collection unit modified for an existing hopper and grab, in order to carry out unloading of Zinc concentrate shipments prior to the commission of the new hopper equipment.
4. On 29 July 2016 there was a meeting between TBSH and EHP. At this meeting EHP raised concerns regarding the interim method of unloading proposed to be used while the new hopper technology is not available and specifically that the same level of emission controls will not be in place, increasing the potential for release of mineral concentrate to the environment in contravention of the EA requirements.
5. On 2 August 2016 EHP outlined its concern in a letter sent to TBSH regarding the method of loading proposed to be used while the new hopper technology is not available and specifically that the same level of emission controls will not be in place, increasing the potential for release of mineral concentrate to the environment in contravention of the EA requirements.
6. On 10 August 2016 TBSH commenced a Zinc concentrate unloading operation at Berth 10 - Port of Townsville.
7. On 11, 16 and 19 August 2016 EHP officers undertook site inspections to evaluate the Zinc unloading operation undertaken at Berth 10 - Port of Townsville. Also in attendance at the time of the inspections was Peta Connelly, Sonia Brown, and Mark Zwisler of TBSH, Ken Dunlop and Matthew Ferns of Sun Metals Corporation.
8. At the inspection on 11 August 2016 EHP authorised officers observed visible dust emissions occurred during operations associated with the closing of the trailer lids, where concentrate residue had collected around the top of the trailers in contravention of condition B3.5 of the EA, which states:

   "There must be no visible dust emission from any loading, unloading or storage activity".

   EHP considers that the unloading activity includes the use of trailers when associated with the unloading of Zinc concentrate.
9. On 11 August 2016 whilst onsite TBSH advised that the continuous real time monitoring (Dustrak and neighbourhood monitor) being used onsite to monitor the unloading event was, for periods of time, offline. Further, in an email from TBSH of 24 August 2016 and documented in the TBSH audit report of 19 August 2016, TBSH state that the real time monitoring (Dustrak and neighbourhood monitor) was offline for periods of time. EHP considers this to be a contravention of B3.16 of the EA, which states:

   "Continuous, real-time air quality monitoring must be undertaken during ship unloading activities that involve Zinc concentrate.

   Monitoring must be undertaken:

   a) For the duration of each ship.

   b) At a minimum of two (2) separate locations simultaneously, that provide results representative of the emissions from the unloading of each ship."
10. On 24 August 2016 TBSH notified EHP that power to the nearfield Hi Volume air samplers located on the Western side of Berth 10 was cut off at approximately 18:30 on 22 August 2016 resulting in air quality samples at this location being less than 24 hours in duration for the TSP and PM10 samples

taken 21 August 2016 to 22 August 2016. EHP considers this to be a contravention of condition B3.7 of the EA, which states:

"Air quality monitoring must be undertaken during ship loading and unloading activities that involve the mineral concentrate products specified in Schedule A - Table 1.2 Scale of activity.

Monitoring must be undertaken:

a) For all of the contaminants specified in Schedule B - Table 2.2a – Ambient Air Quality Trigger Values and Limits; and

b) For the duration of the loading and unloading of each ship or for two (2) consecutive 24 hour periods during the loading and unloading of each ship; and

c) At a minimum of two (2) separate locations simultaneously, that provide results representative of the emissions from the loading and unloading of each ship".

11. EHP has reviewed the results from the continuous metals analyser (Xact) that is installed at the Townsville Coast Guard air monitoring station for the period where the unloading activity was being carried out on Berth 10. These results show that high levels of Zinc and elevated levels of Lead (as both a one hour average and 24 hour rolling average) were recorded while the unloading activity was being carried out. The wind direction during these periods where elevated results are recorded also correlates strongly with activity on Berth 10.
12. EHP has considered all mineral concentrate unloading and loading activities undertaken at the Port of Townsville within the period of 8 August 2016 to 24 August 2016 corresponding to the period for which TBSH was undertaking the unloading of Zinc concentrate.
13. Information gathered by EHP indicates that between 11 August 2016 10:15am and 23 August 2016 06:18am there were no other Zinc concentrate ship loading activities occurring. Over this time, there are several periods where high Zinc levels are recorded and wind direction correlates with activity on Berth 10.
14. EHP is aware that a Lead concentrate ship loading event occurred between 13 August 2016 and 15 August 2016, while TBSH were undertaking the unloading activity on Berth 10. However, the Lead results recorded during this time do not indicate that the Lead loading activities contributed significantly to the elevated Zinc results that were recorded.
15. EHP considers that the air quality results indicate that the dust mitigation measures implemented during the Zinc concentrate unloading on Berth 10 are not sufficiently effective at mitigating dust emissions from the operation.
16. EHP is aware that the new hopper technology has not yet arrived in Townsville and TBSH has proposed to import Zinc concentrate again using the interim hopper technology.
17. Based on the facts and circumstances outlined above EHP do not consider that all reasonable and practicable measures have been taken to prevent or minimise environmental harm. Measures are required to ensure TBSH complies with conditions B3.5, of the EA.

B. Requirements

In accordance with this EPO, you are required to do the following:

1. Immediately upon receipt of this notice you must not undertake any Zinc concentrate unloading at Berth 10 Port of Townsville until such time as the full suite of emission controls and environmental monitoring that was specified in application document "Application for Amendment of Environmental Authority

EPPR01522413 version 1.6 dated 10 March 2016" is available, commissioned and is being utilised. This specifically includes the use of the Page and McRae Hopper equipment referred to above and in the application material.

C. Obligations

If you propose to dispose of the place or business to which the EPO relates, you **must** advise the buyer of the existence of this EPO.

If you cease to carry out the activity to which this EPO relates, you **must** give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity.

Take notice:

- the requirements of this order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

2. The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $$761,875.00 or five years imprisonment.
3. The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3,809,375.00.
4. The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $548,550.00
5. The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $$2,742,750.00

Failure to provide written notice to the buyer is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $6095.00.
- The maximum penalty for a corporation is 250 penalty units, totalling $30,475.00.

Failure to provide written notice within 10 business days of ceasing the activity to the department is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $6,095.00.
- The maximum penalty for a corporation is 250 penalty units, totalling $30,475.00.

Section 3 of the Penalties and Sentences Regulation 2015 prescribes the monetary value of a penalty unit.

E. Reviews and appeals

The provisions regarding review of decisions and appeals may be found in sections 519 to 539 of the Act.

A person who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must be made:

- within 10 business days of the decision being notified to the person;
- be supported by enough information to enable the department to decide the application for review; and

- be made using the application for review of an original decision form (ESR/2015/1573).[1]

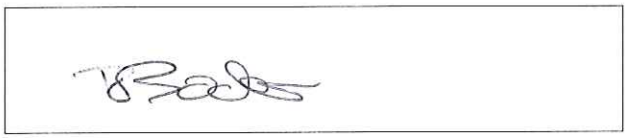
Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

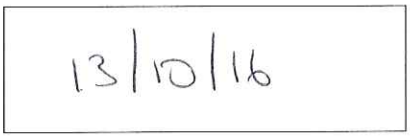
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (ESR/2015/1572). You may have other legal rights or obligations and should seek your own legal advice.

Should you have any queries in relation to the notice, please contact Team Leader Nina Henney on telephone number 47225303.



Signature



Date

Rebecca Booker

A/Manager (Compliance)

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

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