Notice

Environmental Protection Act 1994

Direction Notice

This direction notice is issued by an authorised person pursuant to section 363B of the Environmental Protection Act 1994.

BHP Coal Pty Ltd
Level 14, 480 Queens Street
BRISBANE QLD 4000

Your reference: EPML00853413

Our reference: CR79495; 101/0000131; STAT1208

8 September 2017

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to BHP Coal Pty Ltd (you) by an authorised person under section 363B of the *Environmental Protection Act 1994*.

The direction notice is issued in respect to the activities of BHP Coal Pty Ltd at Goonyella Riverside and Broadmeadow Mine on land described as ML1763, ML1764, ML1802, ML1900, ML70038, ML70121, ML70193, ML70194, ML70287, ML70288, ML70289, ML70468, ML70493, ML70494, ML70469, ML70478, ML70479, ML700003 and ML70421 (part).

A. Grounds

The direction notice is issued on the grounds that the authorised person reasonably believes that:

1) you have contravened a prescribed provision, being section 440ZG of the Act and depositing a prescribed water contaminant into water; and
2) the matter relating to the contravention can be remedied and it is appropriate to give you an opportunity to remedy the matter.

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

1) On 5 July 2017, BHP Coal Pty Ltd notified the department of an unauthorised release of mine affected water and sediment from Goonyella Riverside Mine into the Isaac River.

   a) Internal investigations by BHP Coal Pty Ltd have revealed the release occurred whilst an active pit was being de-watered, and sediment and silt (spoil and overburden material) built up in the drain system (super drain) that transports the water to the main water storage facility. This caused mine affected

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water and sediment to backflow into the Ramp 6 water catch drain and then into the clean water drain. The mine affected water and sediment then flowed into the Isaac River.

b) On 17 August 2017, authorised officers conducted an inspection at Goonyella Riverside and Broadmeadow Mine and observed that the downstream extent of the release of sediment and mine affected water from Goonyella Riverside Mine was ~2.5km (GPS location 21°48'40.43"S 147°59'40.10"E) from where it entered the Isaac River. BHP Coal Pty Ltd representatives advised authorised officers that this area was considered to be the downstream extent of the release.

c) On 17 August 2017, the inspection identified that mine affected water and sediments (a grey, thick material) released to the Isaac River was present in an area of pooling within the Isaac River ~80m in length with dried sediments observed further upstream of the extent within the Isaac River bed. BHP Coal Pty Ltd representatives advised authorised officers that the material was visually indicative of the sediment that was released during the incident.

d) The department is satisfied that the notification from BHP Coal Pty Ltd and subsequent inspection by the department on 17 August 2017, demonstrate that BHP Coal Pty Ltd permitted prescribed water contaminants, being mine affected water and sediments (Item 3, Schedule 9 of the Environmental Protection Regulation 2008), to be deposited to waters identified as the Isaac River.

B. Reasonable steps

The authorised person considers that the following reasonable steps are necessary to remedy the contravention and avoid further contravention of the prescribed provision:

Requirements	Completion Date
1. BHP Coal Pty Ltd must complete the following: a) Remove the sediment that remains in the Isaac River following the unauthorised release event, at the furthest extent of the release (21°48'40.43"S 147°59'40.10"E), as identified during the inspection on 17 August 2017. Works must be undertaken in a way which maintains the stability of the river bank. b) Implement controls that adequately manage the risk of the remaining unconsolidated sediment in the 'Old Isaac River' that could resuspend and migrate downstream in a rain event. c) Conduct a complete video survey or photographic log of the Isaac River bed commencing at the location where sediments and mine affected water entered the Isaac River to the furthest downstream extent of the release. This is to demonstrate that all reasonable and practicable measures have been completed regarding the clean-up of mine affected water and sediments released to the Isaac River. d) Provide the department of copy of the complete video survey or photographic	9 October 2017

	log upon the completion of the Isaac River clean-up.	
2.	Identify the measures required to prevent the ongoing deposition of a prescribed water contaminant (sediment) to the Isaac River. The measures must include: a) Interim containment of sediment currently in the 'Old Isaac River'; b) Short and medium term maintenance and measure requirements for the drainage structures associated with the super drain, Ramp 6 out of pit dump dirty water drain and clean water drain, to ensure functionally, efficiency and stability during flow events. Maintenance and measure items includes: - maintenance (including repair or replacement) of pumping infrastructure; - raising the height of protective bunds; - adequate earthwork maintenance of protective bunds and drainage channels; - the removal of trees or vegetation on protective bunds and in drainage channels to reinstate the design purpose and integrity of the structures, and - maintenance of drainage systems and culverts used to divert clean water or mine affected water in operational areas of the mine.	15 November 2017
3.	Revise the Water Management Plan and the Erosion and Sediment Control Plan for Goonyella Riverside Mine to include any recommendations, actions and risk management strategies identified as a result of Requirement 2 of this notice. This should include immediate actions to mitigate harm as well as any proposed alterations to ongoing management practices.	15 November 2017
4.	By **Wednesday 29 November 2017**, BHP Coal Pty Ltd must submit a report to the administering authority to demonstrate compliance with requirements 1, 2 and 3. The report must: a) detail the findings and actions taken for all requirements of this notice; b) include the timing for completion of any large scale works identified by the requirements of this notice and that have not been completed by the due date of the report; c) include photographs of the completed works, and d) be submitted via email to cwes_mackay@ehp.qld.gov.au.	29 November 2017

Take notice:

The requirements of the direction notice take effect immediately upon service of the notice

This notice remains in force until further notice from the department.

C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are 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
- be made using the application for review of an original decision form (EM709).[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 to 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 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 (EM1866). You may have other legal rights or obligations and should seek your own legal advice.

D. Penalties

Failing to comply with a direction notice is an offence unless the person has a reasonable excuse.

- The maximum penalty for a corporation for wilfully contravening a direction notice is 8325 penalty units, totalling $980,685.
- The maximum penalty for a corporation contravening a direction notice is 3000 penalty units, totalling $353,400.

Section 2B of the Penalties and Sentences Regulation 2005 prescribes the monetary value of a penalty unit.

The department may also consider alternative compliance or enforcement action in relation to the offences that are the subject of this notice.

Should you have any queries in relation to the notice, please contact Scott Netuschil on telephone number 07 4999 6888.

[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.ehp.qld.gov.au>.

Signature

8 SEPTEMBER 2017

Date

Tony Baker

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Department of Environment and Heritage Protection

Environmental Protection Act 1994

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