

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.

Peabody Coppabella Pty Ltd
Level 5, 100 Melbourne Street
SOUTH BRISBANE QLD 4000

Your reference: STAT1241, EPML00579213

Our reference: STAT1241, CA47165, CA47132, 101/0000025

23 November 2017

Dear Directors

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Peabody Coppabella Pty Ltd (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 Peabody Coppabella Pty Ltd (Peabody) at Coppabella Coal Mine on land described as ML70161, ML70163, ML70164, ML70236, ML70237 and PL1015, and the bed and banks of defined watercourses Thirty Mile Creek and Harrybrandt Creek.

A. Grounds

This EPO is issued on the following grounds:

- You have contravened a prescribed provision, being section 440ZG of the Act and deposited a prescribed water contaminant into water;
- You have contravened your general environmental duty, being section 319 of the Act;
- To secure compliance with condition G1 of the Environmental Authority EPML00579213 (the EA);
- To secure compliance with condition G2 of the EA;
- To secure compliance with condition G11 of the EA;
- To secure compliance with condition G27 of the EA; and
- To secure compliance with condition G34 of the EA.

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

- On 28 September 2017, departmental officers conducting a compliance inspection at Coppabella Coal Mine observed a release of contaminants to Thirty Mile Creek downstream of the Thirty Mile Creek haul road crossing.
- On 6 October 2017, departmental officers conducted a follow up inspection at Coppabella Coal Mine to confirm the cause of the release of contaminants and the risks associated with the contaminants. During the inspection departmental officers were advised by Peabody representatives that contaminants deposited downstream of the Thirty Mile Creek haul road crossing were likely to be from a runoff/erosion event that occurred during Tropical Cyclone Debbie (March 2017) and subsequent rainfall events that followed.
- Departmental officers conducted a broader visual inspection of Thirty Mile Creek and observed contaminants entering Thirty Mile Creek at the Thirty Mile Creek haul road crossing, further upstream of the Thirty Mile Creek haul road crossing and at the south diversion channel of Thirty Mile Creek.
- Departmental officers observed initial clean-up works that had been conducted by Peabody at the downstream side of the Thirty Mile Creek haul road crossing and walked 400 metres downstream to establish the extent of the release. Contaminants observed during the inspection on 28 September 2017 had mobilised downstream following rainfall received earlier in the week.
- On 20 October 2017 the department issued Peabody Coppabella Pty Ltd with Direction Notice (STAT1233) to conduct clean up works to remove contaminants deposited within Thirty Mile Creek and to implement immediate controls to adequately manage the risk of contaminants entering Thirty Mile Creek within the mining lease.
- On 31 October 2017, you contacted the department to advise that due to a significant rain event on 30 October 2017, (Coppabella Mine Site received 50mm between 1pm and 10.45pm) a further release of contaminants to Thirty Mile Creek had occurred. You advised that the release of contaminants had occurred due to an underestimation of the catchment size associated with the run of mine (ROM) pad and the controls required for the management of the catchment to mitigate reoccurrence of release events.
- On 3 November 2017, the Direction Notice was reissued to Peabody Coppabella Pty Ltd with a revised completion date for Requirement 1 (17 November 2017) to accommodate the additional clean-up on the mining lease.
- On 6 November 2017 you submitted a report titled '*Thirty Mile Creek Runoff Initial Overview*'. The report contained maps showing investigation locations where visual observations and water and sediment sampling had been conducted. The report also included photographs of the bed of Thirty Mile Creek and Harrybrandt Creek from the point of release within the Coppabella Coal Mine site downstream to the Harrybrandt Creek Fitzroy Development Road crossing.
- On 9 November 2017, departmental officers conducted an inspection of Thirty Mile Creek and Harrybrandt Creek and met with potentially impacted landholders downstream of Coppabella Coal Mine to determine the downstream extent of the contaminant release.
- On 15 November 2017, you submitted a request to extend the timeframes in the Direction Notice. Following initial clean-up and the subsequent catchment review conducted by you, it was identified that

the scope of works had increased substantially from the initial implementation of the Direction Notice due to contaminants being released offsite.

- The department's investigations into the matters have indicated alleged contraventions of sections 319, 430 and 440ZG of the Act. The department subsequently considers the releases of contaminants from Coppabella Coal Mine to Thirty Mile Creek and Harrybrandt Creek to be unlawful acts.

B. Requirements

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

Requirements	Completion Date
1. Contaminants must not be released directly or indirectly to any waters as a result of the authorised mining activities, except as permitted under the conditions of the environmental authority.	Within 24 hours
2. The recipient of this notice must develop and submit to the administering authority a risk assessment. The risk assessment must include but not be limited to the following: a. Identification of the environmental values and potential for environmental harm in both Thirty Mile Creek and Harrybrandt Creek potentially impacted by the release of contaminants; b. Evidence of correspondence between the recipient of this notice and potentially impacted landholders; c. Identification and evidence of any other approvals required to undertake works within a watercourse; and d. Schedule of works including timeframes required to implement any actions resulting from the risk assessment.	12 January 2018
3. The recipient of this notice must implement the findings and complete all works identified in Requirement 2.	9 February 2018
4. The recipient of this notice must submit to the administering authority an updated Erosion and Sediment Control Plan and Water Management Plan that includes any works, monitoring or outcomes resulting from completion of Requirements 2 and 3.	16 February 2018
5. The recipient of this notice must submit to the administering authority a report to demonstrate compliance with the requirements of this notice. The report must: a. Detail the findings and actions taken for all requirements of this notice; b. Include photographs and maps where works have been completed; and c. Detail any ongoing downstream landholder consultation required.	23 February 2018
6. Any written notification or submission to the administering authority required by this notice must be provided to the administering authority via email at cwes_mackay@ehp.qld.gov.au or post PO Box 2001 Mackay, QLD 4740.	As required

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:

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

D. Penalty

Failure to comply with an EPO is an offence.

1. The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling \$788,437.50 or five years imprisonment.
2. The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$3,942,187.50.
3. The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$567,675.00.
4. The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,838,375.00.

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

1. The maximum penalty for an individual is 50 penalty units, totalling \$6,307.50.
2. The maximum penalty for a corporation is 250 penalty units, totalling \$31,537.50.

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

3. The maximum penalty for an individual is 50 penalty units, totalling \$6,307.50.
4. The maximum penalty for a corporation is 250 penalty units, totalling \$31,537.50.

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:

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

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3. 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.

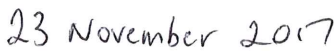
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

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 Alisha Stewart on telephone number (07) 4999 6883.



Signature



Date

Rebecca Munro
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Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

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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.