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.

Scotbar Pty Ltd
611 – 613 Seventeen Mile Road
HELIDON QLD 4344

Our reference: CA41922; 101/0007825

19 December 2017

Dear Sir/Madam

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Scotbar 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 Scotbar Pty Ltd at Brisbane Rock Sales on land described as Lot 154 on CA311380, Lot 141 on CA311273 and Lot 95 CSH352 situated at 613 Seventeen Mile Road, Helidon Qld 4344 (the premises).

A. Grounds

This EPO is issued on the following grounds:

- to secure compliance with the conditions of an environmental authority (EA), namely condition General 3 and Land 7 of EA ENRE00874709/IPCE00182505A11 (EPPR00808913); and
- to secure compliance with the General Environmental Duty (GED) under s. 319 of the Act.

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

EA ENRE00874709 / IPCE00182505A11

- Scotbar Pty Ltd holds EA ENRE00874709/IPCE00182505A11 and undertakes the ERA to which the EA relates.
- Condition General 3 of ENRE00874709/IPCE00182505A11 states —

  "*The ERA by itself or in combination with mining activities on the site must not cause more than 20Ha of* ***significantly disturbed land*** *at any one time.*"
- Definition, *significantly disturbed land* of ENRE00874709/IPCE00182505A11 is:

  "**Significantly disturbed land**" or words to that effect means—

ABN 46 640 294 485

(a) contaminated land; or

(b) land has been disturbed and human intervention is needed to rehabilitate it including —

- land, mine or quarry workings from which ore, rock or overburden has been extracted or on which waste rock or product stockpiles are stored;
- screening plant, cutting equipment, processing areas, workshop areas, areas under temporary infrastructure (e.g. roads, lay down/ hardstand areas, culverts, buildings, with are to be removed when mining / quarrying ceases);
- tailing / fines storage areas and dams;
- areas where soil has been compacted, removed, covered, exposed or stockpiled;
- areas where disturbance has made the land more susceptible to erosion;
- areas where land use stability or capability has been diminished;
- areas that have not been rehabilitated in accordance with the rehabilitation plan and to the satisfaction of the administering authority.

- Scotbar Pty Ltd submitted an annual return to the department on 20 January 2017 advising (annotated) that Scotbar Pty Ltd has exceeded the total area of significantly disturbed land permitted under the conditions of EA ENRE00874709/IPCE00182505A11, estimating the total area of significantly disturbed land at 45 Ha across Lot 154 on CA311380, Lot 141 on CA311273 and Lot 95 CSH352.
- Scotbar Pty Ltd has failed to comply with the conditions of EA ENRE00874709/IPCE00182505A11.

<u>EA ENRE00874709/IPCE00182505A11</u>

- Scotbar Pty Ltd holds EA ENRE00874709/IPCE00182505A11 and undertakes the ERA to which the EA relates.
- Condition Land 7 of EA ENRE00874709/IPCE00182505A11 states:

  "Effective control measures must be implemented where necessary to minimise erosion and prevent the release of sediment to waters."
- On 20 January 2017 Scotbar Pty Ltd submitted an annual return for ENRE00874709 / IPCE00182505A11 indicating, annotated, that the measures to minimise erosion or the release of sediment to water.
- On 27 June 2017 Authorised Officer Rice attended the Scotbar Pty Ltd site, and while Mr Payne was not present at the site, officers observed and photographed this embankment. There was no evidence of works having been undertaken to stabilise the bank, with significant evidence of erosion. EHP officers could not see the sediment ponds because they were obscured by a number of *Eucalyptus* sp. saplings. The height of these saplings strongly indicated that no recent earthworks had been undertaken.
- Erosion and sediment control measures, comprising only a small sedimentation pond and silt fencing was evident along the southern boundary of ML50218. The sediment control pond is undersized, noting the size and batter slope of the adjacent stockpile, and the silt fencing is not properly maintained; typically overwhelmed by silt flowing across that barrier.
- On Wednesday 5th July 2017 Authorised Officer Rice telephoned Mr Payne during which Authorised Officer Rice discussed the works undertaken to stabilise the bank and repair erosion and sediment

control structures. Mr Payne advises that in the last week, a quantity of rock had been pushed over the side [of the batter slope] and that the company intended to construct new sedimentation ponds.

- On 17 August 2016, Departmental officers observed that the working pad, upon which extracted and mined materials are stored and process is situated on ML50218 (part of Lot 154 CA311380), is comprised of a large stockpile of overburden estimated at 15 metres high. The southern edge of that stockpile was not stabilised, and there is significant evidence of erosion occurring of the uncompacted material.
- Water leaving this part of the site flows into a creek to the south-west of the site. A flow-path into this creek from the erosion prone area was visible.
- I am satisfied that Scotbar Pty Ltd has not taken measures to prevent or minimise erosion and prevent the release of sediment to waters, in contravention of condition Land 7 of ENRE00874709/IPCE00182505A11 and the GED.

B. Requirements

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

Requirement number	Requirement
1	By 19 March 2018, Scotbar Pty Ltd must submit to the administering authority, a complete and final plan developed by a suitably qualified person showing— • all areas of significantly disturbed land over Lot 154 CA311380, Lot 141 CA311273 and Lot 95 CSH352 arising from mining or extractive activities (or activities ancillary to such activities); • an area of existing significantly disturbed land, not exceeding 20 Ha, to be reserved for mining or extractive purposes; • rehabilitation plans and objectives (Rehabilitation Plan) for the remaining significantly disturbed land within Lot 154 CA311380, Lot 141 CA311273 and Lot 95 CSH352 specifying performance criteria for implementation of the Rehabilitation Plan including performance and reporting intervals at a frequency not exceeding 6 monthly, and achieving completion by 19 December 2020. Note: **Suitably qualified person** means a person who has demonstrable professional qualifications, training, skills and/or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis on performance relating to the subject matter using the relevant protocols, standards, methods or literature.
2	By 6 February 2018, Scotbar Pty Ltd must close to extractive or mining activities all areas identified for rehabilitation under the Rehabilitation Plan, except to the extent that access to, or works within, the area is necessary to give effect to the Rehabilitation Plan submitted to the administering authority under Requirement 1.
3	Scotbar Pty Ltd must implement the Rehabilitation Plan submitted under requirement 1.
4	By 19 March 2018, Scotbar Pty Ltd must stabilise slopes to the southern end of ML50218, as identified in Attachment 1, and install effective erosion and sediment control structures to prevent release of sediment to waters.

5	Scotbar Pty Ltd must submit progress reports to the administering authority in accordance with the Rehabilitation Plan at the intervals specified in that plan.
6	Scotbar Pty Ltd must, within 5 business days of any of the following events, notify the administering authority, in writing, of each such event — • rehabilitation is not completed in accordance with the Rehabilitation Plan submitted under Requirement 1; • stabilisation works and installation of erosion and sediment control measures under Requirement 4 is completed.

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.

- The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $788,437.50 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3,942,187.50.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $567,675.00
- 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.

- The maximum penalty for an individual is 50 penalty units, totalling $6,307.50.
- 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.

- The maximum penalty for an individual is 50 penalty units, totalling $6,307.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.00.

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]

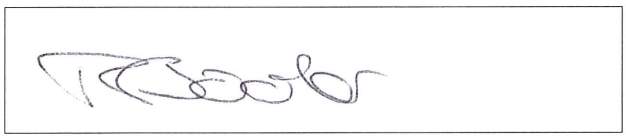
Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

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.

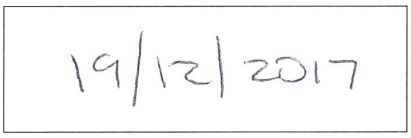
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

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 Mr John Rice on telephone number (07) 3894 8159.



Signature



Date

Rebecca Booker

Manager Compliance

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

Enquiries:

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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>.