

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.

Stanmore IP Coal Pty Ltd
Level 8 100 Edward Street,
BRISBANE CITY 4000

Your reference: CR81302, STAT1256

Our reference: CR81302, 101/0000179, COMP00323, STAT1256

31 January 2017

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

The direction notice is issued in respect your activities at Isaac Plains Coal Mine on land described as mining lease (ML) ML70342 (the premises).

A. Grounds

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

- you have contravened a prescribed provision, being 440ZG of the Act by unlawfully depositing a prescribed water contaminant, being uncharacterised spoil material including rock and sediment, into waters; and
- 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 15 November 2017, you contacted the Department of Environment and Science (the department) by telephone enquiring whether proposed activities to retrieve haul road material from Smoky Creek adjacent to a haul road at Isaac Plains Coal Mine was permissible.
2. On 16 November 2017, you submitted correspondence via email to the department regarding proposed works to retrieve haul road material (rock and sediment) from Smoky Creek. The correspondence stated

that material had washed off the haul road during previous rain events and that the material covers an area approximately 10-15 metres wide and extends 30-40 metres on the downstream creek bed.

3. On 21 November 2017, the department provided correspondence to you identifying non-compliances with environmental authority (EA) EPML00932713 specifically with regards to conditions A8, A10, A11, C1 and C39.
4. On 5 December 2017, you provided a response to the department stating that since January 2016, there has been eight events that had the potential to overtop the haul road and mobilise sediment from the haul road into Smoky Creek.
5. On 11 January 2018, departmental officers conducted an inspection at Isaac Plains Coal Mine to confirm the cause and extent of the release and the risks associated with the contaminants deposited into Smoky Creek.
6. During the inspection, departmental officers observed:
 - a. Uncharacterised spoil and sediment on the bed and banks of Smoky Creek on the upstream side of the haul road, for a distance of approximately 2 to 3 metres before the creek enters beneath the haul road via culverts.
 - b. The culverts which pass under the haul road are deteriorated, damaged and heavily blocked with uncharacterised spoil including cobble and sediment.
 - c. Uncharacterised spoil including wet grey silt and rubble has settled around the exit points of the culverts under the haul road.
 - d. Stormwater runoff from the haul road is being captured within the Smoky Creek catchment and released to Smoky Creek as mine affected water as defined by the EA.
 - e. Bunding/berms were insufficient and/or absent along the haul road as it passes over Smoky Creek.
 - f. Downstream of the haul road, the deposition of uncharacterised spoil observed within Smoky creek included large rocks and cobble ranging in size from small boulders to gravel and were black and grey in colour.
 - g. The extent of the uncharacterised spoil released to Smoky Creek was observed to be approximately 1.2km downstream of the haul road between GPS Zone 55 615589E 7569471S and GPS Zone 55 614942E 7569319S.
7. The department is satisfied that the inspection carried out on 11 January 2018 demonstrates that you permitted prescribed water contaminants, being mine affected water and uncharacterised spoil (Item 3 and item 6, Schedule 9 of the Environmental Protection Regulation 2008) to be deposited to waters identified as Smoky Creek.

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. Contaminants that will or have the potential to cause environmental harm 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 EPML00932713.	Within 24 hours
2. You must complete the following: a) Implement immediate controls that adequately prevent contaminants entering Smoky creek. Immediate controls may include temporary measures prior to the completion of requirement 3.	23 February 2018
3. You must complete the following: a) Clean-up works to remove contaminants (uncharacterised spoil and sediments) deposited within Smoky Creek between GPS locations Zone 55 615589E 7569471S and 615451E 7569430S. b) Works must be undertaken in a way which maintains the stability of the creek bank and minimises the removal of established vegetation. c) Conduct a video survey or photographic log of Smoky Creek from both sides of the haul road crossing of Smoky Creek (Zone 55 615589E 7569471S) to the downstream extent of the release of contaminants, including beyond the boundary of ML70342.	9 March 2018
4. Develop and implement a schedule of works that prevents the future release of contaminants to Smoky Creek. The works must include: a) Controls that adequately manage the risk of contaminants entering Smoky Creek from the haul road crossing (Zone 55 615567E 7569459S) and the downstream side of the Smoky Creek haul road crossing (Zone 55 614934E 7569320S). b) An inspection and maintenance program for the controls implemented to prevent the release of contaminants to Smoky Creek. The maintenance program must include: i. Adequate maintenance of protective bunds and drainage channels to maintain the design purpose and integrity of the structures; ii. Adequate maintenance of water management infrastructure to prevent the release of contaminants; and iii. Adequate routine inspections of water management infrastructure prior to and following rain events. Water management infrastructure includes culverts, sumps, drainage channels, sediment dams and storm water drains.	9 March 2018

5. You must submit a report to the administering authority to demonstrate compliance with requirements 2, 3 and 4. The report must be submitted via email address CWES_Mackay@ehp.qld.gov.au The report must: a) detail the actions completed for all requirements of this notice; and b) include photographs of any completed works and a copy of the video survey or photographic log as required by requirement 3(c)	23 March 2018
6. A suitability qualified person must develop an erosion and sediment plan and water management plan for Isaac Plains Coal Mine. The plans must include the actions and/or outcomes identified as a result of requirements 2, 3 and 4 of this notice. A copy of the Water Management Plan and Erosion and Sediment Control Plan must be provided to the department via email CWES_Mackay@ehp.qld.gov.au	23 March 2018

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*.

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>.

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 \$1,050,198.75.
- The maximum penalty for a corporation contravening a direction notice is 3000 penalty units, totalling \$378,450.00.

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

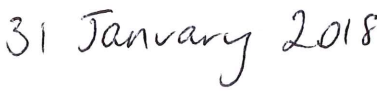
The department may also consider alternative compliance or enforcement action in relation to the offences that are the subject of this notice.

Should you have any queries in relation to the notice, please contact Wendy Welsh on telephone number 07 4999 6886.



Signature

Rebecca Munro
Manager (Compliance)
Department of Environment and Science
Environmental Protection Act 1994



Date

Enquiries:

Level 1 22-30 Wood Street,
Mackay QLD 4740
Ph: (07) 4999 6883
Email: cwes_mackay@ehp.qld.gov.au