

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.

David Oriel Industries Pty Ltd
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Email to
magnets@midcoast.com.au

Your reference: EPML00564113, CA49278

Our reference: STAT1266

12 April 2018 |

Dear David Orie|

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to David Oriel Industries Pty Ltd (DOI) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued in respect to the activities of DOI at the Pannikin Tin Project, on ML20633, on land described as Lot 4 on SP104555 situated within Wolverson Station. |

A. Grounds

This EPO is issued on the following grounds:

1. To secure compliance with the general environmental duty, which pursuant to section 319 of the Act requires that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. |

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

1. DOI is the holder of environmental authority (EA) EPML00564113 which authorises mining activities to be carried out at the Pannikin Tin Project located on ML20633 (the site).

2. The site is located within the Wolverton Station approximately 12km from the homestead. The site contains a processing plant, sediment dam, main water dam, sand and gravel stockpile areas, alluvial extraction area and a fuel storage area.
3. On 31 August 2017, DOI was issued a notice of proposed action (NoPA) to suspend environmental authority EPML00564113, for failure to comply with an annual notice by not paying the required annual fees.
4. The department provided DOI with multiple payment options, however the initial payment was not made by the proposed date of 31 January 2018.
5. On 12 April 2018, DOI was issued a Notice of Decision stating that EA EPML00564113 will be suspended from 12 April 2018 until the full amount of outstanding annual fees is provided.
6. There are significant risks of environmental harm associated with the activities that have been carried out at the premises. This includes, but is not necessarily limited to:
 - a) Environmental risks associated with equipment, plant and infrastructure utilised in the carrying out of the activities (e.g. chemical and fuel storages and machinery).
 - b) Environmental risks associated with the mobilisation of contaminants in stormwater runoff, which has been in contact with the significant mining disturbance at the site.
7. Active monitoring and management of these risks are required to mitigate the potential for environmental harm.
8. Until recently, the EA EPML00564113 set out the conditions required to prevent or minimise environmental harm. However, EA EPML00564113 is now suspended.
9. In the absence of ongoing management there is potential for contaminants to be released into the receiving environment, which may cause or be likely to cause environmental harm.
10. The "general environmental duty" requires that all reasonable practicable measures be taken to prevent or minimise environmental harm.
11. The department considers that an EPO is necessary to ensure that DOI implement all reasonable and practicable measures to prevent environmental harm from the release of contaminants associated with the site.

B. Requirements

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

1. Install all measures, plant and equipment necessary to ensure compliance with the requirements of this EPO; and maintain such measures, plant and equipment in a proper condition; and operate such measures, plant and equipment in a proper manner.
2. Provide verbal and written notification to the administering authority within 24 hours after becoming aware of any emergency, incident or event which does or may contravene a condition of this EPO.
3. Notification to the administering authority in accordance with condition (2), must be provided to the administering authority's Pollutions Hotline on 1300 130 372 and the PollutionHotline@ehp.qld.gov.au.
4. All explosives, hazardous chemicals, corrosive substances, toxic substances, flammable or combustible liquids and dangerous goods must be stored and handled in accordance with the current, relevant Australian Standard where such is applicable.

5. Submit a report to the department by 13 of May 2018 which spatially identifies all mining disturbance on the site, and as a subset, identifies those areas that will no longer be used for mining activities, other than rehabilitation (i.e. areas which have become available for rehabilitation). Justification is to be provided where disturbed areas are still intended to be used for non-rehabilitation mining activities.
6. Rehabilitation must commence progressively as areas become available.
7. Make reasonable efforts to provide safe and all-weather access to all monitoring locations required under this EPO. This must include providing the necessary site infrastructure required to gain safe all-weather access to monitoring locations during reasonably foreseeable events. The recipient of this EPO must also develop and implement contingency plans to facilitate sampling during extreme events where provision of site infrastructure is not practical.
8. The following information must be recorded in relation to all water monitoring required under the conditions of this EPO and submitted to the administering authority in the specified format when requested:
 - a) the date and time when the sample was taken;
 - b) the monitoring point where the sample was taken;
 - c) the results of all monitoring and details of any exceedances with the conditions of this EPO; and
 - d) all water quality monitoring data.
9. All determinations of water quality/sample analysis required under a condition of this EPO must be:
 - a) Performed by a person or body possessing appropriate experience and qualifications to perform the required measurements;
 - b) Made in accordance with methods prescribed in the latest edition of the administering authority's *Monitoring and Sampling Manual*;
 - c) Carried out on representative samples;
 - d) Collected from the monitoring locations identified in this EPO, within two hours of each other where possible; and
 - e) For laboratory determinations, carried out in a laboratory accredited (e.g. NATA) for the method of analysis being used.
10. Receiving waters must be monitored at the locations specified in Table 1 (*Receiving Water Reference Sites and Downstream Monitoring Points*) and identified on Schedule G Figure 1 for each quality characteristic and at the frequency stated in Table 2 (*Receiving Waters contaminant limits and frequency*) and comply with the contaminant limits defined in Table 2. If access to the monitoring sites outlined in Table 1 is not safe, DOI must document this and any evidence of inaccessibility to the sites.

Table 1 – Receiving Water Reference Sites and Downstream Monitoring Points

Water storage description	Description	Latitude	Longitude
Monitoring Point WS1A	Tin Creek on western boundary of ML20633	-13.364503°	142.984458°
Monitoring Point WS2A	Downstream from Dam and within Tin gully	-13.362843°	142.987709°
Monitoring Point WS3A	Upstream from dam and on track intersection, within Tin Gully	-13.365421°	142.996069°
Monitoring Point WS4A	Overland flow from plant site	-13.366408°	142.993131°

Monitoring Point WS5A	Tin gully	-13.370797°	142.003236°
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Table 2 - Receiving Waters contaminant limits and frequency

Quality Characteristic ¹	Contaminant Limit			Monitoring Frequency
	Initial	Interim	Final	
pH (pH units)	6.0 (minimum) 9.0 (maximum)			Monthly
Electrical conductivity (µS/cm)	1000 ⁸ or reference ^{2,3,4} , whichever is lower.	1000 ⁸ or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	1000 ⁸ or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Total Suspended Solids (mg/L)	Reference ^{2,3,4}	95 th percentile ^{9,10} of reference ^{2,3,5}	95 th percentile ^{9,10} of reference ^{2,3,6}	
Turbidity	Reference ^{2,3,4}	95 th percentile ^{9,10} of reference ^{2,3,5}	95 th percentile ^{9,10} of reference ^{2,3,6}	
Oils and greases	No visible film			
Arsenic (mg/L)	0.5 ^{1,7} or reference ^{2,3,4} , whichever is lower	0.5 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	0.5 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Cadmium (mg/L)	0.01 ^{1,7} or reference ^{2,3,4} , whichever is lower	0.01 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	0.01 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Copper (mg/L)	1 ^{1,7} or reference ^{2,3,4} , whichever is lower	1 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	1 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Iron (mg/L)	Reference ^{2,3,4}	95 th percentile ^{9,10} of reference ^{2,3,5}	95 th percentile ^{9,10} of reference ^{2,3,6}	
Lead (mg/L)	0.1 ^{1,7} or reference ^{2,3,4} , whichever is lower	0.1 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	0.1 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Mercury (mg/L)	0.002 ^{1,7} or reference ^{2,3,4} , whichever is lower	0.002 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	0.002 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Nickel (mg/L)	1 ^{1,7} or reference ^{2,3,4} , whichever is lower	1 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	1 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	
Tin (mg/L)	Reference ^{2,3,4}	95 th percentile ^{9,10} of reference ^{2,3,5}	95 th percentile ^{9,10} of reference ^{2,3,6}	
Zinc (mg/L)	20 ^{1,7} or reference ^{2,3,4} , whichever is lower	20 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,5} , whichever is lower	20 ^{1,7} or 80 th percentile ^{9,10} of reference ^{2,3,6} , whichever is lower	

- All metals and metalloids must be measured as total (unfiltered) concentrations.
- Reference sites as specified in Schedule E – Table 3 (Receiving Water and Stream Sediment Reference Sites and Downstream Monitoring Points).
- Trigger level must be based on reference samples taken during the same sampling event.
- The initial trigger level is based on a single sampling event and is the reference value obtained at the time of a release and applies until sufficient data is acquired to develop interim trigger levels.
- The interim contaminant trigger levels are based on the results of between 8 and 17 consecutive samples (calculated in accordance with ANZECC 2000) and apply until sufficient data is acquired to develop final trigger levels.
- The final trigger level is based on twenty four (24) consecutive samples (calculated in accordance with ANZECC 2000 (18 at a minimum)).
- For protection of stock drinking water, based on ANZECC 2000 stock watering guidelines.
- Based on information resulting from review of water quality in the Fitzroy Basin.

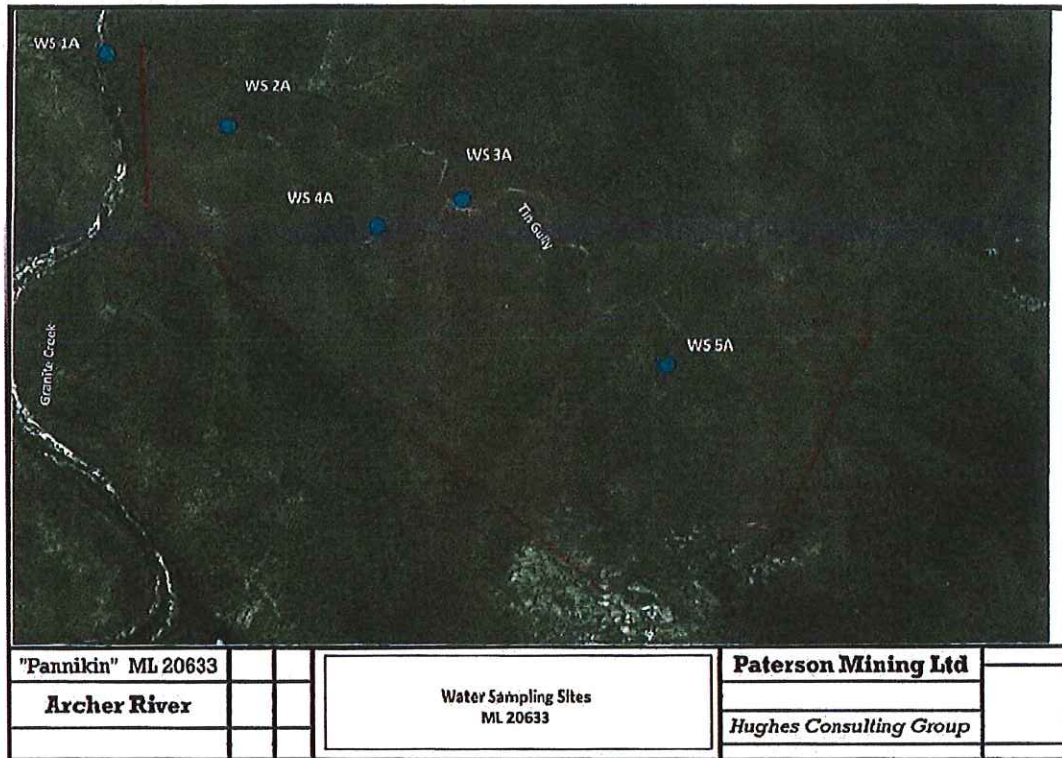
9. 95th percentiles are calculated using ANZECC 2000 methodology.
10. Based on results from the Receiving Environment Monitoring Program.

NOTES

- (a) All dissolved (filtered) samples must be obtained from field filtered grab samples.

Schedule G Figure 1: Monitoring Locations

Schedule G - Plan 1 (Surface Water Monitoring Locations)



11. In the event water samples are not taken due to insufficient flow in the watercourse, DOI must document this and any evidence of no flow in the watercourse including photographs.
12. The release of contaminants must not result in an exceedance of the receiving waters contaminant limits stated in Table 2.
13. The water management plan prepared by Hughes Consulting titled 'Water Management Plan for ML20633 MIN102701211' for the Pannikin Project at ML20633 must be implemented to ensure environmental harm is prevented or minimised.
14. The Erosion and Sediment Control Plan prepared by Hughes Consulting titled 'Erosion and Sediment Control Plan, Pannikin Mine ML20633 EPML00564113 David Oriel Industries Pty Ltd' dated May 2017 must be implemented to ensure environmental harm is prevented or minimised.
15. Appropriate erosion protection and sediment control measures and structures must be installed and maintained to minimise erosion and the release of sediment and contamination of stormwater.
16. Words and phrases used throughout this EPO are defined in Schedule F of EA EPML00564113. Where a definition for a term used in the EA is sought and the term is not defined within the EA, the definitions in the *Environmental Protection Act 1994*, its Regulations and Environmental Protection Policies must be used.

C. Obligations

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

If DOI cease to carry out the activity to which this EPO relates, DOI **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 to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

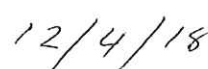
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court ([ESR/2015/1572](#)). DOI 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 Sophie Percival on telephone number (07) 4222 5331 or email sophie.percival@des.qld.gov.au.



Signature



Date

Gus Gonzo |
Delegate of the Chief Executive
Department of Environment and Science
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.

