

Notice

Environmental Protection Act 1994

Environmental Evaluation

Notice of decision on an environmental report for an environmental investigation

This notice is issued by the administering authority pursuant to section 326G(4) of the Environmental Protection Act 1994 to advise you that the administering authority has decided to accept an environmental report for an environmental investigation.

BHP Coal Pty Ltd (ACN: 010 595 721)
Level 14
480 Queen Street
BRISBANE QLD 4000

Your reference: EPML00862313
Our Reference: STAT1324 / CR81770

Take notice: that under the *Environmental Protection Act 1994* (the Act), a Notice of Decision to accept an environmental report for an environmental investigation is issued to BHP Coal Pty Ltd [ACN: 010 595 721] (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The Notice of Decision to accept an environmental report for an environmental investigation is issued with respect of the resource activity conducted by you at Saraji Coal Mine on mining tenures ML1775, ML1782, ML1784, ML2360, ML2410, ML70142, ML70294, ML70298, ML70328 and ML700021.

The decision

The decision to accept an environmental report about a stated matter is based on the following grounds:

1. You are the holder of Environmental Authority (EA) EPML00862313 that authorises Environmentally Relevant Activity (ERA) 13 under Schedule 2A of the Environmental Protection Regulation 2008.
2. A Notice to Conduct or Commission an Environmental Evaluation was issued to you by the department on 23 November 2018.
3. An environmental report was submitted to the department by you on 20 May 2019.
4. The department has determined that the environmental report submitted addresses the relevant matters for the environmental investigation to which the report relates.
5. The environmental report was accompanied by a signed statutory declaration.

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Reasons

The facts and circumstances forming the basis of these grounds and the reason for the decision is:

- The environmental report provides sufficient information and addresses all relevant matters required under the Notice to Conduct or Commission an Environmental Investigation issued 23 November 2018 (STAT1324), and have been adequate to determine the source, cause and extent of potential environmental harm as a result of sediment and erosion control measures at the Saraji Coal Mine.

Specific Matters

Whilst the department has determined that the report provided by you on 20 May 2019 does address the relevant matters of the notice, the department has identified a number of items that will require further actions to address risks described in the environmental report. The specific matters are as follows:

1. With respect to Requirement 1) a) i), the environmental report identifies the environmental values for Hughes Creek, One Mile Creek, Spring Creek and Phillips Creek with reference to the Environmental Protection Policy (Water) 2009. The environmental report does not include a description of the process used to validate the environmental values identified in the report.

It is requested that a brief statement summarising the process or method employed to determine the environmental values identified in the report be provided to the department prior to 10 June 2019.

2. With respect to Requirement 1) c) i), Page 28 of the Water Management Plan submitted with the environmental report provides for an inspection frequency for different types of water management infrastructure. For pipelines, it details that for pipelines with leak detection, weekly inspections while in use are required. The department requires further consideration or explanation of how leaks are detected by the SCADA system (or other alike systems), as it appears from the documentation provided that leaks will only be detected where they cause a significant deviation on the volumes being conveyed in pipelines.

An incident reported to the department in February 2019 (CR88609) demonstrated that a one (1) inch valve with a release rate of 1L/s was not detected by the site's SCADA system, resulting in only visual detection after 38,000L of tailings was released.

It is proposed that this matter be discussed in further detail as part of the department's consideration of steps under section 326H of the Act.

3. With respect to Requirement 1) c) i), the Water Management Plan and the Erosion and Sediment Control Plan define trigger events for specific Annual Exceedence Probability (AEP). However, the plans do not provide a clear delineation between the infrastructure associated with each AEP. For audit (internal and regulatory) purposes, the department considers this further detail is required to provide clarity on the trigger and the relationship to infrastructure.

It is proposed that this matter be discussed in further detail as part of the department's consideration of steps under section 326H of the Act.

4. With respect to Requirement 1) c) i), Table 11 in the Erosion and Sediment Control Plan states that for a structure with a containment capacity of <50% AEP, the trigger for the event-based inspection is 71mm rainfall in 24 hours. The events surrounding the incidents that occurred in December 2017 (CR81770 and CR81579) (i.e. the uncontrolled release of mine affected water through unauthorised release points into Spring Creek) were following a rainfall event of approximately 25mm.

The department considers that a minimum inspection frequency of event-based inspections following 71mm of rainfall in 24 hours requires further justification based on the risk assessment provided in the environmental report.

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It is proposed that this matter be discussed in further detail as part of the department's consideration of steps under section 326H of the Act.

5. With respect to Requirement 3, further discussion on each action in the Program of Works and the associated priority is required following the department's consideration of steps section 326H of the Act. The department considers that the link between the Program of Works and the risk assessment requires further clarity to validate the sequence and priority provided for in the Program of Works.

It is proposed that this matter be discussed in further detail as part of the department's consideration of steps under section 326H of the Act.

The department will be in contact with your nominated representative to schedule a workshop to progress through the matters detailed in this Notice of Decision on or before **7 June 2019**.

Review and appeal

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the Act.

A person, who is dissatisfied with a decision to refuse to accept the report can 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 form, Application for review of original decision ([ESR/2015/1573](#)) available on the Queensland Government website at www.qld.gov.au, using the publication number (ESR/2015/1573) as a search term.

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.

For further information about reviews and appeals see the information sheet, Internal review and appeals ([ESR/2015/1742](#)) available on the Queensland Government website at www.qld.gov.au, using the publication number (ESR/2015/1742) as a search term.

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*.

You may have other legal rights or obligations and should seek your own legal advice.

Should you have any queries in relation to this notice, please contact Naomi Camilleri of the department on telephone number (07) 4999 6861.

Notice of decision on an environmental report for an environmental investigation



Signature

3 June 2019

Date

Tony Baker
Manager (Compliance)
Delegate of the Chief Executive
Environmental Protection Act 1994
Department of Environment and Science

Enquiries:

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