

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.

Cudeco Limited
Suite 11A, Level 11
100 Edward Street
BRISBANE, QLD, 4000

Our reference: CA54530; STAT1417

11 October 2019

Dear Garry Traynor

Take notice that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Cudeco Limited (you) 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 Cudeco Limited on land described as Mining Lease (ML) 90177, ML90188 and ML90219 (the Rocklands Copper Project).

A. Grounds

This EPO is issued on the following grounds:

- To secure compliance with general environmental duty under section 319 of the Act.

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

1. 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 that person takes all reasonable and practical measures to prevent or minimise the harm.
2. You are the holder of environmental authority EPML00887913 (the EA) for the following Environmentally relevant activities:
 - Environmental Protection Regulation 2008, Schedule 2A:
 - ERA 17 Mining copper ore;
 - Environmental Protection Regulation 2008, Schedule 2:
 - ERA 7 (3d) Chemical manufacturing >200t yr explosives;

- ERA 8-(3) Chemical storage >500m³ of C1 or C2 combustible liquids under AS1940 or dangerous goods class c;
 - ERA 14-(2a) Electricity generation >10MW but <150MW fuel;
 - ERA 31-(2b) Mineral processing >100000t yr;
 - ERA 61-(1) Waste incineration and thermal treatment; and
 - ERA 63-(1a)(i) Sewage treatment >21 but <100EP.
3. The EA authorises mining activities including the construction, operation and use of a Tailings Storage Facility (TSF) at the Rocklands Copper Project.
 4. There are significant risks of environmental harm associated with the construction, operation and use of the TSF. This includes, but is not necessarily limited to:
 - The environmental risk associated with disturbance to land and water (including groundwater) resulting from the construction, operation and use of the TSF; and
 - The environmental risk associated with the storage of a large volume of contaminants, resulting from the operation and use of the TSF; specifically the risk associated with the failure to contain those contaminants.
 5. Active management of these risks is required to mitigate the potential for environmental harm.
 6. The construction, operation and use of the TSF has resulted in the expression of water outside of the TSF containment area (the uncontained water).
 7. The uncontained water contains contaminants at concentrations that exceed water quality objectives for environmental values present at the Rocklands Copper Project and in the receiving environment.
 8. An investigation into the source, cause and extent of environmental harm associated with the uncontained water, has identified the TSF as indirectly releasing contaminants and/or causing the mobilisation of contaminants to the receiving environment.
 9. An investigation into the source, cause and extent of environmental harm associated with the uncontained water, has nominated practicable remediation/mitigation measures to prevent or minimise environmental harm. These have not been implemented.
 10. The department is satisfied that additional measures are required to manage the risk of environmental harm, associated with the operation and use of the TSF.

B. Requirements

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

1. By 8 November 2019, engage a **suitably qualified person** to develop a water balance model for the **TSF**, including a process for accurately recording all inputs and outputs associated with the **TSF**.
2. By 29 November 2019, submit a summary of the water balance model to the department.
3. By 3 January 2020, engage a **suitably qualified person** to design a strategy(s) that includes:
 - a) a dewatering bore field, and/or
 - b) another strategy(s),to prevent the migration of **uncontained water** to the receiving environment, and submit a summary of the proposed strategy to the administering authority.
4. By 27 March 2020, implement the strategies designed in accordance with requirement 3.

5. By 23 October 2020, submit a report, prepared by a **suitably qualified person**, to the administering authority summarising the effectiveness of the strategies designed and implemented in accordance with requirement 3 and 4, inclusive of an updated water balance model.

The following definitions apply to the requirements of this EPO:

Suitably Qualified Person means a person who has demonstrable professional qualifications, training, skills and 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.

TSF means the Tailings Storage Facility on mining lease (ML) 90188.

Uncontained water means any water impacted on by the construction, operation or use of the **TSF**, whether directly or indirectly, which is not contained by the TSF.

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 6,250 penalty units, totalling \$834,062 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$4,170,312.
- The maximum penalty for an individual for contravening an EPO is 4,500 penalty units, totalling \$600,525.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$3,002,625.

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

- The maximum penalty for an individual is 50 penalty units, totalling \$6,725.
- The maximum penalty for a corporation is 250 penalty units, totalling \$33,362.

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 \$6,725.
- The maximum penalty for a corporation is 250 penalty units, totalling \$33,362.

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.

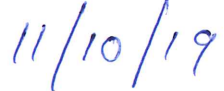
A person whose interests are or would be adversely affected by a decision of the department may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

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 Daniel Gunzburg on telephone number (07) 4222 5157.



Signature



Date

Quinn McDonald
Manager, Compliance
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>.