

# Clean-Up Notice

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Licence - 20221

Maules Creek Coal Pty Ltd  
ABN 70 140 533 875 ACN 140 533 875  
PO BOX 56  
BOGGABRI NSW 2382

Attention: Emma Bulkeley

Notice Number 1591771  
File Number SF20/12233  
Date 21-Feb-2020

## Clean-up Notice

### Why is the EPA writing to you?

The Environment Protection Authority (EPA) reasonably suspects that a pollution incident has occurred or is occurring on land that forms part of Therribri Road, BOGGABRI, NSW, 2382 (Premises). The EPA has issued you with this Clean-up Notice. Further information is set out in the notice below.

### What are you required to do?

Please read this notice carefully and carry out the clean-up action specified in this notice by the date required. If you have any queries about this matter, please contact Simon Lund on 02 6773 7000.

### BACKGROUND

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997 (Act)*.
- B. Maules Creek Coal Pty Ltd (Licensee) is the holder of environment protection licence no. 20221 (Licence) issued under the Act in respect of the Premises. The Licence authorises the carrying out of Coal Works, Mining for Coal and Crushing Grinding or Separating. As the holder of the Licence, the Licensee is the occupier of the Premises for the purposes of s 91(1)(a) of the Act.
- C. The EPA is the appropriate regulatory authority (ARA) for the premises defined in an environmental protection licence as the premises to which the licence applies, and all activities carried on at those premises.

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- D. Located on the premises is an explosives depot that supplies explosives used at the mine for blasting. That facility contains an expandable polystyrene balls (EPBs) plant which is used to load polystyrene balls into explosive mixtures.
- E. On 8 August 2019, the EPA undertook an inspection of the premises and noted that these EPBs were not being contained within the explosive depot. Verbal instructions were given to Maules Creek Coal Mine to rectify the situation and contain these EPBs within the depot.
- F. On or around the 9 February 2020, the EPA received a complaint from a property owner alleging that EPBs had discharged from the mine onto their property.
- G. On 10 February 2020, the EPA attended the premises and saw that EPBs had been discharged from the explosives depot, into water drainage channels that reported to a sub-drain at the toe of the northern over-burden emplacement area.
- H. EPA Officers identified that the EPBs had been discharged from the mine into a creek called Back Creek. The EPA identified that the EPBs had also been deposited on a property located 7km downstream of the mine.
- I. Section 91 of the Act enables the EPA to issue a Clean-up Notice in respect of a pollution incident.
- J. The Dictionary to the Act defines:
  - a. "Pollution incident" as an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.
  - b. "Pollution" as including water pollution.
  - c. Water pollution as including placing any matter (solid, liquid or gaseous) in a position where placing in or on, or otherwise introducing into or onto, the water (whether through an act or omission) any refuse, litter, debris or other matter, whether solid or liquid or gaseous, so that the change in the condition of the waters or the refuse, litter, debris or other matter, either likely to make, the waters unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or unsuitable for use in irrigation, or obstructs or interferes with, or is likely to obstruct or interfere with persons in the exercise or enjoyment of any right in relation to the waters.
- K. The EPA reasonably suspects that a pollution incident is occurring or is likely to occur at the Premises, namely:
  - i. That pollution of waters may be occurring along the catchment from the discharge of EPBs used in the explosives.
- H. The EPA is directing you to take clean-up action because you are the occupier of the Premises and the EPA reasonably suspects you of causing or having caused the pollution incident.

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## DIRECTION TO TAKE CLEAN-UP ACTION

The EPA directs Maules Creek Coal Pty Ltd to take the following clean-up action:

1. The licensee must take immediate action to ensure that no polystyrene balls are located in any structure designed to carry water at the premises, as far as practicable. This includes but is not limited to sub-drains, stormwater drains and stormwater dams.
2. The licensee must pump out, in accordance with conditions of the Licence, sediment dam three (3) and ensure that no EPBs are contained within the dam, as far as practicable.
3. In order to ascertain the extent of the pollution incident, the following actions must be undertaken:
  - (i) Within five days after the receiving of this notice, the Licensee must contact all downstream landowners neighbouring Back Creek to identify if these landholders have been impacted by the release of the EPBs.
  - (ii) Within two days of any notifications provided to the Licensee, the Licensee must attend that property and record the location, quantity and area affected by EPBs.
  - (iii) Identify potential cleanup options for properties where EPBs have been identified in paragraph 3(ii).
4. The Licensee must provide documented evidence of compliance with paragraph 3(i), 3(ii) and 3(iii) to the EPA by 25 March 2020. This evidence is to be emailed to the EPA at: [armidale@epa.nsw.gov.au](mailto:armidale@epa.nsw.gov.au).
5. Within five days of receiving this notice, the Licensee must contact NSW Department of Industries - Fisheries to arrange an inspection of the reach of the Namoi River, known as the Namoi River Demonstration Reach. The objective of the inspection is to determine if any EPBs have entered the Namoi River Demonstration Reach and determine any necessary cleanup actions.
6. If EPBs have entered Namoi River Demonstration Reach, the Licensee must carry out any necessary cleanup actions required to the satisfaction of NSW Department of Industry - Fisheries.
7. The Licensee must provide documented evidence of compliance with paragraph 5 and 6 to the EPA by 25 March 2020.
8. If compliance with paragraphs 3(i), 3(ii), 3(iii), 5 and 6 has not been achieved by 25 March 2020, the Licensee must advise the EPA of reasons why compliance has not been achieved and/or actions taken to achieve compliance to date. This advice is to be submitted to the EPA via email to: [armidale@epa.nsw.gov.au](mailto:armidale@epa.nsw.gov.au) by 25 March 2020.

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## FEE TO BE PAID

- You are required by law to pay a fee of \$563 for the administrative costs of issuing this notice. An invoice for the fee has been attached to this notice.
- It is an offence not to pay this fee. However you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

A handwritten signature in blue ink that reads 'Rebecca Scrivener'.

.....  
**Rebecca Scrivener**  
**Head Regional Operations Unit**  
**North - Armidale**  
(by Delegation)

## WARNINGS AND INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This notice is issued under section 91 of the Act.
- It is an offence against the Act not to comply with a clean-up notice unless you have a reasonable excuse.
- Details provided in this notice will be available on the Public Register in accordance with section 308 of the Act

## Penalty for not complying with this notice

- The maximum penalty that a court may impose for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues. The maximum penalty that a court may impose for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

## When this notice begins to operate

- This notice operates from the day the notice is given, unless a later date is specified in the notice.

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## Continuing obligation

- Under section 319A of the Act, your obligation to comply with the requirements of this notice continues until the notice is complied with in full, even if the due date for compliance has passed.

## Cost recovery from the person who caused the incident

- If you comply with this clean-up notice but you are not the person who caused the pollution incident to which the notice relates, you have a right to go to court to recover your costs of complying with the notice from the person who caused the incident.

## Deadline for paying the fee

- The fee must be paid by **no later than 30 days after the date of this notice**, unless the EPA extends the time to pay the fee, or waives the fee.

## How to pay the fee

- Possible methods of payment are listed on the last page of the attached invoice/statement.
- Please include the payment slip from the attached invoice/statement with your payment.

## How to apply for an extension of time to pay/waive the fee

- Any application for an extension of time to pay the fee or for the fee to be waived must be made in writing to the EPA. The application should set out clearly why you think your application should be granted.

## Other costs

- The Act allows the EPA to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters.
- If you are required to pay these other costs and expenses you will later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

## Variation of this notice

- The requirements of this notice may only be varied or revoked by written notice issued by the EPA.