

Notice

Townsville City Council

**Received
27/08/2024**

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.

Stephen Blower
Trading as Chop 'N' Chip Tree Fellas ABN 23441500488
75 Bougainville Street
BROOKHILL QLD 4816

Email: chopnchip@bigpond.com

Our reference: C-CPLRC-10220646 / E-100388806

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Stephen Blower (you) by an authorised person under section 363B of the Act. The direction notice is issued to you with respect to your activities on land described as Lot 1 on RP742982 known as 75 Bougainville Street BROOKHILL QLD (the premises).

A. Grounds

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

- you are contravening a prescribed provision, being section 426 of the Act which states: "A person must not carry out an environmentally relevant activity (ERA) unless the person holds, or is acting under, an environmental authority (EA) for the activity"; and
- it is likely the contravention of section 426 will continue; and
- the matter relating to the contravention can be remedied and it is appropriate to give you an opportunity to remedy the matter. 'Remedy' includes cleaning up, fixing or rectifying any environmental harm (including nuisance) resulting from contravening the prescribed provision.

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

- You occupy the premises located at Lot 1 on RP742982 known as 75 Bougainville Street BROOKHILL QLD (the premises).
- On 14 February 2023, authorised persons from the Department of Environment and Science (the department) conducted an inspection of the premises.
- During the inspection, authorised persons observed that in excess of six (6) tonnes or six (6) cubic metres of green waste had been received and was being sorted and stored at the premises.

- This activity is consistent with the definition of ERA 62, *Resource Recovery and Transfer Facility Operation*, that is defined under Schedule 2 of the Environmental Protection Regulation 2019 as operating a facility for: receiving and sorting, dismantling or baling waste; or receiving and temporarily storing waste before it is moved to a waste facility.
- Under section 13(1) of the Act, “Waste” includes anything, other than an end of waste resource, that is— (a) left over, or an unwanted by-product, from an industrial, commercial, domestic, or other activity; or (b) surplus to the industrial, commercial, domestic or other activity generating the waste.
- Section 13(3) of the Act provides that a thing can be waste whether or not it is of value.
- Under section 426 of the Act, a person must not carry out an ERA unless the person holds, or is acting under, an EA for the activity.
- A search of the department’s electronic databases indicates that you do not hold an EA to lawfully conduct the ERA at the premises.
- The department reasonably believes that you are carrying out an ERA without holding or acting under an EA on Lot 1 on RP742982 known as 75 Bougainville Street BROOKHILL QLD.
- The department considers it reasonable to require you to cease conducting the ERA, until you hold or are acting under an EA for the ERA.

B. Reasonable Steps

The authorised person considers that the following reasonable steps are necessary to remedy the contravention of the prescribed provision:

1. **Immediately on receipt of this notice**, you must stop conducting the ERA at the premises; and
2. You must not recommence the ERA at the premises or elsewhere in the State of Queensland until you hold or are acting under an effective EA for the activity; and
3. **Within 56 days after the date of this notice you must:**
 - a. Apply for, and have an application under assessment for an EA to carry out the ERA; or
 - b. Hold or be acting under an effective EA to carry out the ERA; or
 - c. Have removed all waste from the premises and lawfully transport and dispose of the waste to a facility that can lawfully receive it.
4. If you remove the waste from the premises, you must provide written documentation to the department to demonstrate the lawful removal and disposal of all material from the premises **within 56 days after the date of this notice**. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations; and
5. The written documentation must be provided to Unlicensed@des.qld.gov.au or via mail to Department of Environment and Science, GPO Box 2454, Brisbane QLD 4001

Take notice:

- The requirements of the direction notice take effect immediately upon service of the notice; and
- 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; and
- 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 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*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (ESR/2015/1742). 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 contravening a direction notice is 600 penalty units, totalling \$86,250 for a person or \$431,250 for a corporation.
- The maximum penalty for wilfully contravening a direction notice is 1,665 penalty units, totalling \$239,343 for a person or \$1,196,718 for a corporation.

Section 3 of the Penalties and Sentences Regulation 2015 prescribes the monetary value of a penalty unit.

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>.

The department may also consider additional 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 Tracey Wilson on 0476 187 922 or by email at Unlicensed@des.qld.gov.au.



Signature

16 March 2023

Date

Rebecca Small

Team Leader
Unlicensed Waste Team
Authorised Person
Environmental Protection Act 1994
Department of Environment and Science

Enquiries:

Waste Compliance Operations
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