



Australian Government
**Department of Agriculture,
Water and the Environment**

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Environment Protection and Biodiversity Conservation Act 1999

INFRINGEMENT NOTICE

IN No. **ECB20/045**

Alleged offender details:

Name:	Mount Buller and Mount Stirling Alpine Resort Management Board		
Address:	Alpine Central, Summit Road Mount Buller, VIC 3723		
Date of Birth: Not Applicable	Telephone Number: +61 3 5777 6077 Email: info@mtbuller.com.au		
Company details:	ABN: 44 867 982 534		

The authorised officer whose name appears below has reasonable grounds for believing that on or about the 21st day of February 2020, you committed an offence against section 142B of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

Nature of alleged offence:	Condition 1 of the approval requires that the approval holder must only undertake the action in the project area shown in Annexure A. The Department of Agriculture, Water and the Environment (the Department) understands that action has occurred outside of the project area.	
Location:	Mount Buller, Victoria	
The amount payable for this infringement notice penalty is:	\$12,600	
The maximum penalty that may be imposed by a court for the offence should you choose not to comply with the conditions of this notice is:	\$63,000	

PLEASE SEE NOTES ON THE REVERSE SIDE OF THIS NOTICE FOR FURTHER INFORMATION AND PAYMENT INSTRUCTIONS

Issuing officer details: s22 EPBC Inspectors Identity Card number s47F	Signature of issuing officer s47F Date 29 / 5 / 20
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Australian Government
**Department of Agriculture,
 Water and the Environment**

1.	<p>PAYMENT</p> <p>If you prefer the matter not be dealt with by a court, you may pay this infringement notice penalty:</p> <p>a. no later than 28 days after the date it has been issued; or</p> <p>b. if more time is allowed for payment by the Assistant Secretary, Environment Compliance Branch, before the end of that period; or</p> <p>c. If payment by instalments is permitted, in accordance with the approved scheduled</p>						
2.	<p>PAYMENT METHODS</p> <p>The following payment types are accepted:</p> <p>Electronic Funds Transfer (EFT) can be made via internet banking to the following account:</p> <table border="1" data-bbox="193 495 1305 656"> <tr> <td>BSB:</td> <td>092009</td> </tr> <tr> <td>Account number:</td> <td>115859</td> </tr> <tr> <td>Reference number:</td> <td>To allow us to process record your payment please use this number: 18038070</td> </tr> </table> <p>Cheque; made payable to The Department of Agriculture, Water and the Environment and posted to Assistant Secretary, Environment Compliance Branch, Department of Agriculture, Water and the Environment, GPO Box 858 Canberra ACT 2601</p> <p>Note: Cash payment is not accepted</p>	BSB:	092009	Account number:	115859	Reference number:	To allow us to process record your payment please use this number: 18038070
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Account number:	115859						
Reference number:	To allow us to process record your payment please use this number: 18038070						
3.	<p>PAYMENT OF PENALTY NOTICE IN ACCORDANCE WITH REQUIREMENTS</p> <p>If you pay the penalty notice in accordance with the requirements within this notice:</p> <ul style="list-style-type: none"> • your criminal liability for the offence will be discharged; and • further proceedings will not be taken against you; and • you will not be taken to have been convicted of the offence. 						
4.	<p>FURTHER PERIOD FOR PAYMENT</p> <p>In accordance with regulation 14.05 of the <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> (EPBC Regulations), you may make an application in writing to ask the Assistant Secretary, Environment Compliance Branch (address above), for a further period for payment of the penalty at any time. If you make this application after 28 days has elapsed since the notice was served, you must explain why you could not deal with the notice within that period. The Assistant Secretary, Environment Compliance Branch, must give you written notice of whether they have decided to grant or refuse (including reasons for refusal) a further period for payment. If a further period is granted, you must pay the penalty before the end of that period. If the decision is a refusal, you must pay the penalty within the 28-day period, or 7 days after receiving notice of the refusal-whichever is the later.</p>						
5.	<p>PAYMENT BY INSTALMENTS</p> <p>In accordance with regulation 14.06 of the EPBC Regulations, you may request the Assistant Secretary, Environment Compliance Branch, to enter into an arrangement with you to pay the penalty by instalments. If an arrangement is made, you must pay the penalty in accordance with the arrangement. If an arrangement is refused, you must pay the penalty within 7 days after receiving notice of the refusal or before the end of the 28-day period-whichever is later.</p>						
6.	<p>NOTIFICATION OF FACTS AND MATTERS TO BE TAKEN INTO ACCOUNT</p> <p>In accordance with regulation 14.07 of the EPBC Regulations, you may, within 28 days of the notice being served, notify the Assistant Secretary, Environment Compliance Branch, in writing of any facts or matters that you believe should be taken into account in relation to the offence. Time for payment of the penalty will be extended to enable the Assistant Secretary, Environment Compliance Branch, to consider the facts and decide to either withdraw or uphold the notice. In deciding, the Assistant Secretary, Environment Compliance Branch, will consider:</p> <ul style="list-style-type: none"> • the facts or matters set out in the notice; and • the circumstances of the offence; and • whether you have been previously convicted of an offence against the EPBC Regulations; and • whether an infringement notice has previously been issued to you for a similar offence; and • any other matter they consider relevant to the decision. <p>If the Assistant Secretary, Environment Compliance Branch, upholds the infringement notice you will be required to pay the amount of the infringement notice penalty within 28 days after you are notified of the decision.</p>						
	<p>NOTIFYING THE Assistant Secretary, Environment Compliance Branch</p> <p>If you wish to notify the Assistant Secretary, Environment Compliance Branch in writing for any of the above reasons, you can do so via Department of Agriculture, Water and the Environment, GPO Box 858, Canberra ACT 2601</p>						
	<p>IF YOU DO NOT COMPLY WITH THIS NOTICE</p> <p>If you do not comply with any of the requirements within this notice within the given timeframes, you may be prosecuted for the offence.</p>						



COURT ELECTION

If you choose **not** to pay the infringement notice and elect to have the matter dealt with via court proceedings, sign and return the below notification to:

Assistant Secretary, Environment Compliance Branch, Department of Agriculture, Water and the Environment, GPO Box 858, Canberra ACT 2601

Notification: I elect to have the matter dealt with through court proceedings and I acknowledge that a summons may be served on me at the address provided in this notice.

Signature.....

Date.....



Environment Protection and Biodiversity Conservation Act 1999

INFRINGEMENT NOTICE

IN No. **ECB20/046**

Alleged offender details:

Name:	Mount Buller and Mount Stirling Alpine Resort Management Board		
Address:	Alpine Central, Summit Road Mount Buller, VIC 3723		
Date of Birth: Not Applicable	Telephone Number: +61 3 5777 6077 Email: info@mtbuller.com.au		
Company details:	ABN: 44 867 982 534		

The authorised officer whose name appears below has reasonable grounds for believing that on or about the 21st day of February 2020, you committed an offence against section 142B of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act)

Nature of alleged offence:	Condition 2(a) of the approval states that for the life of the approval, the approval holder must have no direct impacts to alpine bogs. The Department understands that action on site has had a direct impact on the alpine bogs.		
Location:	Mount Buller, Victoria		
The amount payable for this infringement notice penalty is:		\$12,600	
The maximum penalty that may be imposed by a court for the offence should you choose not to comply with the conditions of this notice is:		\$63,000	

PLEASE SEE NOTES ON THE REVERSE SIDE OF THIS NOTICE FOR FURTHER INFORMATION AND PAYMENT INSTRUCTIONS

Issuing officer details: s22	Signature of issuing officer	s47F
EPBC Inspectors Identity Card number s47F		
Date		29 / 5 / 20

1.	<p>PAYMENT</p> <p>If you prefer the matter not be dealt with by a court, you may pay this infringement notice penalty:</p> <p>a. no later than 28 days after the date it has been issued; or</p> <p>b. if more time is allowed for payment by the Assistant Secretary, Environment Compliance Branch, before the end of that period; or</p> <p>c. if payment by instalments is permitted, in accordance with the approved scheduled</p>						
2.	<p>PAYMENT METHODS</p> <p>The following payment types are accepted:</p> <p>Electronic Funds Transfer (EFT) can be made via internet banking to the following account:</p> <table border="1" data-bbox="193 309 1302 468"> <tr> <td>BSB:</td> <td>092009</td> </tr> <tr> <td>Account number:</td> <td>115859</td> </tr> <tr> <td>Reference number:</td> <td>To allow us to process record your payment please use this number: 18038070</td> </tr> </table> <p>Cheque; made payable to The Department of Agriculture, Water and the Environment and posted to Assistant Secretary, Environment Compliance Branch, Department of Agriculture, Water and the Environment, GPO Box 858 Canberra ACT 2601</p> <p>Note: Cash payment is not accepted</p>	BSB:	092009	Account number:	115859	Reference number:	To allow us to process record your payment please use this number: 18038070
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4.	<p>FURTHER PERIOD FOR PAYMENT</p> <p>In accordance with regulation 14.05 of the <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> (EPBC Regulations), you may make an application in writing to ask the Assistant Secretary, Environment Compliance Branch (address above), for a further period for payment of the penalty at any time. If you make this application after 28 days has elapsed since the notice was served, you must explain why you could not deal with the notice within that period. The Assistant Secretary, Environment Compliance Branch, must give you written notice of whether they have decided to grant or refuse (including reasons for refusal) a further period for payment. If a further period is granted, you must pay the penalty before the end of that period. If the decision is a refusal, you must pay the penalty within the 28-day period, or 7 days after receiving notice of the refusal-whichever is the later.</p>						
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6.	<p>NOTIFICATION OF FACTS AND MATTERS TO BE TAKEN INTO ACCOUNT</p> <p>In accordance with regulation 14.07 of the EPBC Regulations, you may, within 28 days of the notice being served, notify the Assistant Secretary, Environment Compliance Branch, in writing of any facts or matters that you believe should be taken into account in relation to the offence. Time for payment of the penalty will be extended to enable the Assistant Secretary, Environment Compliance Branch, to consider the facts and decide to either withdraw or uphold the notice. In deciding, the Assistant Secretary, Environment Compliance Branch, will consider:</p> <ul style="list-style-type: none"> • the facts or matters set out in the notice; and • the circumstances of the offence; and • whether you have been previously convicted of an offence against the EPBC Regulations; and • whether an infringement notice has previously been issued to you for a similar offence; and • any other matter they consider relevant to the decision. <p>If the Assistant Secretary, Environment Compliance Branch, upholds the infringement notice you will be required to pay the amount of the infringement notice penalty within 28 days after you are notified of the decision.</p>						
	<p>NOTIFYING THE Assistant Secretary, Environment Compliance Branch</p> <p>If you wish to notify the Assistant Secretary, Environment Compliance Branch in writing for any of the above reasons, you can do so via Department of Agriculture, Water and the Environment, GPO Box 858, Canberra ACT 2601</p>						
	<p>IF YOU DO NOT COMPLY WITH THIS NOTICE</p> <p>If you do not comply with any of the requirements within this notice within the given timeframes, you may be prosecuted for the offence.</p>						

COURT ELECTION

If you choose **not** to pay the infringement notice and elect to have the matter dealt with via court proceedings, sign and return the below notification to:

Assistant Secretary, Environment Compliance Branch, Department of Agriculture, Water and the Environment, GPO Box 858, Canberra ACT 2601

Notification: I elect to have the matter dealt with through court proceedings and I acknowledge that a summons may be served on me at the address provided in this notice.

Signature.....

Date.....



Environment Protection and Biodiversity Conservation Act 1999

INFRINGEMENT NOTICE

IN No. **ECB20/047**

Alleged offender details:

Name:	Mount Buller and Mount Stirling Alpine Resort Management Board		
Address:	Alpine Central, Summit Road Mount Buller, VIC 3723		
Date of Birth: Not Applicable	Telephone Number: +61 3 5777 6077 Email: info@mtbuller.com.au		
Company details:	ABN: 44 867 982 534		

The authorised officer whose name appears below has reasonable grounds for believing that on or about the 21st day of February 2020, you committed an offence against section 142B of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act)

Nature of alleged offence:	<p>Condition 6 requires the approval holder must implement the HEMAMP for the life of the approval. If monitoring results indicate that the outcomes in condition 2 has not been achieved or is not likely to be achieved, the approval holder must:</p> <ul style="list-style-type: none"> a. investigate why the outcome has not or will not be achieved; b. advise the Department within 14 days of receiving the monitoring results (including a summary of provision of the investigation required under condition 6a); and c. develop corrective actions, revised monitoring, mitigation, management measures and/or compensation measures to be included in the HEMAMP. <p>On 20 March 2020, the Department was notified by a third party that action and resulting impacts had occurred at the site during February 2020. The approval holder failed to notify the Department that action on site had impacted on the alpine bogs and the Department was not provided with corrective actions, revised monitoring, mitigation, management strategies and/or compensation measures as required by condition 2c.</p>	
	Location:	Mount Buller, Victoria
The amount payable for this infringement notice penalty is:		\$12,600
The maximum penalty that may be imposed by a court for the offence should you choose not to comply with the conditions of this notice is:		\$63,000

PLEASE SEE NOTES ON THE REVERSE SIDE OF THIS NOTICE FOR FURTHER INFORMATION AND PAYMENT INSTRUCTIONS

Issuing officer details: s22 EPBC Inspectors Identity Card number s47F	Signature of issuing officer s47F
Date 29 / 5 / 20	

1.	<p>PAYMENT</p> <p>If you prefer the matter not be dealt with by a court, you may pay this infringement notice penalty:</p> <p>a. no later than 28 days after the date it has been issued; or</p> <p>b. if more time is allowed for payment by the Assistant Secretary, Environment Compliance Branch, before the end of that period; or</p> <p>c. If payment by instalments is permitted, in accordance with the approved scheduled</p>						
2.	<p>PAYMENT METHODS</p> <p>The following payment types are accepted:</p> <p>Electronic Funds Transfer (EFT) can be made via internet banking to the following account:</p> <table border="1" data-bbox="193 376 1302 539"> <tr> <td data-bbox="193 376 464 409">BSB:</td> <td data-bbox="464 376 1302 409">092009</td> </tr> <tr> <td data-bbox="193 409 464 443">Account number:</td> <td data-bbox="464 409 1302 443">115859</td> </tr> <tr> <td data-bbox="193 443 464 539">Reference number:</td> <td data-bbox="464 443 1302 539">To allow us to process record your payment please use this number: 18038070</td> </tr> </table> <p>Cheque; made payable to The Department of Agriculture, Water and the Environment and posted to Assistant Secretary, Environment Compliance Branch, Department of Agriculture, Water and the Environment, GPO Box 858 Canberra ACT 2601</p> <p>Note: Cash payment is not accepted</p>	BSB:	092009	Account number:	115859	Reference number:	To allow us to process record your payment please use this number: 18038070
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	<p>IF YOU DO NOT COMPLY WITH THIS NOTICE</p> <p>If you do not comply with any of the requirements within this notice within the given timeframes, you may be prosecuted for the offence.</p>						

COURT ELECTION

If you choose **not** to pay the infringement notice and elect to have the matter dealt with via court proceedings, sign and return the below notification to:

Assistant Secretary, Environment Compliance Branch, Department of Agriculture, Water and the Environment, GPO Box 858, Canberra ACT 2601

Notification: I elect to have the matter dealt with through court proceedings and I acknowledge that a summons may be served on me at the address provided in this notice.

Signature.....

Date.....



Our reference: CAS 3677

Email: epbcmonitoring@environment.gov.au

Mr Mark Bennetts
Chief Executive Officer
Mount Buller Mount Stirling Alpine Resort Management Board
Alpine Central, Summit Road
MOUNT BULLER VIC 3723

Dear Mr Bennetts

RE: Breach of Conditions Attached to EPBC 2014/7303

I refer to the Mt Buller Sustainable Water Security Project – Off-stream Storage, Victoria. (EPBC 2014/7303). As you are aware, on 25 June 2018 the Mount Buller and Mount Stirling Alpine Resort Management Board (approval holder) received approval to undertake the project under the *Environment Protection and Biodiversity Conservation Act 1999* (the Act). The approval has 19 conditions attached to it.

Condition 1 of the approval requires that the approval holder must only undertake the action in the project area shown in Annexure A. The Department of Agriculture, Water and the Environment (the Department) understands that action has occurred outside of the project area.

Condition 2(a) of the approval states that for the life of the approval, the approval holder must have no direct impacts to alpine bogs. The Department understands that action on site has had a direct impact on the alpine bogs.

Condition 6 requires the approval holder must implement the HEMAMP for the life of the approval. If monitoring results indicate that the outcomes in condition 2 has not been achieved or is not likely to be achieved, the approval holder must:

- a. investigate why the outcome has not or will not be achieved;
- b. advise the Department within 14 days of receiving the monitoring results (including a summary of provision of the investigation required under condition 6a); and
- c. develop corrective actions, revised monitoring, mitigation, management measures and/or compensation measures to be included in the HEMAMP.

On 20 March 2020, the Department was notified by a third party that action and resulting impacts had occurred at the site during February 2020. The approval holder failed to notify the Department that action on site had impacted on the alpine bogs and the Department was not provided with corrective actions, revised monitoring, mitigation, management strategies and/or compensation measures as required by condition 2c.

The Department's investigation has identified that conditions 1, 2(a) and 6 attached to approval EPBC 2014/7303 have been contravened. After careful consideration of the matter, the Department has concluded that prosecution would not be an appropriate course of action in this case. Sections 142B and 497 of the Act and associated regulations provide for the issue of Infringement Notices when conditions attached to an approval are contravened.

Please find enclosed three Infringement Notices totalling \$37,800.00. Your options for payment or appeal in relation to these notices are detailed on the reverse of the notice.

For further information relating to this matter, I can be contacted on s22 .

Yours sincerely

s47F

s22

Acting Director
Environmental Audit Section
29 May 2019



Our reference: CAS 3677

Mr Mark Bennetts
Chief Executive Officer
Mt Buller and Mount Stirling Alpine Resort Management Board
Alpine Central, Summit Road
MOUNT BULLER VIC 3723

Dear Mr Bennetts

***Environment Protection and Biodiversity Conservation Act 1999* Infringement Notice
Advice Letter – Notice of withdrawal**

Thank you for your written notice of 26 June 2020 in relation to infringement notice ECB 20/046 which was issued under the *Environment Protection and Biodiversity Conservation Act 1999* on 29 May 2020.

I have considered the facts and matters that you believe the Department should take into account in relation to the alleged offence, as well as the circumstances in which the offence is alleged to have been committed. As a result, I have decided to withdraw the infringement notice.

- You are no longer obliged to pay the infringement notice penalty, or defend the matter; and
- You are advised that no further action will be taken on this matter.

Should you require further information regarding this matter please contact s22 [redacted] on s22 [redacted] or by email at audit@awe.gov.au

Yours sincerely

s47F [redacted]

s22 [redacted]

A/g Assistant Secretary
Environment Compliance Branch

17 July 2020