Notice

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.

Furness Group Pty Ltd
Attention: Mr Darryl John Wiggins
14 Project Street
WARWICK QLD 4370

Your reference: EPSX00352113 (for ERA 57)

Our reference: CA55577

26 February 2020

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Darryl John Wiggins (you) by an authorised person under section 363B of the *Environmental Protection Act 1994*.

The direction notice is issued in respect to the activities of Darryl John Wiggins, 143 Old Stanthorpe Road, Morgan Park, 4370 on lot 2 on RP818435 (the premises).

A. Grounds

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

- you are contravening a prescribed provision, being section 426 of the Act, and
- the matter relating to the contravention can be remedied and it is appropriate to give you an opportunity to remedy the matter.

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

- On 29 October 2019 an Environmental Authority (EA) application for an Environmentally Relevant Activity (ERA) was submitted.
- On Friday 3 January 2020, Authorised Officers from the department inspected the premises in the presence of Mr Darryl Wiggins. It was observed that the site receives and stores waste, including, storing septage in a number of unlined ponds, which were observed to be at capacity. It was also observed that composting windrows are established on the site. You stated that you undertake composting at the site.
- On 7 January 2020, the department requested waste tracking data for Enwaste from 23 November 2019 onwards. The waste tracking data received indicated that '*Enwaste Composting Facility:*
    - between 23 November and 30 December 2019 Enwaste received 218.9 tonnes.
    - prior to the 23 November 2019 records show that 'Enwaste' exceeded the 200t annual threshold each month from September 2018 to July 2019.

Queensland Government

- On 21 January 2020, the department issued you with a post inspection letter regarding alleged non-compliance by conducting an unlicensed ERA at the premises (ERA 53).
- The department has formed a reasonable belief that you are conducting an ERA 53 – organic material composting, as per schedule 2, section 53 of the *Environmental Protection Regulation 2019*.

B. Reasonable Steps

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

- Darryl John Wiggins must obtain an EA for all ERA's being conducted at the premises or must cease the conduct of all environmentally relevant activities at the premises.

Take notice:

- The contravention must be remedied by **4 May 2020.**
- The requirements of the direction notice take effect immediately upon service of the notice
- 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
- be supported by enough information to enable the department to decide the application for review
- 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.

[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 maximum penalty for an individual for wilfully contravening a direction notice is 1665 penalty units, totalling $222,194.25.
- The maximum penalty for a corporation for wilfully contravening a direction notice is 8325 penalty units, totalling $1,110,971.25.
- The maximum penalty for an individual contravening a direction notice is 600 penalty units, totalling $80,070.00
- The maximum penalty for a corporation contravening a direction notice is 3000 penalty units, totalling $400,350.00

Section 2B of the *Penalties and Sentences Regulation 2005* prescribes the monetary value of a penalty unit.

The department may also consider alternative 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 Ellie Lee on telephone number 07 4529 8341.



Signature

26/02/2020

Date

Andrew Langford
Manager (Compliance)
Authorised Person
Environmental Protection Act 1994
Department of Environment and Science

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