

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.

South Stradbroke Caretaking Services Pty Limited
ACN 643 864 804
C/- BDH Leaders
Level 12, 111 Elizabeth St
SYDNEY NSW 2000

cc. PO Box Q1616 QVB
QUEEN VICTORIA BUILDING NSW 1230

Simon Napoli simon@edgcapital.com.au
Daryna Sarana Daryna@edgcapital.com.au

Attn: Cassandra Elizabeth Gillespie - Director

Your reference: EPPR00805313
Our reference: CPLRC-100009539

21 April 2021

Dear Madam

Take notice: that under the *Environmental Protection Act 1994* (the EP Act) this environmental protection order (EPO) is issued to South Stradbroke Caretaking Services Pty Limited (SSCS) 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 SSCS at Couran Cove Resort on land described as Lot 10 on Plan MCP106985 situated at South Stradbroke Island (the premises).

A. Grounds

This EPO is issued on the following grounds:

Under section 358(d) of the EP Act the administering authority may issue an environmental protection order (EPO) to a person to secure compliance with:

- (i) the general environmental duty.
- (ii) an environmental protection policy.
 - The Environmental Protection (Water and Wetland Biodiversity) Policy 2019 (EPP Water).
- (iii) a condition of an environmental authority.
 - SSCS hold environmental authority (EA) EPPR00805313, formerly issued to Couran Cove Holdings Pty Ltd on 21 March 2017, and transferred to SSCS on 14 April 2021.

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

1) The department seeks to secure compliance with conditions L1, L6, G2 and W2 of environmental authority (EA) EPPR00805313.

a) EA condition L1

- On eight occasions between 29 January 2020 and 26 February 2021 the department received notifications that showed Total Nitrogen (TN) concentrations in effluent released had exceeded the limits set in condition L1.
- On one occasion between 11 May 2020 and 4 January 2021 the department received a notification that showed electrical conductivity (EC) in effluent released had exceeded the limits in condition L1.
- Releasing treated effluent to land which contains contaminants at concentrations above the limits set in condition L1 of the EA is unlawful.

b) EA Condition L6

- During a site inspection on 29 July 2020, authorised officers observed irrigation infrastructure had not been maintained and was in disrepair. Observations included;
 - A number of broken effluent irrigation dripper lines were observed emerging from the ground;
 - No environmental indicators present to indicate a release had occurred, despite control valves left open and a large release of treated effluent 2 days prior;
 - Control valves designed to remotely isolate irrigation areas were not operational and taps were left in an open position.
- By not maintaining the irrigation infrastructure, the department considers that a minimum area of 9 hectares of land is not being utilised for the irrigation of effluent and is therefore does not comply with EA condition L6.

c) EA condition G2

- In response to notifications under EA condition L1 the department requested a preventative maintenance schedule for the STP. On 9 July 2020 Simmonds and Bristow advised the department that they were only authorised by EA holder Couran Cove Holdings Pty Ltd to conduct breakdown at the time.
- During the inspection on 29 July 2020, authorised officers noted and photographed the following plant and equipment used in the sewage treatment activity not being maintained and/or operated in a proper and efficient manner:
 - Original infrastructure for dosing chemicals no longer used;
 - One of the two irrigation pumps was out of order;
 - There was no ability to control the release pumps remotely;
 - Irrigation infrastructure issues noted under item 1 b) above in relation to EA condition L6;
 - Unlabelled IBCs and containers containing liquid and stored outside;
 - Storage of caustic soda and hypochlorite next to each other;
 - Storage of bio-solids in an outdoor uncovered area subject to rainfall.
- The department considers therefore that the plant and equipment necessary to ensure compliance with the conditions of this approval has not been maintained and operated in an efficient condition and therefore does not comply with condition G2.

d) EA condition W5

- The Annual Performance Monitoring Report 2017-2018, prepared by FrogFoot Trading is the last groundwater monitoring data submitted to the department. This report stated the monitoring period was for 2018, although no specific date is provided.
- Emails with Steven Gibbs, Operations Manager at Couran Cove Resort, dated 21 May 2020 and 1 July 2020 indicate no groundwater monitoring was not conducted in 2019 or the first half of 2020.
- The department considers that groundwater monitoring has not been undertaken since 2018 which is less frequently than annually and therefore does not comply with the requirements of EA condition W5.

2) The department seeks to secure compliance with the General Environmental Duty under s319 of the Act.

- The irrigation area listed in EA condition L6 was assessed and conditioned in the EA to ensure the highly diffuse release of treated effluent, to prevent impact to environmental values.
 - Due to broken pipes, controllers and general poor condition of subsurface irrigation equipment, the irrigation area currently being utilised for treated effluent disposal and release rate is unknown. A concentrated release of contaminants to groundwater through deep drainage, particularly given the sandy soils, is considered highly likely.
- The ongoing exceedances of the effluent release limits, combined with the poor condition of irrigation equipment has resulted in an unacceptable risk for deep drainage of water contaminants to groundwater. This is an unlawful impact on groundwater quality and any environmental values supported by groundwater on the Island, which constitutes environmental harm.
- Plant and equipment failures have been listed as the cause of effluent quality exceedances.
- During the inspection the department also noted a number of issues with irrigation and sewage treatment infrastructure as listed under grounds (1b).
- Residents of Couran Cove commissioned Remote Water Treatment Specialists (RWTS) to review the condition of STP infrastructure. A report was provided to the department on 3 July 2020 which listed equipment either not working or in poor condition. A copy of this report was provided by RWTS to Simmonds and Bristow on 5 August 2020.
- An effective maintenance schedule is a reasonable and practicable measure that would identify and rectify issues and prevent the release of non-compliant effluent to the environment which has the potential to cause environmental harm.

3) To secure compliance with an environmental protection policy.

- Schedule 1 of the Environmental Protection (Water and Wetland Biodiversity) Policy 2019 (EPP Water) lists the water quality objectives for Moreton Bay area including south Stradbroke Island. These objectives identify aquatic ecosystems of the South Stradbroke Island waters as having a high ecological value. The EPP Water also identifies groundwater ecosystems as having high ecological value particularly where ground waters interact with surface waters and are utilised for drinking water.
- The department considers that ongoing exceedances of effluent release limits, combined with poor condition of irrigation equipment is likely causing deep drainage of contaminants to groundwater. This is likely to have an adverse effect (whether temporary or permanent) on groundwater quality and any environmental values supported by groundwater on the Island, which constitutes environmental harm.
- Due to the sandy soils and their high transmissivity, any releases of contaminants to groundwater are highly likely to be released to the nearby HES wetland 150m west of the irrigation area, which is also mapped as a groundwater dependant ecosystem.

- Failure to appropriately manage the sewage treatment activity and its associated plant and equipment has resulted in a high likelihood contaminants are being released to groundwaters, resulting in likely impacts to environmental values. This is contrary to the intent of the EPP Water, which requires that the quality of these waters are protected or enhanced.

B. Requirements

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

- 1) By 5:00pm on 17 May 2021, you must engage a suitably qualified person to conduct a review of all current plant and equipment utilised in the sewage treatment activity, including the existing irrigation infrastructure/equipment and release area. This review must include:
 - a) Details of the current state of all plant and equipment; and
 - b) Details of maintenance work and upgrades required for plant and equipment to ensure the sewage treatment plant achieves compliance with the release limits contained in Table 2 of the EA; and
 - c) Details of maintenance work and upgrades of irrigation infrastructure and the irrigation release area required to achieve an even spread of treated effluent over the area marked on EA EPPR00805313 Schedule 1 'Effluent irrigation release area'; and
 - d) A schedule of maintenance work and upgrades for sewage treatment plant and equipment which when implemented will achieve compliance with the release limits in Table 2 of the EA; and
 - e) A schedule of maintenance work and upgrades for the irrigation infrastructure and release area illustrated in EA Schedule 1 - *Effluent irrigation area* which, when implemented, will ensure an even spread of effluent across the effluent irrigation area and achieve compliance with condition L6 of EPPR00805313; and
 - f) A recommended ongoing maintenance program to ensure sewage treatment plant and irrigation plant and equipment is maintained in a proper and efficient condition.
- 2) By 5:00pm on 16 July 2021, provide a report to the department detailing the full findings of the review conducted under requirement 1.
The report must include the recommended schedule of upgrades and the ongoing maintenance program.
- 3) By 5:00 pm on 18 February 2022 you must:
 - a) Undertake all repairs recommended in the review undertaken in requirement 1 to existing irrigation infrastructure detailed on 'Effluent Disposal Area Monitoring Locations' dated September 1998 to ensure an even spread of treated effluent over the area marked on EA EPPR00805313 Schedule 1 'Effluent irrigation release area'; and
 - b) Provide the department with evidence of all repairs, and that an even spread of effluent is being achieved. This must include details of the volumes released per day and methods used to ensure even spread (e.g. isolation of areas).
- 4) You must ensure that effluent is not released during or for 24 hours after significant (>20mm) rainfall.
- 5) By 5:00pm on 17 May 2021, you must engage a suitably qualified person to:
 - a) Conduct groundwater monitoring up-gradient and down-gradient of the plant and irrigation area in accordance with EA condition W7 and W8; and
 - b) Utilising previous groundwater monitoring results, assess whether groundwater contamination has occurred and if so, the level of environmental harm caused as a result of such contamination.
- 6) You must submit a report by 5:00 pm on 15 October 2021 to the department detailing the results and analysis conducted under requirement 5.

All information and reports associated with the requirements of this notice must be provided to goldcoast.es@des.qld.gov.au.

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 a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$ 4,170,312.
- 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 a corporation is 250 penalty units, totalling \$ 33,362.50.

Failure to provide written notice within 10 business days of ceasing the activity to the department is an offence.

- The maximum penalty for a corporation is 250 penalty units, totalling \$ 33,362.50.

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.

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>.

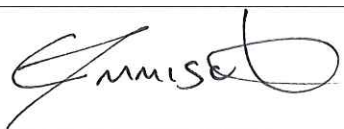
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Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may 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 Rhoda Johanni on telephone number 5626 6871.



Signature

21 April 2021

Date

Eugene Immisch
Compliance Delivery Manager
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

Enquiries: Rhoda Johanni
Gold Coast Compliance Centre
Environmental Services & Regulation
Level 1, 14 Edgewater Court, Robina
Ph: (07) 5626 6871
Email: goldcoast.es@des.qld.gov.au