Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Acland Pastoral Co. Pty Ltd
New Hope Corporation Limited
Level 16, 175 Eagle Street
BRISBANE QLD 4000

Attn: Reinhold Schmidt

Your reference: EPPR00814313
Our reference: 101/0006870 | STAT-E-100108939

1 September 2021

Dear Directors

Take notice: that under the *Environmental Protection Act 1994* (EP Act), this environmental protection order (EPO) is issued to Acland Pastoral Co. Pty Ltd (ACN 009 888 395) (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued with respect to your activities at Jondaryan Rail Loadout Facility on land described as Lot 1 on SP162572 (the premises).

A. Grounds

This EPO is issued on the following grounds:

> The department may issue an order to a person under section 358(d)(iii) of the EP Act to secure compliance by the person with a condition of an environmental authority.

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

1. You are the holder of environmental authority (EA) EPPR00814313 which authorises you to conduct ERA 63 (Sewage Treatment) and ERA 50 (mineral and bulk material handling) on Lot 1 on SP162572.
2. On 19 October 2020, you submitted an amendment application to the department which proposed a series of changes to EA conditions and identified planned infrastructure works on site to address ongoing non-compliances and reduce environmental risk. These works included "*Construction of two additional sediment basins as well as associated infrastructure (including spillways, drains, bunds and culverts) are proposed. These upgrades will better exclude offsite stormwater, improve management of onsite stormwater and more fully comply with EA conditions."* The amendment also included updated release points to match the proposed infrastructure upgrades.

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3. On 8 December 2020, the department approved the amendment application to EA EPPR00814313 and issued an amended EA.
4. Condition W2 and W4 of the EA state:

   W2 - The release of contaminant affected water to waters must only occur from the release points specified in Table W1 and depicted in Figure 2.

   W4 - The release of contaminant affected water to waters in accordance with Conditions W2 and W3 must not exceed the release limits stated in Table W2 (Contaminant Release Limits) when measured at the release points specified in Table W1 (Monitoring locations and frequency) and Figure 2 (Release Points and Receiving Environment water monitoring locations).

Table W2 – Contaminant Release Limits**

Parameter	Release limit
pH (pH units)	6.0 (minimum) to 9.0 (maximum)
Electrical Conductivity (µS/cm)	1,500
Total Suspended Solids (mg/L)	100

***NOTE:** In the event of monitoring equipment being inundated by floodwaters, the environmental authority holder must sample from within the Western Dam, Eastern Dam and Sediment Basin 1.

****NOTE:** The administering authority will take into consideration any extenuating circumstances (including flood events impacting release points) prior to determining an appropriate enforcement response in the event **Condition W3**, **Table W1** and **Table W2** is contravened. The administering authority expects the environmental authority holder to take all reasonable and practicable measures to maintain safe and practical access to designated monitoring locations.

5. On 23 March 2021, the department received notification through the WaTERS database of a 'non-authorised' release to waters (Event ID 6441) from the premises following rainfall in the region.
   a. The release from the authorised release point 'Spillway of Western Sediment Dam' contained water with suspended solids (516mg/L) which are considered a contaminant per section 11 of the EP Act. The release from the premises entered the roadside stormwater drain which leads to Lagoon Creek. This is considered to meet the definition of '*waters*' as defined by the EA.
   b. The release from 'spillway of eastern drain' was from an unauthorised release point and contained water with suspended solids (241mg/L) which is considered a contaminant per section 11 of the EP Act. The release entered the stormwater channel which freely drains to Doctors Creek. This is considered to meet the definition of '*waters*' as defined by the EA.
6. On 13 May 2021, the department received notification through the WaTERS database of a 'non-authorised' release to waters (Event ID 6701) from the premises following rainfall in the region.
   a. The release from 'spillway of eastern drain' was from an unauthorised release point and contained water with suspended solids (130mg/L) which is considered a contaminant per section 11 of the EP Act. The release entered the stormwater channel/drain which drains to Doctors Creek. This is considered to meet the definition of '*waters*' as defined by the EA.
7. The department has reviewed the information provided in relation to the two (2) release events and has identified the following alleged contraventions of EA EPPR00814313:
   a. **Condition W2:** The approved release locations in both Table W1 and Figure 2 of EA are listed as the 'spillway of western dam' and the 'spillway of eastern dam'. At the time of the releases (23 March and 12 May 2021), the eastern dam had not been constructed and as a result, an

unauthorised release occurred from a point referred to as 'spillway of eastern drain'. The two releases from this point on 23 March and 12 May 2021 are considered two separate alleged contraventions of condition W2 of the EA.

b. **Condition W4:** On 23 March 2021, the suspended solids monitoring result for the authorised release point 'spillway of western dam' was 516mg/L. This is an exceedance of the 100mg/L limit permitted by the EA and an alleged contravention of condition W4.

8. In February 2020, you advised the department that stormwater infrastructure would be upgraded, and the EA was amended to reflect this in December 2020. To date, the works have not been completed.
9. Until the water management infrastructure upgrades are completed, there is an ongoing environmental risk of unauthorised releases from the site.
10. The department considers that it is appropriate to require you to take reasonable measures to complete the proposed water management infrastructure upgrades prior to the 2021/2022 wet season.

B. Requirements

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

1. By **5:00pm on 1 November 2021**, you must complete the stage one water management infrastructure works as approved by Toowoomba Regional Council (reference OW/2020/4546), including Berms 1 to 4, Sediment Basin 1 (new western sediment dam) and Sediment Basin 2 (eastern sediment dam).
2. By **5:00pm on 5 November 2021**, you must provide a report to the department by a suitably qualified person certifying that the above works have been completed.

Definitions

Suitably qualified person(s) (SQP) means a person or persons who has relevant demonstrated professional qualifications, training, skills or experience and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

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 EP Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

1. The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $ 861 562.5 or five years imprisonment.
2. The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $ 4,307,812.5.
3. The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $ 620,325.
4. The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $ 3,101,625.

Failure to provide written notice to the buyer is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $ 6,892.5.
- The maximum penalty for a corporation is 250 penalty units, totalling $ 34,462.5.

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

- The maximum penalty for an individual is 50 penalty units, totalling $ 6,892.5
- The maximum penalty for a corporation is 250 penalty units, totalling $ 34,462.5.

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

E. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the EP Act.

A person who is dissatisfied with an original decision made by the Department of Environment and Science (the department) may apply to have that decision internally reviewed.

Information about initiating an appeal in relation to this notice is contained within the Internal Reviews and Appeals Information Sheet (available at www.qld.gov.au using the publication number ESR /2015/1742 as a search term)

A request for review or appeal is to be made using the approved form 'Application for review of original decision' (available at www.qld.gov.au using the publication number ESR/2015/1573 as a search term.

Applications for reviews are to be sent to Permit and Licence Management, Department of Environment and Science: via email at palm@des.qld.gov.au , or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

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.

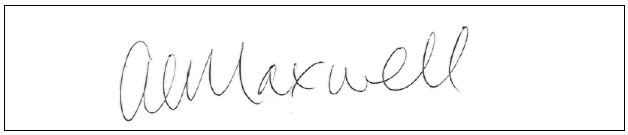
A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

You may have other legal rights or obligations and should seek your own legal advice.

Pursuant to section 540 of the EP Act, the department is required to maintain a register of certain documents and information authorised under the EP Act. A copy of this document will be kept on the public register. The

register is available for inspection by members of the public who are able take extracts, or copies of the documents from the register. Documents that are required to be kept on the register are published in their entirety, unless alteration is required by the EP Act. There is no general discretion allowing the department to withhold documents or information required to be kept on the public register. For more information on the department's public register, search 'public register' at www.qld.gov.au. For queries about privacy matters please email privacy@des.qld.gov.au or telephone 13 74 68.

Should you have any queries in relation to the notice, please contact Alison Walton on 4529 8308 or via email at southwest.es@des.qld.gov.au.



Signature

1 September 2021

Date

Aimee Maxwell

Manager (Compliance)

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Alison Walton

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