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.

The Passage Holdings Pty Ltd (In liquidation) ACN 602 422 891
C/O Offermans Partners
'Offermans Partners' Suite 3B, 41-49 Sturt Street
TOWNSVILLE CITY QLD 4810

Your reference: Port Hinchinbrook Sewage Treatment Plant

Our reference: C-CPLRC-100117911 / STAT-E-100120089

26/08/2021

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to The Passage Holdings Pty Ltd (in liquidation) ACN 602 422 891 (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 the activities of sewage treatment and associated infrastructure on land described as 1/C1043, 2/CWL1212, 3/C1043, 41/C1043, 42/C1043, 3/RP733367, 170/SP177389, 7/RP732868, 5/RP732868, and 6/RP732868 situated off the Bruce Highway, Cardwell QLD 4849 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. *The department requires you to take reasonable measures to secure compliance with the general environmental duty. The general environmental duty is detailed in section 319 of the EP Act which states that: 'A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practical actions to prevent or minimise the harm (the **general environmental duty**).'*
2. *The department requires you to take reasonable measures to secure compliance with conditions of Environmental Authority EPPR00576713 dated 26 October 2004, including conditions:*

   A1-1 In carrying out the environmentally relevant activities, you must take all reasonable and practicable measures to prevent and / or to minimise the likelihood of environmental harm being caused. Any environmentally relevant activity, that, if carried out incompetently, or negligently, may cause environmental harm, in a manner that could have been prevented, shall be carried out in a proper manner in accordance with the conditions of this approval.

   A2-1 The holder must:

Queensland Government

- install all measures, plant and equipment necessary to ensure compliance with the conditions of this environmental authority; and
- maintain such measures, plant and equipment in a proper and efficient condition; and
- operate such measures, plant and equipment in a proper and efficient manner.

F2-1 The only contaminants permitted to be released to land are treated effluents to the areas shown in Figure 1 Schedule I in compliance with the limits levels stated in Table 1 of the Land Schedule and the conditions of this authority.

Schedule F - Table 1 (Release limits - 'Land')

	Release Limit		
Quality characteristics	***Minimum***	***50th Percentile***	***Maximum***
Suspended Solids			*5 mg/L*
5 Day - Biological Oxygen Demand			*10 mg/L*
Total Nitrogen		*5 mg/L*	*10 mg/L*
Total Phosphorous		*1 mg/L*	*2 mg/L*
Faecal Coliform		*10 Colony forming units per 100ml*	*100 Colony forming units per 100ml*
PH	*6.5 pH units*		*8.5 pH units*
Dissolved Oxygen	*2 mg/L*		

F2-2 The irrigation of effluent must be carried out in a manner such that:
- vegetation is not damaged;
- soil erosion and soil structure damage is avoided;
- there is no surface ponding of effluent;
- percolation of effluent beyond the plant root zone is minimised;
- the capacity of the land to assimilate nitrogen, phosphorus, salts, by oxygen demand and water is not exceeded; and
- the quality of ground water is not adversely affected.

F2-5 Monitoring must be undertaken and records kept of a monitoring program of contaminant releases to the irrigation area at the monitoring points, frequency, and for the parameters specified in Schedule F - Table 2.

Schedule F - Table 2 (Monitoring program)

Monitoring point	*Quality characteristics*	*Units*	*Frequency*
Outlet from effluent storage tanks when a discharge occurs.	*Suspended Solids*	*mg/L*	*Monthly*
	5 Day - Biological Oxygen Demand	*mg/L*	*Monthly*
	Total Nitrogen	*mg/L*	*Monthly*
	Total Phosphorous	*mg/L*	*Monthly*
	Faecal Coliform	*Colony forming units per 100 milliliters*	*Monthly*
	pH	*pH units*	*Weekly*
	Dissolved Oxygen	*mg/L*	*Weekly*

F2-7 When conditions prevent the irrigation of treated effluent to land (such as during or following rain events), the effluent must be directed to wet weather storage tanks.

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

1. On 26 October 2004, The Passage Holdings Pty Ltd (in liquidation) (TPH, you) were issued environmental authority EPPR00576713 (the EA) which authorised environmentally relevant activity (ERA) 63, sewage treatment at the premises. This EA is still current.
2. The department considers that you are carrying out an activity that is likely to cause environmental harm, unless you take reasonable and practical measure to prevent or minimise that harm.
3. On 4 August 2017, TPH were ordered by the Court to be wound up in insolvency, and Michael Brennan and Dennis Offermans of Offermans Partners were appointed as joint liquidators.
4. As the holder of the EA, you are responsible for the ongoing operation and maintenance of the STP and are required to comply with the conditions of the EA.
5. The department is aware that prior to 30 June 2021, Cassowary Coast Regional Council (the Council), under agreement with Offermans Partners, were maintaining and operating the STP and associated infrastructure for the premises. Since 30 June 2021, no maintenance has occurred on the STP and associated infrastructure and no monitoring has been conducted.
6. Throughout July and August 2021, officers of the department inspected the STP (from the boundary) and 11 associated sewage pump stations. Officers observed a slight sewage odour at pump station 3 and 4 on 17 August 2021 and at pump station 4 on 3 August 2021.

7. On 19 August 2021, the department received a status and condition report from the Council which included the below findings from their inspection on 16 August 2021:
    a. The clarifier has a thick sludge layer on the top preventing adequate flow to the effluent storage tank and appears to have overflowed already.
    b. The inlet screen collection bin is full and overflowing and the inlet bar screen is partially blocked and at risk of becoming ineffective and overflowing.
    c. The balance tank, aeration tank and clarifier are at full capacity and at risk of overflowing.
    d. The sand filters are clogged with sludge from the clarifier.
    e. Irrigation lines are broken due to blocked sprinkler heads and subsequent pressure in the lines.
    f. Irrigation has been operating automatically and there is visible pooling in the irrigation area.
    g. Alum and sodium hypochlorite dosing tanks are empty so the effluent being irrigated is likely to have high levels of bacterial contamination.
    h. The backup generator is beyond repair so the plant will not operate in the event of power failure.
    i. Pump station 4 has a thick layer of pump and grease and is at risk of overflowing.
8. On 19 August 2021, the Council notified the department that there was a small release from pump station 3, which was caused by the pumps ceasing to operate due a build-up of grease in the pump station.
9. The department has identified that the nature of the potential harm which may be caused through a sewage discharge to waters may result in significant impacts on the receiving environment. Particularly given the STP and associated pump station infrastructures' proximity to adjacent sensitive environments of the Hinchinbrook Channel and world heritage listed Hinchinbrook Island.
10. On 26 August 2021, the department was advised that you are not currently conducting maintenance or monitoring of the STP or the associated infrastructure.
11. The general environmental duty (GED) outlined in the *Environmental Protection Act 1994*, requires you to take all reasonable and practicable measures to minimise environmental harm when undertaking an activity that may cause environmental harm. As described in paragraphs 7 to 10 of this notice, the department considers that you have failed to take measures to prevent or minimise the risk of environmental harm from the operations of the STP and associated infrastructure.
12. As a result, the department considers it reasonable to require you to comply with the GED.
13. The department also considers that based on the information in paragraphs 7 to 10 of this notice, that you are contravening conditions A1-1, A2-1, F2-1, F2-2, F2-5, and F2-7 of the EA.
14. As a result, the department considers it reasonable to require you to comply with the requirements of this notice and the conditions of the EA.
15. On 26 October 2004, The Passage Holdings Pty Ltd (in liquidation) (TPH, you) were issued environmental authority EPPR00576713 (the EA) which authorised environmentally relevant activity (ERA) 63, sewage treatment at the premises. This EA is still current.
16. The department considers that you are carrying out an activity that is likely to cause environmental harm, unless you take reasonable and practical measure to prevent or minimise that harm.
17. On 4 August 2017, TPH were ordered by the Court to be wound up in insolvency, and Michael Brennan and Dennis Offermans of Offermans Partners were appointed as joint liquidators.
18. As the holder of the EA, you are responsible for the ongoing operation and maintenance of the STP and are required to comply with the conditions of the EA.
19. The department is aware that prior to 30 June 2021, Cassowary Coast Regional Council (the Council), under agreement with Offermans Partners, were maintaining and operating the STP and associated infrastructure for the premises. Since 30 June 2021, no maintenance has occurred on the STP and associated infrastructure and no monitoring has been conducted.

20. Throughout July and August 2021, officers of the department inspected the STP (from the boundary) and 11 associated sewage pump stations. Officers observed a slight sewage odour at pump station 3 and 4 on 17 August 2021 and at pump station 4 on 3 August 2021.
21. On 19 August 2021, the department received a status and condition report from the Council which included the below findings from their inspection on 16 August 2021:
    a. The clarifier has a thick sludge layer on the top preventing adequate flow to the effluent storage tank and appears to have overflowed already.
    b. The inlet screen collection bin is full and overflowing and the inlet bar screen is partially blocked and at risk of becoming ineffective and overflowing.
    c. The balance tank, aeration tank and clarifier are at full capacity and at risk of overflowing.
    d. The sand filters are clogged with sludge from the clarifier.
    e. Irrigation lines are broken due to blocked sprinkler heads and subsequent pressure in the lines.
    f. Irrigation has been operating automatically and there is visible pooling in the irrigation area.
    g. Alum and sodium hypochlorite dosing tanks are empty so the effluent being irrigated is likely to have high levels of bacterial contamination.
    h. The backup generator is beyond repair so the plant will not operate in the event of power failure.
    i. Pump station 4 has a thick layer of pump and grease and is at risk of overflowing.
22. On 19 August 2021, the Council notified the department that there was a small release from pump station 3, which was caused by the pumps ceasing to operate due a build-up of grease in the pump station.
23. The department has identified that the nature of the potential harm which may be caused through a sewage discharge to waters may result in significant impacts on the receiving environment. Particularly given the STP and associated pump station infrastructures' proximity to adjacent sensitive environments of the Hinchinbrook Channel and world heritage listed Hinchinbrook Island.
24. On 26 August 2021, the department was advised that you are not currently conducting maintenance or monitoring of the STP or the associated infrastructure.
25. The general environmental duty (GED) outlined in the *Environmental Protection Act 1994*, requires you to take all reasonable and practicable measures to minimise environmental harm when undertaking an activity that may cause environmental harm. As described in paragraphs 7 to 10 of this notice, the department considers that you have failed to take measures to prevent or minimise the risk of environmental harm from the operations of the STP and associated infrastructure.
26. As a result, the department considers it reasonable to require you to comply with the GED.
27. The department also considers that based on the information in paragraphs 7 to 10 of this notice, that you are contravening conditions A1-1, A2-1, F2-1, F2-2, F2-5, and F2-7 of the EA.
28. As a result, the department considers it reasonable to require you to comply with the requirements of this notice and the conditions of the EA.

B. Requirements

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

1. By 5:00PM on 3 September 2021, an **appropriately qualified person(s)** must be appointed to undertake maintenance and/or repairs of the sewage treatment plant (STP) and associated infrastructure to return it to proper and efficient operation to ensure compliance with the EA and the GED.
2. By 5:00PM on 24 September 2021, you must provide a report to the department demonstrating that the sewage treatment plant is operating in accordance with the EA.

3. By 5:00PM on 24 September 2021, an **appropriately qualified person(s)** must install and have an operational back up power supply for the STP that will continue the plant's operation in the event of a mains power failure.
4. By 5:00PM on 24 September 2021, an **appropriately qualified persons(s)** must develop a plan for the maintenance, operation, and management of the STP and associated infrastructure (including contingency plans and emergency procedures for non-routine situations). The plan must also provide for the disposal of sewage sludges, which are a regulated waste under Schedule 19 of the *Environmental Protection Regulation 2009*.
5. By 5:00PM on 24 September 2021, you must submit the plan in accordance with Requirement 4 to the department (via email to ESTownsville@des.qld.gov.au).
6. By 5:00PM on 24 September 2021, you must ensure that the **appropriately qualified person** implements the plan.
7. By 5:00PM on 24 September 2021, you must ensure that the only contaminants released to land from the sewage treatment plant have been treated to achieve compliance with the release limits for the quality characteristics in Table 1 (Release limits – Land).

Table 1 (Release limits - Land)

Quality Characteristics	Minimum release limit	Maximum release limit
Suspended Solids		5mg/L
5 day – Biological Oxygen Demand		10mg/L
Total Nitrogen		10mg/L
Total Phosphorous		2mg/L
Faecal Coliform		100 Colony forming units per 100ml
pH	6.5 pH units	8.5 pH units
Dissolved Oxygen	2mg/L	

8. You must ensure that contaminants released to land in accordance with Requirement 7 are only released by irrigation to irrigation areas one, two and three as shown in Appendix A.
9. You must ensure that an **appropriately qualified person** monitors the contaminants released to the irrigation areas one, two and three at the release points from the effluent storage tanks to the irrigation areas at least once per fortnight, for the quality characteristics specified in Table 1 of Requirement 7 of this notice and provides the monitoring results to the department on the first and third Friday of each calendar month.
10. The irrigation of contaminants in accordance with Requirement 7 of this notice must be carried out in a manner such that:
    a. There is no surface ponding of effluent;
    b. Percolation of effluent beyond the plant root zone is minimised;
    c. The capacity of the land to assimilate nitrogen, phosphorous and salts is not exceeded; and
    d. The quality of ground water is not adversely affected.
11. When conditions prevent the irrigation of contaminants to land (such as during or following rain events), the effluent must be directed to wet weather storage tanks.

12. You must notify the department's Pollution Hotline (by phoning 1300 130 372 (option 2)) within 24 hours of all releases of effluent (treated or untreated) from the STP or associated infrastructure, except for irrigation to land in accordance with Requirements 7 to 10 of this notice.
13. You must notify the department's Pollution Hotline (by phoning 1300 130 372 (option 2)) within 24 hours of any community reports you receive regarding releases of effluent or odours from, or likely to be from, the STP and associated infrastructure.

appropriately qualified person(s) *means a person or persons who has who has professional qualifications, training, skills and experience relevant to the EPO requirements and can give authoritative assessment, advice and analysis in relation to the EPO requirements using 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 wilfully contravening an EPO is 6250 penalty units, totalling for an individual $861,562 or five years imprisonment, or $4,307,812 for a corporation
2. The maximum penalty for contravening an EPO is 4500 penalty units, totalling $620,325 for an individual, or $3,101,625 for a corporation.

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

- The maximum penalty is 50 penalty units, totalling $6,892 for an individual, or $34,462 for a corporation.

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

- The maximum penalty is 50 penalty units, totalling $6,892 for an individual, or $34,462 for a corporation.

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 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 Centaine Ferris, Environmental Officer of the department on telephone (07) 4722 5366 or email centaine.ferris@des.qld.gov.au.

	26/08/2021
Signature	Date

Tim Brain

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Centaine Ferris

COMPLIANCE CENTRE: **Townsville**
Ph: (07) 4722 5366
Email: centaine.ferris@des.qld.gov.au

Appendix A: Irrigation Area and Wet Weather Discharge Point

