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.

Chief Executive Officer
Isaac Regional Council (ABN 632 915 801 28)
1 Batchelor Parade
MORANBAH QLD 4744

Your reference: EPPR00791913

Our reference: STAT-E-100252992, STAT-E-100255485

19/09/2022

Dear Mr Stewart-Harris,

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to Isaac Regional Council (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 Isaac Regional Council at the Moranbah Sewage Treatment Plan (STP) on land described as Lot 1 Plan GV282 and Lot 44 Plan GV203 situated at Forrest Drive Moranbah QLD (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. To require you to take reasonable measures to secure compliance with conditions 2-G1, 2-L1, and 7-G1 of the environmental authority (EA) EPPR00791913 dated 28 November 2018 which states:

   Condition 2-L1

   Other than as permitted within this environmental authority, contaminants must not be released to land.

   Condition 7-G1

   Activities conducted under this environmental authority must not be conducted contrary to any of the following limitations:

   1. Inflows must not exceed the peak design capacity of 3.6 ML/day for the main sewage treatment plant on the site.
   2. Inflows must not exceed the peak design capacity of 0.9 ML/day for the support sewage treatment plant on the site.
   3. 3. Daily inflow must be determined or estimated by an appropriate method with an accuracy of +/- 5%.

Queensland Government

Condition 7-WT1

The only contaminants to be released to surface waters are from the effluent storage dams (Mo-ESP1 and Mo-ESP2) to waters described as Grosvenor Creek, at release point W1 (located at Longitude: 148.045, Latitude: -22.0136) in accordance with Table 7.3 - Surface water release limits and the associated requirements.

Table 7.3 – Surface water release limits

Release point	Quality characteristic	Units	Minimum	Mean	Median	Maximum	Monitoring Frequency
W1 (located at Longitude 148.045, Latitude: -22.0136)	Flow rate of release	L/s	-	90		-	Daily upon release
	pH	pH units	6	-		8.5	
	Total Residual Chlorine	mg/L	-	-		0.5	
	Total Suspended Solids	mg/L	-	-		55	
	Ammonia	µg/L	-	-		20	
	Dissolved Oxygen	mg/L	2	-		-	
	Electrical Conductivity	µS/cm			1600		
	E. coli	cfu/100mL	-	-		10	
	Total Nitrogen	mg/L	-	-		5	
	Total Phosphorous	mg/L	-	-		5	
	BOD5	mg/L	-	-		20	Upon release, and weekly thereafter

Associated monitoring requirements

1. Releases to waters are only permitted where the receiving waters of Grosvenor Creek have a flow rate of at least 8611 L/s.
2. Monitoring may be undertaken by in situ testing for the following quality characteristics: pH, Total Residual Chlorine, Total Suspended Solids, Ammonia, Dissolved Oxygen, and Electrical Conductivity. Where in situ testing is undertaken for a quality characteristic, at least one monitoring event per release must be undertaken by a NATA accredited laboratory. Where release events exceed one week in duration, least one monitoring event per week for the release must be undertaken by a NATA accredited laboratory.
3. Multiple release events separated in time by less than seven days between consecutive releases are considered to be a single release.
4. Monitoring must be undertaken during a release.
5. Samples must be representative of the release.
6. All monitoring devices must be effectively calibrated and maintained.

2. The department requires you to take reasonable measures to secure compliance with the general environmental duty (GED). The GED is detailed in s319 of *the Act* which states the following: *'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**).*

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

1. You hold environmental authority (EA) EPPR00791913 (dated 28 November 2018) authorising environmentally relevant activity (ERA) 63 – Sewage Treatment, 1: Operating sewage treatment works, other than no release works, with a total daily peak design capacity of, (e) more than 10,000 but not more than 50,000EP [as described in subsection 2(e) of the Environmental Protection Regulation 2008 which was current when the EA was issued] at the premises.
2. Condition 2-L1 states: Other than as permitted within this environmental authority, contaminants must not be released to land.

3. Condition 7-WT1 states: The only contaminants to be released to surface waters are from the Effluent Storage Dams (ESD) (Mo-ESP1 and Mo-ESP2) to waters described as Grosvenor Creek, at release point W1 (located at Longitude: 148.045, Latitude: -22.0136) in accordance with Table 7.3 - Surface water release limits and the associated requirements.

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5. Samples must be representative of the release.
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4. On 10 May 2022, you notified the department of a likely overtopping of the ESD at the Moranbah STP within the next 7-10 days (departmental reference C-CPLRC-100251348).
5. The ESD are located on Lot 1 on GV282, approximately 1.7km from the Isaac River.
6. The ESD at Moranbah STP consists of Mo-ESP1 and Mo-ESP2. The two dams are hydraulically connected.
7. On 7 June 2022, you notified the department that the ESD was overtopping at a rate of 1.17L/s. The ESD was overtopping from the spillway and was overtopping to land. The spillway is on Mo-ESP1 (located at lat/long -21.99489, 148.06147 (GDA2020)).
8. On 14 June 2022, you advised the department that the overtopping of the ESD had been intermittent since 7 June 2022, and it was estimated that a total of 1.1 ML of treated effluent had been released to land.
9. On 24 June 2022, you advised the department that there had been no further releases since 15 June 2022 and that the total volume of treated effluent released from 7 June to 14 June 2022 was 1.1ML.
10. On 4 July 2022, you notified the department that the ESD began overtopping from the spillway again on 3 July 2022. You advised that a total of 24.4ML of treated effluent has been released from the spillway of the ESD since 7 June 2022.
11. On 15 July 2022, you advised the department that the overtopping of the ESD from the spillway was continuing. You advised that since 3 July 2022, 32ML of treated effluent had been released to land.
12. On 5 August 2022, you advised the department that the overtopping of the ESD from the spillway was continuing and that since 3 July 2022 48.9ML of treated effluent had been released to land

13. On 12 August 2022, you confirmed that the effluent had not reached the Isaac River.
14. On 19 August 2022, you advised the department that the overtopping of the spillway was continuing and that since 3 July 2022, 56.9ML of treated effluent had been released to land.
15. A total of 58MLML of treated effluent has overflowed from the spillway of the ESD from 7 June 2022 to 19 August 2022 to land.
16. It is alleged that you have failed to take all reasonable and practicable measures to prevent releases of effluent to land or waters.
17. It is alleged that you have permitted the release of effluent from the ESD spillway located at lat/long -21.99489, 148.06147 (GDA2020) which is not an authorised release point as per condition 7-WT1 of EA EPPR00791913.
18. Condition 7-G1 states: Activities conducted under this environmental authority must not be conducted contrary to any of the following limitations:
    a. Inflows must not exceed the peak design capacity of 3.6 ML/day for the main sewage treatment plant on the site.
    b. Inflows must not exceed the peak design capacity of 0.9 ML/day for the support sewage treatment plant on the site.
    c. Daily inflow must be determined or estimated by an appropriate method with an accuracy of +/-5%.
19. On 15 May 2022, you notified the department of a peak flow exceedance stated in condition 7-G1 of EA EPPR00791913 from 10 to 11 May 2022 of 4.681 ML/day and 4.436 ML/day respectively at the Moranbah STP (departmental reference C-CPLRC-100255414).
20. On 4 July 2022, you notified the department of a peak flow exceedance stated in condition 7-G1 of the EA EPPR00791913 on 3 July 2022 of 4.26ML/day (C-CPLRC-100255414).
21. On 8 July 2022, the department sent you a pre-enforcement letter regarding the alleged non compliances of condition 7-G1 of EA EPPR00791913 on 10-11 May 2022 and 3 July 2022.
22. On 20 July 2022, you responded to the pre-enforcement letter sent by the department on 8 July 2022.
23. It is alleged that you have contravened condition 7-G1 of EA EPPR00791913 exceeding the peak design inflow capacity of 3.6ML/day.
24. In summary, the department considers that, given the facts and circumstances detailed above, it is reasonable to require you to take reasonable measures to secure compliance with conditions 2-G1-1, 2-L1, 7-G1 and 7-WT1 of the EA.

B. Requirements

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

1. You must implement all reasonable and practicable measures to prevent the release of treated effluent from the spillway of the ESD at the Moranbah STP.
2. By **4pm Friday 9 December 2022**, you must submit an Irrigation Management Plan to the department for the irrigation of treated effluent from the Moranbah STP. The Irrigation Management Plan must:
    a. Ensure compliance with conditions 5-L2, 5-L3, and 5-L4 of EA EPPR00791913;
    b. Ensure compliance with condition 5-L6 of EA EPPR00791913 (third party agreements are in place);
    c. Include a plan which details and describes all irrigation areas associated with the Moranbah STP;

d. Demonstrate that all reasonable and practicable measures have been implemented to prevent the release of treated effluent from the spillway of the ESD at the Moranbah STP;

3. Within 20 business days of the department providing any comments, you must update the Irrigation Management Plan to incorporate the department's comments and re-submit the plan to the department.
4. You must commission an appropriately qualified person (AQP) to undertake an assessment of the current design and operation of the Moranbah sewage network and STP to determine:
    a. the impacts of infiltration of stormwater and groundwater into the sewer reticulation system in Moranbah and develop a risk based monitoring and maintenance program to minimise stormwater and groundwater infiltration into the sewage networks;
    b. the water balance between inflows and discharges at the STP;
    c. the irrigation system requirements to utilise the discharge volumes calculated above, in conjunction with any release to waters approved by the EA;
    d. if the sewage network and STP are currently fit for purpose (to meet environmental obligations) and for the foreseeable future;
    e. any additional management measures or changes to the current system (including to infrastructure) to ensure compliance with the EA.
5. By **4pm Friday 17 February 2023**, you must submit a report to the department which details the following:
    a. The outcomes of each of the assessments listed in requirement (4) above (including (a) through to (e)).
    b. A schedule of works which details all additional measures identified as a result of completing requirement (4). The schedule of works must be specific, measurable, achievable, relevant and time-based.
6. The reports required by the above requirements must be submitted to CWES_Mackay@des.qld.gov.au.

Definitions

'Appropriately qualified person' is defined as a person or persons who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis of 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

It is important that you know the impact to you personally as an individual or as a corporation for not meeting your obligations.

Failure to comply with an EPO is an offence.

- The maximum penalty for wilfully contravening an EPO is 6,250 penalty units, totalling $4,492,187.50 for a corporation.
- The maximum penalty for contravening an EPO is 4,500 penalty units, totalling $3,234,375.00 for a corporation.

Failure to provide written notice to the buyer of the existence of the order is an offence.

- The maximum penalty is 50 penalty units, totalling $35,937.50 for a corporation.

Failure to provide written notice to the department within 10 business days of ceasing the activity to which an environmental protection order relates is an offence.

- The maximum penalty is 250 penalty units, totalling $35,937.50 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 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 Act, the department is required to maintain a register of certain documents and information authorised under the 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 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 Garry Debbage-Philp on 4999 6850 telephone number.

	19/09/2022
Signature	Date