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.

Designed Logistical Solutions Pty Ltd, ACN 610 209 204
51-53 Front Street
Mossman QLD 4873

Our reference: C-CPLPO-100292828

8 August 2022

Take notice: that under the *Environmental Protection Act 1994* (the Act) a direction notice is issued to Designed Logistical Solutions Pty Ltd, ACN 610 209 204 (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 Designed Logistical Solutions Pty Ltd at the Ferntee Rainforest Hotel on land described as Lot 35 on Plan RP733181, Lot 36 on Plan RP733181, and Lot 6 on Plan RP851327 situated at 36 Camelot Close, Cape Tribulation QLD 4873 (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 440ZG 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:

- The Department of Environment and Science (the department) received a community report on 1 August 2022 of an effluent release to waters at Cape Tribulation Road. Effluent was allegedly observed overflowing from an effluent tank and had allegedly been ongoing for up to 3 weeks.
- On 2 August 2022, departmental officers investigated the alleged release and inspected sewage treatment Environmentally Relevant Activities (ERAs) in the vicinity of Cape Tribulation Road and Camelot Close.
- Officers observed a sewage treatment ERA being carried out on Lot 6 Plan RP851327 which included effluent storage tanks and various piping and pumping equipment. Officers could hear a pump operating and dectected strong sewage odours.
- The sewage treatment works observed on Lot 6 Plan RP851327 are being carried out by Designed Logistical Solutions Pty Ltd (you), ACN 610 209 204. You hold Environmental Authority EPPR00886913 which authoises ERA 63 *Sewage treatment*.

Queensland Government

- Officers conducted an inspection of the Ferntree Rainforest Hotel premises between 1:00pm and 2:00pm on 2 August 2022. During the inspection, officers were shown to the site's sewage treatment works on Lot 6 Plan RP851327. Photographs, environmental samples, geographical information, and authorised person written records were collected during the inspection.
- During the inspection, officers observed the sewage treatment plant to be poorly maintained with several active leaks of sewage effluent observed from pipes and pumping equipment and associated wet ground located amongst the effluent tanks at the premises.
- Officers observed several shallow drainage trenches dug into the soil running between the effluent tanks leading from areas of leaking effluent towards a nearby stormwater gully. Officers additionally observed a pipe leading towards the same stormwater gully from an adjacent effluent tank.
- Within the nearby stormwater gully, officers observed an area of approximately 10 square metres covered in sewage sludge material. The material was grey in colour, had strong sewage odour characteristics, and was estimated to be up to 7 centimetres in depth.
- Schedule 10 of the *Environmental Protection Regulation 2019* identifies prescribed water contaminants and includes –
    - *sewage and sewage residues, whether treated or untreated, and any other matter containing faecal coliforms or faecal streptococci, including, for example, waste water pumped out from a septic tank*
- Section 440ZG of Act states that –
    - *A person must not– (a) unlawfully deposit a prescribed water contaminant–*

      (i) in waters; or

      (iii) at another place, and in a way, so that the contaminant could reasonably be expected to wash, blow, fall or otherwise move into waters, a roadside gutter or stormwater drainage.
- Under the Act, *waters* are defined with respect to *Queensland waters*, which is described in Schedule 1 of the *Acts Interpretation Act 1954* as *all waters that are– (a) within the limits of the State; or (b) coastal waters of the State.* Schedule 2 of the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019* further defines waters as including *the bed and banks of waters*.
- Section 440ZD of the Act defines *stormwater drainage* as *a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.*
- Deposition of sewage and sewage residues into the bed and banks of an unnamed stormwater gully is considered to be a deposition to waters.
- Officers observed a clear flow pathway from the stormwater gully, sloping easterly towards a roadside stormwater swale along Cape Tribulation Road, and via a concrete stormwater culvert underneath Cape Tribulation Road, to the downstream Daintree National Park and wetland of high ecological significance.
- Given the location of the sewage sludge within the stormwater gully, and the proximity of leaking sewage effluent, contaminants could reasonably be expected to wash or otherwise move into roadside stormwater drainage.
- With reference to sections 440ZG and 440ZE of he Act, you are considered to have unlawfully deposited the prescribed water contaminants (sewage sludge and effluent) because you are the occupier of the place and the contaminant was under your control; as the operator of the sewage treatment works, you released or otherwise caused the contaminants to be released; you did not

remove the contaminant (sewage sludge) within a reasonable time after becoming aware; and release of contaminants to the stormwater gully is not authorised under Envirnmental Authority EPPR00886913.

- The observed release of prescribed water contaminants to waters, and at a place where the contaminants could reasonably be expected to move into roadside stormwater drainage is a contravention of section 440ZG of the Act.
- The department considers it reasonable to require action to remedy the contravention and mitigate risk of environmental harm to the downstream high value and environmentally sensitive receiving environment.

B. Reasonable Steps

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

1. Immediately on receipt of this notice, you must commence action to contain and prevent further unauthorised releases of prescribed water contaminants to:
    (a) waters, a roadside gutter or stormwater drainage; and
    (b) a place where contaminants could reasonably be expected to move into waters, a roadside gutter or stormwater drainage.
2. By 5:00pm on 16 August 2022, you must complete all necessary actions to contain and prevent further unauthorised releases of prescribed water contaminants to:
    (a) waters, a roadside gutter or stormwater drainage; and
    (b) a place where contaminants could reasonably be expected to move into waters, a roadside gutter or stormwater drainage.
3. By 5:00pm on 16 August 2022, all visible sewage and sewage residues must be removed from waters and from any place where contaminants could reasonably be expected to move into waters, and must be appropriately and lawfully treated and/or disposed of to an authorised facility.
4. On and from 17 August 2022, there must be no unauthorised release of prescribed water contaminants from the Environmentally Relevant Activity to:
    (a) waters, a roadside gutter or stormwater drainage; and
    (b) a place where contaminants could reasonably be expected to move into waters, a roadside gutter or stormwater drainage.

Take notice:

- The contravention must be remedied by 5:00pm on 16 August 2022.
- 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.

- The maximum penalty for an individual for wilfully contravening a direction notice is 1665 penalty units, totalling $239,343.75.
- The maximum penalty for a corporation for wilfully contravening a direction notice is 8325 penalty units, totalling $1,196,718.75.
- The maximum penalty for an individual contravening a direction notice is 600 penalty units, totalling $86,250.
- The maximum penalty for a corporation contravening a direction notice is 3000 penalty units, totalling $431,250.

Section 3 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 Kristen Corkill, Senior Environmental Officer, on telephone number 07 4222 5161.

	8 August 2022
Signature	Date

[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.des.qld.gov.au.

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