CoRA Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 and Chapter 7, Part 5, Division 2 of the Environmental Protection Act 1994.

Anthony Kevin Davies
102 Riverview Drive
Burrum Heads QLD 4659

CC: Anthony Kevin Davies
Unti 2, 27 Beaches Village Ct
Agnes Water QLD 4677

CC: Nicholas Rossi
Senior Associate, Marino Law
nicholas@marinolaw.com.au

Your reference: E-100373667

Our reference: C-CPLRC-100224762

22/12/2023

Dear Mr Davies

Take notice: that under the *Environmental Protection Act 1994* (Act) this environmental protection order (EPO) is issued to Anthony Kevin Davies (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment, Science and Innovation (the department).

The EPO is issued with respect to the activities of Fraser Coast Sustainability Pty Ltd ACN 636 083 880 (in administration) on land described as Lot 2 SP269334 situated at Canterwood Road, Owanyilla, Queensland (the premises), and as Lot 4 SP276208 situated at Owanyilla Boundary Road, Owanyilla, Queensland (the secondary premises).

A. Grounds

This EPO is issued on the following grounds:

1. Under section 358(f) of the Act, the administering authority may issue an EPO in the circumstances stated in division 2 of the Act.
2. Division 2, section 363AD(1) of the Act states that the administering authority may issue an EPO under division 1 to a related person of a high risk company, whether or not an EPO is being issued, or has been issued, to the high risk company.
3. Under section 36AA of the Act, a high risk company means an externally administered body corporate within the meaning given by the *Corporations Act 2001*.
4. Fraser Coast Sustainability Pty Ltd (in administration) (the company) is considered a high risk company given a liquidator was appointed over the company by order of the Supreme Court of Victoria on 29 March 2023.

Queensland Government

5. You are considered a related person of the company under section 363AB of the Act, given the department is satisfied you have a relevant connection with the company because:
    a) As the Chief Executive Officer (CEO) of the company since at least 6 March 2020, and the primary executive officer in operational control of the company, you are capable of significantly benefiting financially, or have significantly benefited financially, from the carrying out of a relevant activity by the company; and
    b) As the CEO of the company since least 6 March 2020, you have been, during the previous 2 years, in a position to influence the company's conduct in relation to the way in which, or extent to which, the company complies with its obligations under this Act.
6. The relevant activity carried out by the company is the receipt and deposition of approximately 60,000m^3 of waste at the premises, and the deposition of approximately 11,500m^3 of waste at the secondary premises.
7. It is alleged that the ongoing deposition of waste at the premises and secondary premises has caused, or is likely to cause serious environmental harm in accordance with section 17 of the Act because:
    a) the waste is considered to pose a high fire risk, and is likely to cause environmental harm that is irreversible, of a high impact or widespread (especially to high environmental values downstream waters in the event of a fire or large scale rain event); or
    b) the waste consists of light weight plastics, which are likely to cause environmental harm to downstream waters which are of high conservation value (especially in the event of a large scale rain event); or
    c) the cost to lawfully remove the waste from the premises and secondary premises is estimated to be approximately $16.9 million, the waste causes actual or potential loss of damage to property of an amount of, or amounts totalling more than the threshold amount of $100,000; and
    d) the cost to lawfully remove the waste from the premises and secondary premises is estimated to be $16.9 million, the waste results in costs of more than the threshold amount of $100,000 being incurred in taking appropriate action to:
        i. prevent or minimise the harm; and
        ii. rehabilitate and restore the environment to its condition before the harm.
7. It is alleged that the company has avoided its environmental obligations under the Act by failing to take all reasonable steps to:
    a) Comply with condition G3(b) of environmental authority EA0002939 issued on 16 July 2021; and
    b) Comply with Reasonable step 1 and 4 of the Direction Notice E-100226510 issued on 29 April 2022; and
    c) Comply with Requirements 1, 2, 3, 4, 5, 6, and 7 of the Environmental Protection Order E-100356068 issued on 8 December 2022; and
    d) Meet the General Environmental Duty under section 319 of the Act.
8. As the CEO of the company, and the primary executive officer in operational control of the company, you were in a position to influence the company's conduct, however it is alleged you failed to take all reasonable steps to ensure the company complied with its obligations under the Act, including section 319 of the 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 practicable measures to prevent or minimise the harm (the general environmental duty).

9. The department has formed the reasonable belief that you have avoided your executive officer duties to ensure the company complied with statutory notices and obligations under the Act.
10. Under section 363AD(4) of the Act the order may require the related person to—
    a) take action to prevent or minimise the risk of unlawful serious or material environmental harm—
        i. from a relevant activity; or
        ii. from contaminants on land on which the high risk company carries out, or has carried out, a relevant activity (whether or not the contaminants are the result of a relevant activity); or
    b) take action to rehabilitate or restore land because of environmental harm—
        i. from a relevant activity; or
        ii. from contaminants on land on which the high risk company carries out, or has carried out, a relevant activity (whether or not the contaminants are the result of a relevant activity); or
        iii. give the administering authority a bank guarantee or other security for the related person's compliance with the order.
11. In making this decision to issue you with an EPO, the department has had regard to the Guideline for *Issuing 'chain of responsibility' environmental protection orders under Chapter 7, part 5, Division 2 of the Environmental Protection Act 1994* (the Guideline) prescribed under section 187 of the Environmental Protection Regulation 2019.

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

1. The company occupies the premises located at Lot 2 on SP269334, known as 58 Canterwood Road, Owanyilla, Queensland; and the secondary premises located at Lot 4 on SP276208, known as Lot 4 Owanyilla Boundary Road, Owanyilla, Queensland.
2. The company is authorised under environmental authority EA0002939 to conduct ERA 62(1)(a) Resource recovery and transfer facility operation at the premises: Operating a facility for receiving and sorting, dismantling, baling or temporarily storing scrap metal, non-putrescible waste or green waste at the premises.
3. RPAS and aerial imagery show that between July 2021 and February 2023, the company received and deposited approximately 60,000 m^3 of waste at the premises; and deposited approximately 11,500 m^3 of waste at the secondary premises (the relevant activity).
4. Using a "mixed building waste" conversion ratio of 0.7t/ m^3, it is estimated that 60,000 m^3 of waste at the premises and 11,500 m^3 of waste at the secondary premises equates to approximately 42,000t of waste at the premises and 8,050t of waste at the secondary premises (total of 50,050t of waste).
5. During a record of interview on 24 November 2023, the CEO of the company you advised that the company had received between $75 and $95 per tonne to receive the waste.
6. Therefore, it is estimated that the company received between $3,753,750 and $4,754,750 to receive the waste.
7. As the (CEO) of the company since at least 6 March 2020, and the primary executive officer in operational control of the company, the department is satisfied that you are capable of significantly benefiting financially, or have significantly benefited financially, from the carrying out of the relevant activity by the company.

8. It is alleged that other than 9,381 m^3 of waste observed to have been lawfully received into Activity Area 2 on 20 April 2022, most construction and demolition waste (approximately 50,619 m^3) has been accepted and deposited at the premises unlawfully.
9. It is alleged that approximately 11,500m^3 of construction and demolition waste has been deposited at the secondary premises unlawfully.
10. It is alleged that the company has consistently avoided its environmental obligations under the Act as detailed below.
11. As the CEO of the company since at least 6 March 2020, and the primary executive officer in operational control of the company you have been in a position to influence company's conduct in relation to the way in which, or extent to which, the company complies with its obligations under the Act.
12. It is alleged that you failed to take all reasonable steps to ensure the company complied with its obligations under the Act, and therefore been grossly negligent in your executive officer duties, as detailed below.

Alleged contravention of sections 430 (EA condition) and 361 (EPO) of the Act:

13. Section 430 of the Act states that a person must not contravene a condition of an authority (an EA).
14. Condition G3(b) of EA0002939 states that all waste acceptance, sorting and baling must be undertaken within the material receival, sorting and baling area identified in *Appendix A – Site Plan* of the EA (refer to Figure 1).

Appendix A – Site Plan



Figure 1: ERA 62 is authorised to be conducted in areas 2 and 3 at the premises.

15. On 3 December 2021, authorised officers of the department responded to community concern regarding wind-blown plastics being released from the premises. During an inspection, authorised persons observed that the company was sorting and loading construction and demolition waste at the premises into a grinder in Activity Area 3 (Hardstand material storage area), which was outside of the approved receival, sorting and baling area identified in Appendix A – Site Plan of the EA, which was an alleged

contravention of condition G3(b) of EA 0002939. This was an alleged contravention of section 430 of the Act which states that a person must not contravene a condition of an authority (an EA).

16. On 11 January 2022, the company was issued with a Formal Warning E-100154943 for the alleged contravention of condition G3(b) and of section 430(3) of the Act.

17. During an inspection and Remotely Piloted Aerial Survey (RPAS) of the premises on 20 April 2022, authorised persons identified that construction and demolition waste was being accepted and mechanically processed in and adjacent to Activity Area 3 at the premises. The volume of waste accepted and processed in and adjacent to Activity Area 3 since 1 January 2022 had exceeded 5000t, which constituted the alleged carrying out ERA 54 Mechanical waste reprocessing without holding, or acting under an EA, in contravention of section 426 of the Act. However, the RPAS results, measured in the Propeller platform, identify that approximately 20,286m^3 / 14,200t of processed waste; and 29,726m^3 / 20,808t of unprocessed waste (total of approximately **50,012m^3** / **35,008t**) had been received in and adjacent to Activity Area 3, which was also an alleged contravention of EA Condition G3(b) of EA0002939 which states that all waste acceptance, sorting and baling must be undertaken within the material receival, sorting and baling area identified in *Appendix A – Site Plan* of the EA (refer to Figure 1).

18. During an inspection on 14 September 2022, authorised persons observed that Activity Area 3 was at full capacity given waste had continued to be accepted since the Formal Warning was issued on 11 January 2022. Witches' hats delineated the "no more waste to be received area" in Activity Area 3. Waste was being moved by front end loader from Activity Area 3 into the bunker (Activity Area 2) and screened. The acceptance of waste directly into Area 3 was a continuation of the alleged contravention of condition G3(b), and section 430(3) of the Act, previously identified on 3 December 2021.

19. On 8 December 2022, an EPO was issued to the company under section 358(d)(iii) of the Act to secure compliance with condition G3(b) of the EA.

20. Requirement 1 of the EPO stated that by 5pm Monday 12 December, 2022, the company must start removing un-baled waste from Activity Area 3 (10,000m^2 hard-stand materials storage area). It is alleged that the company did not comply with Requirement 1 of the EPO, and that no reasonable excuse was provided to the department.

21. Requirement 2 of the EPO stated that after 12 December 2022, and by 5pm after 12 December 2022, and by 5pm each Thursday, the company must provide the Department of Environment and Science with evidence of the quantity of waste removed from Activity Area 3 in the preceding week; and the company must provide evidence of the receiver of such waste. The company did not provide information demonstrating that any quantity of waste was removed Activity Area 3, therefore it is alleged that the company did not comply with Requirement 2 of the EPO. No reasonable excuse was provided to the department for the alleged contravention of Requirement 2 of the EPO.

22. Requirement 3 of the EPO stated that by 5pm Thursday 23 February 2023, the company must have removed all un-baled waste from Activity Area 3 (10,000m^2 hard-stand materials storage area). It is alleged that the company did not comply with Requirement 3 of the EPO, and that no reasonable excuse was provided to the department.

23. Section 361 of the Act prescribes that it is an offence for a person to not comply with an EPO.

24. It is alleged that the company did not take all reasonable steps to comply with Reasonable Steps 1, 2 and 3 of the EPO, which is an alleged contravention of section 361 of the Act.

25. **Given you were in a position capable of influencing the company's conduct at the time of the alleged offences, it is alleged that you did not take all reasonable steps to ensure the company complied with its obligations under sections 430 and 361 of the Act.**

Alleged contravention of section 426 (carry out ERA without EA), 363E (Direction Notice) and 361 (EPO) of the Act:

26. During an inspection and RPAS on 20 April 2022, authorised persons identified that construction and demolition waste was being accepted and mechanically processed in and adjacent to Activity Area 3 at the premises, and that the volume of waste accepted and processed in and adjacent to Activity Area 3 since 1 January 2022 had exceeded 5000t, which constituted carrying out ERA 54 Mechanical waste reprocessing without holding, or acting under an EA, which was an alleged contravention of section 426 of the Act. The RPAS conducted on 20 April 2022, measured in the Propeller platform, identified the approximate volume of waste which had been mechanically processed in and adjacent to Activity Area 3 as totalling **20,286m^3** which at the conversion rate of 0.7t/ m^3 is estimated to equate to **14,200t** (refer to stockpiles labelled 15,314m^3 and 4,972m^3 in Figure 2).

27. During the inspection and Remotely Piloted Aerial Survey (RPAS) on 20 April 2022, authorised persons identified that approximately **2000m^3 / 1400t** of waste was being temporarily stored outside areas authorised to conduct activities under the EA, which constituted conducting ERA 62 Resource recovery and transfer facility operation without holding or acting under an EA, which is an alleged contravention of section 426 of the Act (refer to Figure 2).

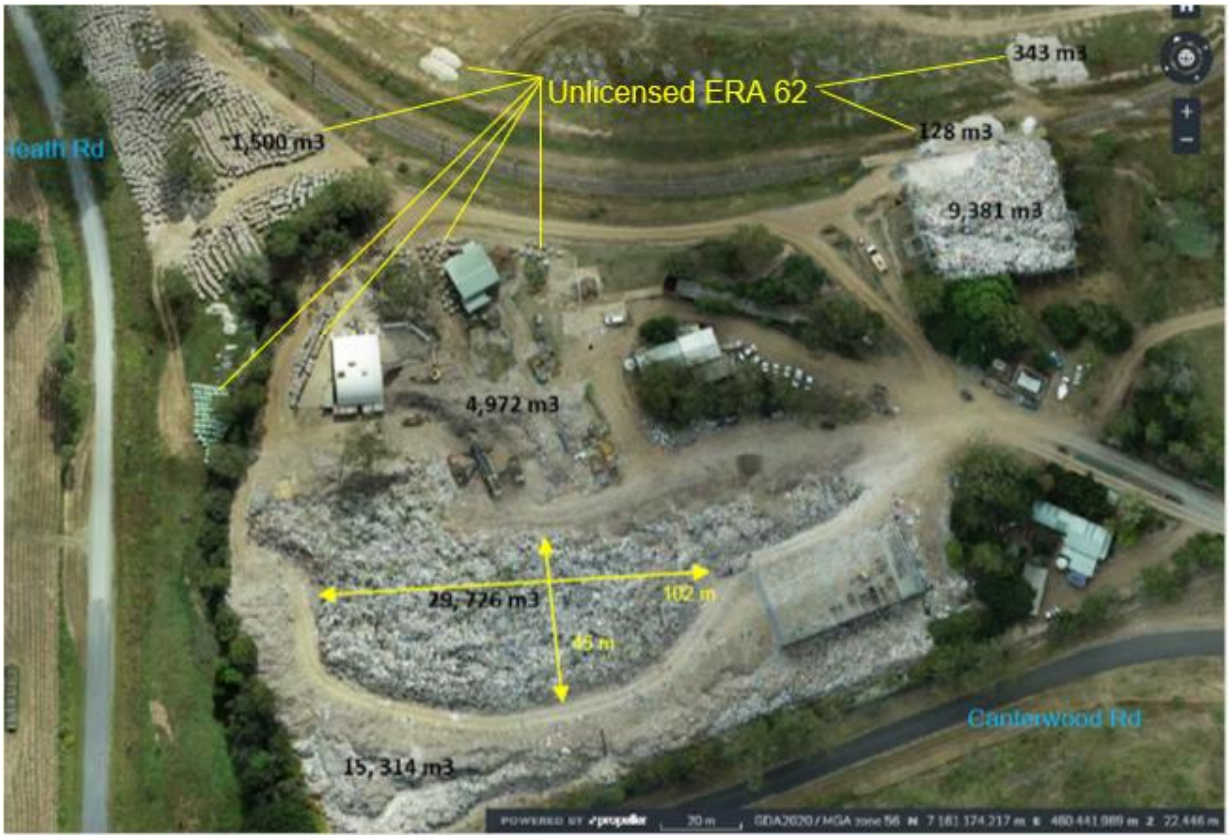


Figure 2: RPAS of 20/04/2022 showing approximate volumes of waste accepted in and adjacent to Activity Area 3.

28. On 29 April 2022, the company was issued a Direction Notice (E-100226510) for allegedly carrying out ERA 54 Mechanical waste reprocessing at the premises without holding or acting under an EA for the

activity; and for allegedly carrying out ERA 62 outside of authorised areas at the premises, thereby conducting ERA 62 without holding or acting under EA for the activity.

29. Direction Notice Reasonable Step 1 required that immediately upon receipt of the Notice, the company must stop conducting ERA 62 outside of authorised areas at the premises, until holding or acting under an effective EA for ERA 62.

30. Direction Notice Reasonable Step 4 required that within 14 days of receipt of the Notice (13 May 2022) the company must have removed all waste in areas of the premises which was not authorised to be stored under an EA for ERA 62.

31. On 27 May 2022, the Direction Notice was amended under section 24AA of the *Acts Interpretation Act 1954,* allowing the company additional time (until 10 June 2022) to comply with the notice.

32. On 15 June 2022, the Direction Notice was amended via email under section 24AA of the *Acts Interpretation Act 1954*, allowing the company additional time (until 17 June 2022) to comply with the notice.

33. On 23 June 2022, an RPAS identified that additional stockpiles of uncontained waste fines were stored approximately 700m to the north of the premises, on the secondary premises (refer to Figure 3). This constitutes alleged unlicensed ERA 62, and an alleged contravention of Direction Notice Reasonable Step 1.



Figure 3: RPAS of 23/06/2022 showing waste deposited at the secondary premises.

34. During inspections and/or RPAS on 23 June 2022; 19 July 2022; 14 September 2022; and 4 November 2022, authorised persons observed that waste remained stored outside authorised areas at the premises, which was an alleged contravention of Direction Notice Reasonable Step 4.

35. Section 363E of the Act prescribes that it is an offence for a person to not comply with a direction notice unless the person has a reasonable excuse. No reasonable excuse was provided to the department.

36. It is alleged that the company did not take all reasonable steps to comply with Reasonable Step 4 of the Direction Notice (E-100226510), which is an alleged contravention of section 363E of the Act.

37. On 8 December 2022, an EPO was issued to the company under section 358(e) of the Act for contravening section 363E of the Act (contravening a Direction Notice).

38. Requirement 4 of the EPO stated that by 5pm Monday 12 December 2022, the company must start removing waste at the premises and the secondary premises which was not authorised to be stored under an EA for ERA 62. It is alleged that the company did not comply with Requirement 4 of the EPO, and that no reasonable excuse was provided to the department.

39. Requirement 5 of the EPO stated that by 5pm Thursday 19 January 2023, the company must have removed all waste at the premises and the secondary premises which was not authorised to be stored under an EA for ERA 62. It is alleged that the company did not comply with Requirement 5 of the EPO, and that no reasonable excuse was provided to the department.

40. Section 361 of the Act prescribes that it is an offence for a person to not comply with an EPO.

41. It is alleged that the company did not take all reasonable steps to comply with Reasonable Steps 4 and 5 of the EPO, which is an alleged contravention of section 361 of the Act.

42. **Given you were in a position capable of influencing the company's conduct at the time of the alleged offences, it is alleged that you did not take all reasonable steps to ensure the company complied with its obligations under sections 426, 363E and 361 of the Act.**

Alleged failure to meet section 319 (General Environmental Duty) and 361 (EPO) of the Act:

43. RPAS of 23 February 2023, shows that between July 2021 and February 2023, the company received and deposited an estimated 60,000m^3 of waste at the premises. RPAS of 20 April 2022 show that approximately 50,012 m^3 of this waste was accepted and deposited at the premises unlawfully (in contravention of condition G3(b) of the EA), as stated above. During an inspection on 14 September 2022, authorised persons observed that Activity Area 3 was at full capacity given waste had continued to be accepted since the Formal Warning was issued on 11 January 2022. It is therefore alleged that most waste at the premises has been accepted unlawfully.

44. RPAS of 17 July 2022, shows that between July 2021 and July 2022, the company has deposited an estimated 11,500 m^3 of waste at the secondary premises. It is alleged that this waste has been deposited at the secondary premises unlawfully.

45. RPAS of 23 June 2022 and 19 July 2022, show that most waste at the premises and all waste at the secondary premises was stored on land in an uncontrolled manner.

46. During a joint inspection with the Queensland Fire and Emergency Services (QFES) on 14 September 2022, authorised persons observed that waste at the premises and secondary premises remained stored on land in an uncontrolled manner.

47. During the inspection, authorised persons were advised by QFES officers that the premises posed a very high fire risk given waste stored on the Hardstand (Activity Area 3) was not adequately stored or separated to allow fire-fighting access. QFES advised that fire water runoff from waste at the premises and the secondary premises would be considered toxic given the amount of plastic contained in waste.

48. During this inspection, authorised persons observed that stormwater retention dam 1 had very limited capacity to contain contaminated runoff from activities at the premises due to its small area; and

stormwater retention dam 2 had very limited capacity to contain runoff given it had minimal freeboard. Authorised persons reasonably believed that dams are inadequately sized to contain toxic fire water runoff in the event of a fire.

49. During the inspection, authorised persons observed that a large stormwater drain downslope of major waste stockpiles on the Hardstand (Activity Area 3) was constructed to drain directly offsite to land adjacent to Heath Road. Therefore, any contaminated runoff from waste in this area, including in the event of a fire, would not be treated or captured at the premises, and may potentially flow to very high value waters, downstream.

50. Further, it was observed that waste stockpiles on land at the secondary premises drained in an uncontrolled manner to land, therefore, any contaminated runoff from this area, including in the event of a fire, would not be treated or captured at the premises.

51. It was considered that the deposition of waste at the premises and secondary premises posed a risk of serious environmental harm to downstream waters, especially in the event of a fire, and that the company had not taken all reasonable and practicable measures to prevent or minimise the harm.

52. On 8 December 2022, an EPO was issued to the company under section 358(d)(i) of the Act to secure compliance with the General Environmental Duty under section 319 of the 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 practicable measures to prevent or minimise the harm (the general environmental duty).

53. Requirement 6 of the EPO stated that by 5pm Thursday 19 January 2023, the company must provide the department with an assessment carried out by a suitably qualified person, specifying the required capacity of stormwater retention dams at the premises to effectively contain contaminated runoff from the premises, including in the event of a fire. It is alleged that the company did not comply with Requirement 6 of the EPO, and that no reasonable excuse was provided to the department why the information was not provided.

54. Requirement 7 of the EPO stated that by 5pm Thursday 23 February 2023, the company must provide the department with evidence that you have taken all reasonable and practicable measures to ensure stormwater retention dams at the premises meet the specifications detailed under the assessment carried out under Requirement 6 of the EPO. It is alleged that the company did not comply with Requirement 7 of the EPO, and that no reasonable excuse was provided to the department why the information was not provided.

55. Section 361 of the Act prescribes that it is an offence for a person to not comply with an EPO.

56. It is alleged that the company did not take all reasonable steps to comply with Reasonable Steps 6 and 7 of the EPO, which is an alleged contravention of section 361 of the Act.

57. The department considers that the company has not taken all reasonable and practicable measures to prevent or minimise likely harm from relevant activities at the premises in accordance with the GED.

58. **Given you were in a position capable of influencing the company's conduct at the time of the alleged offences, it is alleged that you did not take all reasonable steps to ensure the company complied with its obligations under sections 319 and 361 of the Act.**

Potential for serious environmental harm under section 17 of the Act:

59. Section 17 of the Act defines serious environmental harm as environmental harm (other than environmental nuisance)—
(a) that is irreversible, of a high impact or widespread; or

(b) caused to—
(i) an area of high conservation value; or
(ii) an area of special significance, such as the Great Barrier Reef World Heritage Area; or
(c) that causes actual or potential loss or damage to property of an amount of, or amounts totalling, more than the threshold amount; or
(d) that results in costs of more than the threshold amount being incurred in taking appropriate action to—
(i) prevent or minimise the harm; and
(ii) rehabilitate or restore the environment to its condition before the harm.

60. The department considers that the ongoing deposition of waste in an uncontrolled manner at the premises and secondary premises poses a threat of serious or irreversible damage to downstream waters of high conservation value (serious environmental harm) especially in the event of a fire or large scale rain event given:
    a. The waste is stored in an uncontrolled manner and poses a high fire risk; and
    b. The waste contains finely processed / degrading plastics which are susceptible to movement by wind and water; and
    c. Dams and stormwater pollution controls at the premises are considered inadequate to protect downstream waters, especially in the event of a fire or large scale rain event; and
    d. Downstream waters are of high conservation value, mapped by the Queensland Globe as having:
        - Very high values under the Wide Bay Burnett Riverine Aquatic Conservation Assessment; and
        - Matter of State Environmental Significance (MSES) Regulated vegetation (essential habitat); and
        - MSES Regulated vegetation (GBR riverine); and
        - MSES Regulated vegetation (endangered or of concern); and
        - MSES Wildlife habitat (endangered or vulnerable); and
        - MSES regulated vegetation (essential habitat).

61. The department considers that the ongoing deposition of waste at the premises and secondary premises has caused, or is likely to cause serious environmental harm because:
    a. the cost to lawfully remove the waste from the premises and secondary premises is estimated to be approximately $16.9 million (as detailed below), therefore, the waste causes actual or potential loss of damage to property of an amount of, or amounts totalling more than the threshold amount of $100,000; and
    b. the cost to lawfully remove the waste from the premises and secondary premises is estimated to be approximately $16.9 million, therefore, the waste results in costs of more than the threshold amount of $100,000 being incurred in taking appropriate action to:
        i. prevent or minimise the harm; and
        ii. rehabilitate and restore the environment to its condition before the harm.

62. It is estimated that the cost to lawfully remove and dispose of waste at the premises and secondary premises would amount to **$16,895,620** based on the following:
    a. Landfill disposal costs for approximately 50,050t of construction and demolition waste are estimated as approximately **$14,634,620** given as at 1 July 2023, Maryborough landfill charges a fee of $292.40 to dispose of one tonne of commercial construction and demolition waste.

b. The physical removal and transportation of 50,050t of demolition waste to the Maryborough Landfill is estimated to cost approximately **$2,261,000** given:
    i. A semi-trailer holds approximately 25t of commercial and domestic waste, and therefore it would require approximately 2,002 semi-trailer loads to remove 50,050t of waste from the premises and secondary premises.
    ii. It is estimated 5 x semi-trailers and 5 x large excavators could load each 24t truck in approximately 60 minutes.
    iii. Given the Maryborough landfill is approximately 30mins from the premises, it is estimated a return trip could be conducted each 1.5hrs (allowing for delays at the landfill etc.).
    iv. Therefore, including loading time, one truck could conduct one return trip from the premises to the Maryborough landfill each 2.5hrs, equating to 7.5hrs per day.
    v. Trucks and excavator operators typically charge time to and from their depot each day.
    vi. Therefore, each truck could transport 3 loads to the Maryborough landfill each 8.5hr day.
    vii. 5 x 25t trucks and 5 x large excavators could therefore remove 15 loads of waste from the premises each day.
    viii. It is estimated it would take 133 days to remove 2,002 loads of waste at 15 loads of waste from the premises each day.
    ix. At a rate of $200/hr including GST for each truck, this amounts to $8,500/day for 5 trucks for 133 days ($1,130,500).
    x. At a rate of $200/hr including GST for each excavator, this amounts to $8,500/day for 5 excavators for 133 days ($1,130,500).

Actions required under section 363AD(4) of the Act:

63. Under section 363AD(4) of the Act the order may require the related person to—
    c. take action to prevent or minimise the risk of unlawful serious or material environmental harm—
        i. from a relevant activity; or
        ii. from contaminants on land on which the high risk company carries out, or has carried out, a relevant activity (whether or not the contaminants are the result of a relevant activity); or
    d. take action to rehabilitate or restore land because of environmental harm—
        i. from a relevant activity; or
        ii. from contaminants on land on which the high risk company carries out, or has carried out, a relevant activity (whether or not the contaminants are the result of a relevant activity); or
        iii. give the administering authority a bank guarantee or other security for the related person's compliance with the order.

Why is an EPO being issued?

1. The department is satisfied that action is required to prevent or minimise the risk of unlawful serious or material environmental harm from the ongoing deposition of waste at the premises and secondary premises.
2. In summary, the department considers that, given the facts and circumstances detailed above, you have failed to take all reasonable and practical measures to prevent or minimise the risk of environmental harm in accordance with the GED, and have failed to take all reasonable measures to comply with

condition G3(b) of EA0002939, the Direction Notice issued on 29 April 2022, and the EPO issued on 8 December 2022.

3. Because of these failures, the department considers that it is appropriate to require you to take reasonable measures to comply with your general environmental duty, including taking all reasonable and practicable measures to prevent or minimise risks posed by the waste, and to take all reasonable and practicable measures to remove and lawfully dispose of waste from the premises and secondary premises.

B. Requirements

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

Minimise fire risk:

1. **By 9 February 2024**, you must engage a suitably qualified person to assess waste stockpiles at the premise and secondary premises, to recommend actions to minimise fire risk posed by the wastes.
2. You must take all reasonable and practicable measures to immediately implement the recommended actions received from the suitably qualified person under Requirement 1.
3. **By 29 February 2024**, you must provide the department with a copy of the recommended actions by the suitably qualified person under Requirement 1, and evidence of the date the recommendations were received by you.
4. **Commencing 29 February 2024, and at the end of each calendar month,** you must provide evidence to the department of the actions you take to meet the recommended actions received from the suitably qualified person under Requirement 1, until all recommended actions have been completed.

Minimise risk to waters:

5. **By 9 February 2024** you must engage a suitably qualified person to assess stormwater drainage and stormwater retention dams at the premises and secondary premises, to identify and recommend actions to ensure runoff from the waste stockpiles, especially in the event of a fire or large scale rain event, will be prevented from reaching downstream waters.
6. You must take all reasonable and practicable measures to immediately implement the recommended actions received from the suitably qualified person under Requirement 5.
7. **By 29 February 2024**, you must provide the department with a copy of the recommended actions by the suitably qualified person under Requirement 5, and evidence of the date the recommendations were received by you.
8. **Commencing 29 February 2024, and at the end of each calendar month,** you must provide evidence to the department of the actions you take to meet the recommended actions received from the suitably qualified person under Requirement 5, until all recommended actions have been completed.

Lawfully dispose of waste:

9. By **25 January 2024**, you must commence removing waste at the premises and secondary premises, and must dispose of the waste to a facility that can lawfully accept the waste.
10. All waste must be removed from the premises and secondary premises by **30 June 2024**.
11. You must provide receipts to the department demonstrating that all waste removed from the premises and secondary premises has been disposed of to a facility that can lawfully accept it. Receipts must be emailed to unlicensed@des.qld.gov.au by the each of each calendar month, ending on **30 June 2024.**

Bank guarantee or other security:

12. **If you do not comply with Requirements 9, 10, and 11 by 30 June 2024**, you must submit to the department a bank guarantee of $16,895,000 or other security to ensure compliance with this EPO.

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

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 6250 penalty units, totalling $ 967,500 or five years imprisonment for an individual or $ 4,837,500 for a corporation.
- The maximum penalty for contravening an EPO is 4500 penalty units, totalling $ 696,600 for an individual or $ 3,483,000 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 $ 7,740 for an individual or $ 38,700 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 50 penalty units, totalling $7,740 for an individual or $38,700 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.

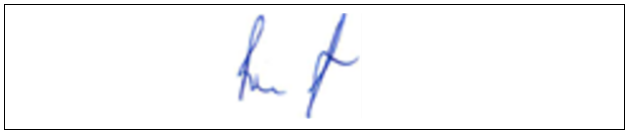
Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

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.



Signature

22/12/2023

Date

Ben Grant

Compliance Delivery Manager

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Ben Grant

COMPLIANCE CENTRE: Sunshine Coast
Ph: (07) 3330 5210
Email: unlicensed@des.qld.gov.au