

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.

South Stradbroke Caretaking Services Pty Limited
ACN 643 864 804

C/- BDH LEADERS, LEVEL 12, 111 ELIZABETH STREET,
SYDNEY, NSW, 2000

cc: WILLIAM BAYFIELD DOOLEN (Director)

Email: wbd1945@gmail.com

PO Box 582 Fortitude Valley Q 4006

Cc: SIMON NAPOLI

Email: simon@edgcapital.com.au

Your reference: EPPR00805313

Our reference: C-CPLRC-100421235, E-100412733

31/05/2023

Dear Sir/Madam,

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to South Stradbroke Caretaking Services Pty Limited ACN 643 864 804 (SSCS/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 SSCS at Couran Cove Island Resort on land described as Lot 10 on Plan MCP106985 situated at Esplanade, South Stradbroke Island, QLD (the premises).

A. Grounds

This EPO is issued on the following grounds:

- Under section 358(d) of the EP Act the administering authority may issue an environmental protection order (EPO) to a person to secure compliance with:
 - (i) The general environmental duty
 - (iii) A condition of an environmental authority
- The environmental authority EPPR00805313 dated 14 April 2021 (the EA) authorises environmentally relevant activities (ERAs) 16 -1(a) (extraction and Screening) and ERA 63 -1(b)(i) (Sewage Treatment) to be conducted at the premises.

- 1) The department requires you to take reasonable measures to secure compliance with conditions of the EA relating to ERA 63 namely **G2, W5, W7, L1, L6, and L14** of the EA (in full at attachment 1).
- 2) The department requires you to take reasonable measures to secure compliance with the General Environmental Duty.

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

- 1) To secure compliance with conditions **G2, W5, W7, L1, L6, and L14** of the EA relating to ERA 63.

Agency Interest: General

a) Condition G2

- An EPO (**STAT-E-100068864**) was issued to SSCS on 21 April 2021. EPO requirement 1 states that by 17 May 2021, SSCS must engage a suitably qualified person (SQP) to conduct a review of all current plant and equipment including details of current state of all plant and equipment and a schedule of maintenance work and upgrades. It also required a recommended ongoing maintenance program to ensure sewage treatment plant (STP) and equipment are maintained in a proper and efficient condition.
- In October 2022, Simmonds and Bristow (S&B) issued the 'Couran Cove Sewage Treatment Plant – EPO Status Update Report' (EPO status report) as the SQP acting on behalf of SSCS. The report detailed plant improvement work undertaken to date and rectification works that have high, medium, and low priority for action. The report identified that most of the initial plant repair list had been actioned with all critical items at the time having been addressed.
- During the inspection on 11 April 2023, authorised officers observed that none of the high priority rectification works related to the irrigation infrastructure had been achieved.
- During the site inspection on 11 May 2023 authorised officers observed that the irrigation infrastructure had not been maintained and was in disrepair. Several broken effluent irrigation dripper lines were observed emerging from the ground.
- The department considers you have not taken appropriate measures to ensure irrigation equipment is maintained in a proper and efficient manner and requires you to take reasonable steps to comply with the condition.

Agency Interest: Water

b) Condition W5 and W7

- Conditions W5 and W7 of the EA require that groundwater monitoring up gradient and down gradient of the plant and irrigation area be undertaken at least annually.
- The Groundwater Investigation report, prepared by Simmonds & Bristow (S&B) took place in July 2021 and was submitted to the department in October 2021. This is the last groundwater monitoring data representative of up gradient and down gradient of the plant and irrigation area submitted to the department and was required as per EPO (E-100068864) requirement five (5).
- Correspondence received from SSCS on 14 April 2023 confirmed that the required groundwater monitoring has not been undertaken since July 2021.
- You have failed to comply with condition W5, and W7 of the EA and the department considers it appropriate to require you to take reasonable steps to comply with the conditions.

Agency Interest: Land

c) Condition L1

- On four occasions between 21 April 2021 and 14 April 2023 the department received notifications that showed total nitrogen (TN) concentrations in effluent released to land had exceeded the limits specified in condition L1.
- On five occasions from 28 March 2022 to 10 January 2023 the department received notification that showed free chlorine in effluent released to land was outside the allowable limits specified in condition L1.
- On three occasions from 5 July 2021 to September 2022 the department received notification that because of sewage overflows several parameters in effluent released to land were not in compliance with limits specified in condition L1.
- On one occasion on 31 August 2022 the department received notification that the electrical conductivity ($\mu\text{S}/\text{cm}$) concentration in the effluent released to land had exceeded the limits specified in condition L1.
- On one occasion on 20 January 2023 the department received notification that the E. Coli concentration in the effluent released to land had exceeded the limits specified in condition L1.
- On one occasion on 3 May 2023 the department received notification that the total phosphorus concentration in the effluent released to land had exceeded the limits specified in condition L1.
- You have failed to comply with condition L1 of the EA and the department considers it appropriate to require you to take reasonable steps to comply with the condition.

d) Condition L6

- The EPO Status Report, prepared by S&B states that an irrigation system repair proposal was provided to SSCS on 19 August 2021 to address requirement 3 of EPO (E-100068864). In the EPO Status Report, it concluded that irrigation works were not funded and not approved by SSCS. Requirement 3 of the EPO, (audit and repair of the irrigation system) was subsequently not achieved.
- On Friday 9 September 2022, SSCS met with the department and proposed reducing the irrigation area to 3-4 ha to reflect the reduced effluent flow rate as it is financially difficult to deliver 9 Ha of irrigated land.
- During the site inspection on 11 May 2023 authorised officers observed that the irrigation infrastructure had not been maintained and was in disrepair. Several broken effluent irrigation dripper lines were observed emerging from the ground.
- By not maintaining the irrigation infrastructure, the department considers that a minimum area of 9 HA of land is not being utilised for the irrigation of effluent and therefore does not comply with EA condition L6.
- The department considers it appropriate to take reasonable steps toward achieving compliance with condition L6. Whilst the plant is operating at a reduced effluent flow rate, it is reasonable that a reduced irrigation area be maintained in accordance with the requirements under this notice.

e) Condition L14

- Condition L14 of the EA requires that the irrigation monitoring program (IMP) include bi-annual soil and sub-soil analysis be undertaken and results be submitted to the department.
- The Annual Performance Monitoring Report 2016-2017 for Sewage Treatment Plant & Effluent Irrigation Scheme, prepared by Frogfoot Trading Pty Ltd is the last report that the department has on file that encapsulates the soil and sub-soil analysis.
- Correspondence submitted on behalf of SCSS on 14 April 2023 stated that the most recent soil and sub-soil analysis undertaken by SSCS was completed in September 2020. The department does not have record of this analysis being submitted, regardless the most recent soil analysis is less frequently than biannually.

- You have failed to comply with the requirements of EA condition L14.
 - The department considers it appropriate to take reasonable steps toward achieving compliance with condition L14. Whilst the plant is operating at a reduced flow rate, it is reasonable to require monitoring in accordance with the requirements under this notice as a step towards achieving compliance with the EA.
- 2) To secure compliance with the General Environmental Duty. The department has considered the measures considered appropriate with respect to s.319(2) of the EP Act.
- Schedule 1 of the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019* (EPP Water) lists the water quality objectives for Moreton Bay area including south Stradbroke Island. These objectives identify aquatic ecosystems of the South Stradbroke Island waters as having a high ecological value. The EPP Water also identifies groundwater ecosystems as having high ecological value particularly where ground waters interact with surface waters and where groundwater is used for drinking water supply. This is a particularly high risk in this setting with sandy soils and locality immediately adjacent to surface waters with nearby high ecological significance wetland 150m west of irrigation area, which is also mapped as a groundwater dependant ecosystem. Residents' also source their potable water from groundwater on the island.
 - The irrigation area listed in EA condition L6 was assessed and conditioned in the EA to ensure the appropriate level of diffused release of treated effluent, to adequately protect environmental values.
 - Due to broken pipes, controllers and general poor condition of subsurface irrigation equipment, the irrigation area currently being utilised for treated effluent disposal is unknown and it is possible that any broken pipe would be resulting in a point source release. A concentrated release of contaminants to soils and groundwater through deep drainage, particularly given the sandy soils, is considered a high risk. If irrigation infrastructure was maintained to a reasonable standard, then it is likely that environmental harm would be avoided, and sensitive environmental values would be protected.
 - The ongoing exceedances of the effluent release limits, combined with the poor condition of irrigation equipment has resulted in an elevated risk for deep drainage of water contaminants to groundwater and subsequent impact to sensitive environmental values.
 - Groundwater monitoring listed in the EA was conditioned to ensure that groundwater is monitored frequently on the island, to assess the nature of the harm or potential harm. Groundwater is potentially impacted by the release of treated effluent via the irrigation system. The nature and extent of the harm to groundwater on the island is unknown as routine monitoring has not been conducted.
 - There are two (B1 & B2) drinking water extraction bores located downgradient of the irrigation area which is a risk that has not been adequately addressed coupled with the lack of monitoring you have not discharged your general environmental duty in relation to this high risk impact.
- 3) You have been provided with an opportunity to address the non-compliances in a pre-enforcement letter sent to you on 4 April 2023 under correspondence dated 3 April 2023. In addition, you were provided with draft requirements of a proposed Environmental Protection Order dated 25 May 2023 and your comments received on 26 May 2023 have been considered.
- 4) The administering authority considers it reasonable to issue you an EPO to secure compliance with the conditions of the EA and the General Environmental Duty. This EPO seeks to secure reasonable rectification actions within a timely manner.

B. Requirements

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

1. By **1:00pm on 21 July 2023**, you must engage an appropriately qualified person to:
 - a) Conduct groundwater monitoring up-gradient and down-gradient of the sewage treatment plant and irrigation area in accordance with conditions W7 and W8 for ERA 63 of the EA; and

- b) Utilising the groundwater monitoring results, (from requirement 1(a) above) and historical groundwater monitoring, assess whether groundwater contamination has occurred and if so, the level of environmental harm caused as a result of the activity.
2. By **1:00pm on 8 September 2023**, submit a written report to the department by the appropriately qualified person which must include the groundwater monitoring results and the assessment of harm from requirement 1 (a) and (b) above.
3. By **1:00pm on 15 September 2023**, you must engage an appropriately qualified person to:
 - a) Undertake soil and sub-soil analysis of the irrigation area marked on Schedule 1 of the EA 'Effluent Irrigation area'; and
 - b) Include an assessment of the soils with respect to types, structure, phosphorus adsorption capacity, nutrient status, salinity and sodicity, cation exchange capacity and sodium adsorption ratio; and
 - c) A minimum of five representative sites must be sampled in the irrigation area and analysed by a National Association of Testing Authorities (NATA) laboratory.
4. By **1:00pm 20 October 2023**, submit a copy of the monitoring results and an assessment of the soils from requirement 3 a) -c) above.
5. By **1:00pm 16 March 2024**, you must complete all necessary repairs to the irrigation system (or construct a new system) to ensure that when irrigating the minimum land requirements stipulated in Table 1 (below) are achieved within the area marked on the EA Schedule 1 'Effluent Irrigation area'.
6. By **1:00pm 23 March 2024**, you must submit to the department written demonstration providing evidence of all actions taken to achieve compliance with requirement 5 above including at least:
 - a) All repairs and/or installation of new equipment; and
 - b) Evidence that that an even spread of effluent irrigation is being achieved, and the methods employed to ensure this; and
 - c) Details of the volumes of effluent to land per day; and
 - d) A map depicting the specific irrigation area that has been utilised under the EPO.

Table 1. Minimum Irrigation requirements for disposal of effluent to the land area marked in Schedule 1 'Effluent Irrigation area' of the EA EPPR00805313. Please note the requirements in this table only remain in effect while the EPO is active.

Irrigation rate (KL/day)	Minimum land required (ha)	Maximum irrigation rate (mm/day)
< 39	2	2
40-49	2.5	2
50-59	3	2
60-69	3.5	2
70-89	4	2
90-99	5	2
100-109	5.5	2
110-119	6	2
120-129	6.5	2

7. **All submissions made under the requirements of this EPO must be made to goldcoast.es@des.qld.gov.au.**

Definitions:

Appropriately qualified person: means a person(s) possessing appropriate experience and qualifications relevant to the subject matter of the requirement.

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 a corporation wilfully contravening an EPO is 6250 penalty units, totalling \$4,492,187 for offences committed prior to 30 June 2023.
- The maximum penalty for a corporation contravening an EPO is 4500 penalty units, totalling \$3,234,375 for offences committed prior to 30 June 2023.

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.

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 \$35,937.

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 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 Gold Coast Compliance office on telephone number (07) 5626 6871.



Signature

31/05/2023

Date

Nadine Cooper
Compliance Delivery Manager
Delegate of the Chief Executive
Department of Environment and Science

Environmental Protection Act 1994

Attachment 1: Environmental Authority EPPR00805313

Enquiries: Henry Hunt
COMPLIANCE CENTRE: Gold Coast
Ph: (07) 5626 6871
Email: goldcoast.es@des.qld.gov.au

