

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 environmental protection order issued on 20 October 2023 is amended pursuant to section 24AA of the Acts Interpretation Act 1954 and is superseded by this environmental protection order.

~~20 October 2023~~

17 November 2023

Chemprod Nominees Pty Ltd
21 Paw Paw Road
BROOKLYN VIC 3012

Cc via email: elalla@omegachem.com.au;
sgupta@omegachem.com.au;
mfried@omegachem.com.au.

Our reference: C-CPLRC-100427049 / STAT-E-100448042

Dear Mr Fried, Director,

Take notice: that under the Environmental Protection Act 1994 (EP Act) this environmental protection order (EPO) is issued to Chemprod Nominees Pty Ltd (ACN: 982 143 022) (you/Chemprod Nominees) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

This notice to issue an environmental protection order (EPO) was originally issued on 20 October 2023. New text in this amended Notice is shown as underlined in red, and deleted text is shown as strikethrough. The Notice originally issued on 20 October 2023 remains in force until the issue of this amended Notice.

A. Grounds

This EPO is issued on the following grounds:

1. You are the holder of environmental authority (EA) EPPR00667413, dated 12 January 2012. The EA approves the following environmentally relevant activities:

ERA07 – Chemical Manufacturing ; 6(c) Manufacturing, in a year more than 10,000 tonnes to 100,000 tonnes of inorganic chemicals, on land described as Lots 16 and 17 on RP168126 situated at 32 – 34 Boron Street, Sumner Queensland 4074 (the premises).



2. You are, or have been, allegedly contravening Condition C1 of the EA, that states:

Condition C1 - Contaminants must not be released from the licensed place to any waters or the bed and banks of any waters.

3. Based on information gained during inspections of the premises, it is the department's view that Chemprod Nominees are not taking all reasonable and practical measures to prevent the release of contaminants from the premises.
4. This EPO is issued under the following sections of the EP Act:
- a) Section 358(d)(i) to secure compliance by the person with the general environmental duty. The general environmental duty is detailed in section 319 of the EP Act that 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.'
 - b) Section 358(d)(iii) to secure compliance by the person with a condition of an environmental authority.

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

5. Condition C1 of EA EPPR00667413 states: Contaminants must not be released from the licenced place to any waters or the bed and banks of any waters.
6. On 12 June 2023 a Penalty Infringement Notice (PIN) E-100437294 was issued to Chemprod Nominees Pty Ltd for the contravention of condition C1 of the EA based on the following grounds.
- a) On 3 May 2023 the department received a notification from Brisbane City Council (BCC) notifying of an unknown contaminant actively discharging through a stormwater drain into Wolston Creek. BCC officers advised that they reasonably believed Chemprod Nominees to be the source.
 - b) On 4 May 2023 the department conducted an inspection of the premises and observed contaminants stored in such a way where they could reasonably be released to waters.
 - c) Water samples taken by BCC 04 May 2023 alongside samples taken by DES on 4 May 2023 at Wolston creek showed aluminium levels 1,000 times higher than the reference values for the ANZECC toxicant default guideline for 95% species protection.
 - d) Stormwater drainage plans provided by BCC on 8 May 2023 identified numerous points of entry from the premises to the stormwater line south of 34 Boron Street and runs from north to south towards the outlet into Wolston Creek.

- e) On 17 May 2023 the department conducted an inspection of the site and observed a white power like substance identified by Plant Manager Etho Lalla to be Aluminium Trihydrate within the stormwater trench, stormwater sump, effluent pit and stormwater line all of which lead directly to the BCC main stormwater line.
 - f) On 25 May 2023 the department received a notification from BCC advising of a current contaminant release from the BCC main stormwater line flowing to Wolston Creek
 - g) On 26 May 2023 the department conducted an inspection at the premises and identified that water directed through the outlet pipes of the onsite stormwater sump and through downpipe drains of the milling shed exits via the stormwater drain and directly into the BCC main stormwater line. The department also inspected other businesses located along the BCC main stormwater line and did not identify any sources with materials similar to those being observed at the premises.
 - h) In communications between the department and Chemprod Nominees on 1 June 2023 Chemprod Nominees advised that the management of Chemprod is not aware of any storm water contamination and that it is believed the stormwater network is carrying contaminants from other sources and the contamination did not originate from the premises.
 - i) On 6 June 2023 the department received a notification from BCC advising of a current contaminant release from the BCC main stormwater line flowing to Wolston Creek
7. Section 319 of the EP Act states: 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 department considers that Chemprod Nominees has not met their General Environmental Duty as full consideration has not demonstrated in relation to:

- a) the nature of the harm or potential harm; and
 - b) the sensitivity of the receiving environment; and
 - c) the current state of technical knowledge for the activity; and
 - d) the likelihood of successful application of the different measures that might be taken; and
 - e) the financial implications of the different measures as they would relate to the type of activity.
8. On 12 June 2023 the department received an email from BCC that Pipe Management Australia (PMA) had been commissioned to conduct a CCTV line survey of the BCC main stormwater line. The line survey showed that the condition of the pipe between the outlet that leads Wolston Creek and the inlet from the premises showed degradation, however this improved upstream from inlet from the premises.
9. On 28 June 2023 the department received an email from BCC advising of a current contaminant release from the stormwater pipe flowing to Wolston Creek.

10. On 28 June 2023 the department called Mr Lalla requesting that Chemprod Nominees do all things reasonable and practicable to prevent contaminants from releasing to the beds or banks of any waters.
11. On 30 June 2023 correspondence was sent to Chemprod Nominees Pty Ltd outlining an alleged contravention with condition A2 identified by Officers during inspections on 4, 17 and 26 May 2023.
 - a) Officers observed that the wall of the milling shed and the drying bed bunds were not maintained as per requirement A2
 - b) Condition A2 – Stipulates that the holder must:
 - *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.*
12. On 5 and 14 July 2023 Chemprod Nominees provided a response to the alleged non-compliance, advising:
 - a) Bunds have been built along the manufacturing shed, manway drain near sumps and isolation valve, manhole and back drain.
 - b) After the rain over the past two days, no water from the yard entered the stormwater pipe except from the downpipes.
 - c) All standing water has been stored in Site Tanks.
13. On 1 August 2023 the department received a notification from BCC advising that an inspection of the outlet of the BCC main stormwater line at Wolston Creek on 31 July 2023 indicated a release of contaminants had occurred.
14. On 2 August 2023 Authorised Officers inspected the BCC main stormwater line outlet and subsequently carried out an unannounced inspection of Chemprod Nominees. Observations of standing water at the premises remained consistent with white contaminants observed at the premises and the pipe outlet to Wolston Creek on 4 May, 25 May and 6 June 2023.
15. On 6 August 2023 the department received a notification from a member of the public advising of a release from the BCC main stormwater line at the Wolston Creek outlet. Photos and evidence provided indicated the release occurred subsequent to the inspection carried out by Authorised Officers on 2 August 2023.

16. The department considers that it is appropriate to require you to take all reasonable and practicable measures to comply with your general environmental duty, including to cease carrying out activities that are not in compliance with the conditions of your authority.
17. On 15 November 2023, the department received a written request from Chemprod Nominees outlining the reasons for and requesting an extension of the due date for the submission of the final report to 22 December 2023.
18. On 17 November 2023 the department provided a written response to Chemprod Nominees outlining the reasons why an extension to 8 December 2023 has been granted via an amendment.

B. Requirements

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

1. Immediately on and from receipt of this notice on 20 October 2023, you must take actions to cease discharging all stormwater and other liquids to the BCC main stormwater line from any trenches, drains and other infrastructure on the premises.
2. From 23 October 2023 you must commence daily observations (including photographic evidence) of the pipe outlet at locations a) and b) to confirm that the actions in Requirement 1 have been effective. You must keep a record of the observations that includes the visual characteristics of any water leaving the pipe, such as visible evidence (surface scum, white substances or other visually objectional matter) of contaminants.
 - a) -27.56780,152.93642
 - b) -27.56795,152.93642
3. As soon as possible but no later than 5pm on 1 November 2023 you are required to engage the services of an independent Appropriately Qualified Person (AQP) who will undertake an assessment of the stormwater and wastewater management systems and associated infrastructure at the premises. You must provide confirmation to the administering authority in writing to ESComplianceBrisbaneMoreton@des.qld.gov.au. The written confirmation must include a copy of the AQP's resume identifying the person(s) academic qualifications and experience relevant to resolving onsite stormwater and wastewater management systems and associated infrastructure.
4. The AQP must conduct an assessment of the stormwater and wastewater management systems and infrastructure that includes the following activities:
 - a) Include a review of the current stormwater and wastewater management and infrastructure at the premises to determine their effectiveness in ensuring the separation and management of clean and contaminated stormwater and identify pathways for contaminants to enter offsite stormwater networks; and

- b) Identify any management measures (including upgrading or replacement of infrastructure) or changes to the current stormwater and wastewater management systems and infrastructure that are required to prevent the release of contaminants to offsite stormwater networks; and
 - c) Make a list of prioritised recommended actions, with justified implementation timeframes required to prevent the release of contaminants from the premises; and
 - d) Of the recommendations, state which measures can be implemented:
 - i. Immediately (within 1 month);
 - ii. The short term (1 to 6 months); and
 - iii. In the long-term (greater than 6 months)
5. By 5pm ~~on 17 November~~ **8 December 2023** you must submit a final report to ESCompliancebrisbanemoreton@des.qld.gov.au which includes the following:
 - a) Records (photographic evidence) of daily observations as required by requirement (2).
 - b) The outcome of the wastewater management and stormwater management and infrastructure assessment as required by requirement (4).
6. You must notify the department via email (ESCompliancebrisbanemoreton@des.qld.gov.au) within 24 hours of becoming aware of any non-compliance with the requirements of this Notice or the Environmental Authority EPPR00667413.

Appropriately Qualified Person/s (AQP) means a person or persons who has demonstrated professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods and/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. Penalties

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 \$967,500.00 or five years imprisonment for an individual or **\$4,837,500.00 for a corporation.**
- The maximum penalty for contravening an EPO is 4500 penalty units, totalling \$696,600.00 for an individual or **\$3,483,000.00 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 \$7,740.00, for an individual or **\$38,700.00 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 \$7,740.00 for an individual or **\$38,700.00 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 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 to 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

Notice
Environmental Protection Order

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 Shannon Henderson on (07) 3330 5667 telephone number.



Signature

17/11/2023

Date

Simon Vanderduys

Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

Enquiries:

Brisbane Moreton Compliance
Environmental Services and Regulation
Department of Environment and Science
Ph: (07) 3330 5667
Email:
ESComplianceBrisbaneMoreton@des.qld.gov.au