Environmental Protection Act 1994

Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 and 810 of the Environmental Protection Act 1994 and section 24AA of the Acts Interpretation Act 1954.

Maranoa Regional Council
Corner Quintin and Bungil Streets
ROMA QLD 4455

Attention: Mr Rob Hayward (Chief Executive Officer)

Your reference: EPPR00407513
Our reference: C-CPLPO-100293771; STAT-E-100481987; 101/0006394

~~25/01/2024~~ 18/11/2024

Dear Mr Hayward,

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

The EPO is issued with respect to the activities of Maranoa Regional Council at the following locations identified in Table 1 (the waste facilities):

Table 1 Locations and activities relevant to the Environmental Protection Order

Location Name	Environmentally relevant activities (ERAs)	Location
Roma Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (d) more than 10,000t but not more than 20,000t ERA 60 - Waste disposal 1: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(a) (a) less than 50,000t ERA 62 - Resource recovery and transfer facility operation - 1(b) - Operating a facility for receiving and sorting, dismantling, baling or temporarily storing general waste ERA 62 - Resource recovery and transfer facility operation - 1(c) - Operating a facility for receiving and sorting, dismantling, baling or temporarily storing category 2 regulated waste	Short St Roma (Lot 241 WAL53170 and Lot 242 WV1872)
Mitchell Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (b) 2,000t to 5,000t	St George Road, Mitchell (Lot 71 SP284884)
Injune Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (a) less than 2000t	Womblebank Gap Road, Injune (Lot 150 WT317)
Surat Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (a) less than 2000t	Silver Springs Road, Surat (Lot 124 EG247)

Yuleba Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (a) less than 2000t	Perry St, Yuleba (Lot 302 WV558 and Lot 82 WV1897)
Wallumbilla Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (a) less than 2000t	Un-named road Wallumbilla (Lot Part of 220 Plan WV1085)
Jackson Waste Facility	ERA 60 - Waste disposal 2: Operating a facility for disposing of, in a year, the following quantity of waste mentioned in subsection (1)(b) (a) less than 2000t	Un-named Road, Jackson (Lot 55 BWR291)

This EPO was originally issued on 25 January 2024. New text in this amended EPO is shown as underlined and deleted text is shown as strikethrough. The EPO issued on 25 January 2024 remained in force until the issue of this amended EPO.

A. Grounds

This EPO is issued on the following grounds:

1. Pursuant to section 358(d)(i) of the Act, the department requires you to take reasonable measures to secure compliance with the General Environmental Duty. The General Environmental Duty 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 measures to prevent or minimise the harm (the* ***general environmental duty***).

2. Pursuant to section 358(d)(iii) of the Act, the department requires you to take reasonable measures to secure compliance with conditions P1-G1 and P1-G2 of Environmental Authority EPPR00407513 dated 12 April 2023 which state:

   P1-G1 The activity must be undertaken in accordance with written procedures that:
   1. *identify potential risks to the environment from the activity during routine operations and emergencies; and*
   2. *establish and maintain control measures that minimise the potential for environmental harm; and*
   3. *ensure plant, equipment and measures are maintained in a proper and effective condition; and*
   4. *ensure plant, equipment and measures are operated in a proper and effective manner; and*
   5. *ensure that staff are trained and aware of their obligations under the Environmental Protection Act 1994; and*
   6. *ensure that reviews of environmental performance are undertaken at least annually.*

   P1-G2 All reasonable and practicable measures must be taken to prevent or minimise environmental harm caused by the activities.

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

1. You are the holder of environmental authority EPPR00407513 (the EA) dated 12 April 2023, as well as superseded versions of this EA dated 23 June 2022, and 5 September 2018.
2. Section 430 of the Act requires that a person who is the holder of, or is acting under, an environmental authority must not contravene a condition of the authority.
3. Part 1 of the EA and conditions P1-G1 and P1-G2 (present in each version of the EA stated above) apply to all activities and locations authorised under the EA (including those listed in Table 1).
4. You were advised on 30 July 2019 and 23 April 2020 that written procedures must be developed to comply with the EA and condition P1-G1.
5. You provided written procedures as per Table 2.

Table 2 – Dates written procedures were provided by Maranoa Regional Council.

Location relevant to	Date documents provided
All Maranoa Regional Council Waste Facilities (generic)	1 April 2021
Roma Waste Facility	12 January 2023; 13 October 2023
Mitchell Waste Facility	10 March 2022 (Draft for comment); 21 November 2022
Injune Waste Facility	9 December 2022
Surat Waste Facility	25 November 2022
Yuleba Waste Facility	21 November 2022
Wallumbilla Waste Facility	06 March 2023
Jackson Waste Facility	06 March 2023

6. You were advised on 21 April 2021 and 21 February 2023 that the written procedures provided for condition P1-G1 of the EA did not meet all the requirements of the condition.
7. The documents ~~most recently~~ provided prior to 25 January 2024 for condition P1-G1 of the EA for all waste facilities do not meet requirements in the following ways:
    (a) They do not identify relevant environmental risks associated with the routine operations of the waste activities specific to their location (e.g. contamination of surface waters and alluvial groundwaters, leachate generation), in association with other uses onsite (e.g. sawdust storage at Mitchell) or foreseeable incidents or emergencies (e.g. fire, flood, heavy or persistent rainfall, loss of containment, acceptance of unauthorised waste); and
    (b) They do not identify key control measures that minimise the potential for environmental harm commonly associated with waste facilities, such as risks associated with waste cell design and the management of stormwater, leachate, landfill gas, waste acceptance (in particular, at sites without a weighbridge), waste placement, compaction and coverage, waste stockpiles (segregation and size), waste storage, site access and security, education of and communication to customers and incident/emergency response; and
    (c) They do not address maintenance and operation of key plant, equipment and measures relevant to the operations (e.g. the maintenance and operation of cameras and footage, leachate ponds, stormwater management measures, fire breaks, security fencing and litter fencing); and
    (d) They do not identify key obligations under the *Environmental Protection Act 1994* (e.g. duty to notify of environmental harm under Chapter 7, Part 1 Division 2 of the Act); and
    (e) The ability for staff to undertake the activity in accordance with the written procedures is limited, as the written procedures are:
        i) incomplete (i.e. section headings with no/underdeveloped content; they include reference to other plans and procedures which are not included or made available; they include notes or comment potentially relating to internal review); and

ii) at times inconsistent (i.e. the Roma Fire Management Plan includes conflicting information regarding whether the fire brigade or you are co-ordinating the response to any fires at the landfill; written procedures for Jackson and Wallumbilla refer to waste disposal where this no longer occurs); and

iii) unclear (i.e they do not clearly identify the person responsible for certain requirements; they do not clearly identify how or when actions or requirements are to be undertaken or achieved; and they do not define acronyms used in the documents).

8. In addition, there are circumstances where the written procedures in place were not appropriately implemented. For example, the Fire Management Plan specific to the Roma Waste Facility provided to the department on 14 December 2022, identifies the most effective control of a waste fire being the smothering with dirt, and that application of water is ineffective and creates other hazards. Despite this, the fires that occurred at the Roma waste facility on 30 December 2022 and 11 January 2023 and 26 October 2023 were extinguished using water and/or foam. The written procedure has not been updated to include alternative measures to manage fire incidents, and the operational procedures provided on 13 October 2023 do not address this aspect of the operations. Therefore the department alleges that the activity was not undertaken in accordance with their written procedures when responding to these incidents.
9. The department alleges that the deficiencies of the written procedures have led to all reasonable and practicable measures not being taken to prevent or minimise environmental harm caused by the activities (i.e. it is alleged that you have not met your general environmental duty). Examples where insufficient and/or inconsistent written procedures have failed to minimise or prevent environmental harm include:
   (a) 14 notifications pertaining to waste fires at MRC waste facilities occurring since 24 November 2021 illustrating that risk identification, implementation of preventative measures and clear management responses to incidents could have minimised or prevented environmental harm;
   (b) stormwater management at the Roma and Mitchell facilities, which are in close proximity to waters (Bungil Creek and Maranoa River respectively), has the potential to impact water quality as procedures are not adequately protecting surface water quality; and
   (c) shallow groundwater at Roma and Mitchell landfills (as indicated in reports for nearby bores; RN 42240022, RN 42240008, and RN 42240009) could become contaminated as waste management procedures relevant to cell design, filling, and covering and leachate management are inadequate.
10. Since the department issued correspondence on 21 February 2023 identifying continued deficiencies with new written procedures, you ~~have~~ had not revised written procedures to ensure they meet requirements of condition P1-G1 of the EA.
11. In summary, the department considers that, given the facts and circumstances detailed above, you have not taken all reasonable and practical measures to prevent or minimise the risk of environmental harm, and have not complied with conditions P1-G1 and P1-G2 of the EA yet, but are progressing towards compliance.
12. The EPO issued to you on 25 January 2024 required you to take reasonable steps, with specific requirements, to rectify these issues.
13. You have been progressing towards meeting the requirements 1 to 10 of the EPO.
14. Initial versions of site based management plans, receiving environment monitoring programs and associated documents were provided on 1 July 2024 for all sites which are the subject of the EPO.
15. On 16 September 2024 you indicated that you intend to amend the written procedures provided on 1 July 2024 to meet Requirement 11 of the original EPO.
16. No revised written procedures were received by 30 September 2024.

17. The sites which are the subject of the EPO, and aforementioned plans, are currently subject to regular refinements in operation and procedures and consequently the consistent implementation of procedures is not yet finalised.
18. While you have regularly engaged with the department regarding progress towards compliance with the EPO, you had not identified potential issues with meeting requirements 11 and 13 under the EPO.
19. Consequently, the department considers that it is appropriate to amend the original EPO and requirements to ensure ~~require~~ you ~~to~~ take reasonable steps, as specified below, to rectify the ~~these~~ issues originally identified.

B. Requirements

1. By **5:00 pm on 9 February 2024** you must engage an appropriately qualified person (AQP) to carry out the requirements of the notice and confirm the engagement in writing to southwest.es@des.qld.gov.au or by post to PO Box 731, Toowoomba QLD 4350. The written confirmation of the engagement must include each persons' qualifications and suitable experience relevant to the scope of work each AQP will undertake.

Interim Fire Management Procedures

2. You must require the AQP, in collaboration with Maranoa Regional Council staff involved with the operation of the waste facilities, to develop interim written procedures which meet the requirements of condition P1-G1 of the EA with regard to the prevention and management of fire at all waste facilities.
3. By **30 April 2024** you must submit the interim written procedure(s) required by Requirement 2 to the department by email to southwest.es@des.qld.gov.au or by post to PO Box 731, Toowoomba QLD 4350
4. The interim written procedure(s) required by Requirement 2 must be implemented from the date they are submitted under Requirement 3.

Written Procedures for Waste Management Activities

5. You must require the AQP, in collaboration with Maranoa Regional Council staff involved with the operation of the waste facilities, to develop written procedures which meet the requirements of condition P1-G1 of the EA for the current and ongoing operations.
6. The written procedures required by Requirement 5 must include the following:
   (a) Site design, including waste storage areas, waste disposal cell (current and proposed) design, construction and filling at the premises (except where no further waste disposal is planned); and
   (b) A risk assessment to identify risks to all environmental values from the activities undertaken at all waste facilities. This must include considerations for routine operations, other operations onsite (e.g. waste stored for tyre recyclers or lands depot at Roma; sawdust from the sawmill stored at Mitchell), and emergencies; and
   (c) Procedures and control measures to mitigate and manage the environmental risks identified in Requirement 6(b) and other common issues associated with waste facilities, including (but not limited to) waste cell design, leachate management, stormwater management, landfill gas management, waste acceptance, waste placement, compaction and coverage, waste stockpile segregation and size, site access and security, customer education and communication, and incident and emergency response; and
   (d) A groundwater monitoring system to measure the impacts to groundwater from the activities at the Roma and Mitchell Waste Facilities, and any other waste facilities where it is deemed necessary from the risk assessment in Requirement 6(b); and

(e) A monitoring plan which specifies parameters to be monitored, monitoring locations, procedures and frequency, and analysis and interpretation of results for any monitoring identified as necessary under the risk assessment carried out under Requirement 6(b), and any monitoring identified as necessary for management of waste facilities under Requirement 6(c) and (d);

(f) Details of how plant, equipment and control measures included under the written procedures must be maintained and operated.; and

(g) Notification requirements under the EA and *Environmental Protection Act 1994*.

7. The written procedures required by Requirement 2 and 5 and in accordance with Requirement 6 must:

   (a) Specify the person responsible for each action or requirement; and

   (b) Specify how the actions or requirements are to be achieved; and

   (c) Account for changes in staffing; and

   (d) Include requirements for developing and delivering staff training (including refresher and new staff training), assessing staff competency and keeping records to demonstrate this; and

   (e) Include a schedule and triggers for periodically reviewing and updating information, procedures and staff training; and

   (f) Specify timeframes for implementation where any actions or requirements do not commence immediately.

8. The written procedures required by Requirement 2 and 5 and in accordance with Requirements 6 and 7 must consider the department's *Landfill siting, design, operation and rehabilitation Guideline, 2021.*

9. The written procedures required by Requirement 2 and 5 and in accordance with Requirements 6 to 8 must not contradict requirements under the EA (EPPR00407513) or the Act.

10. By **30 June 2024** you must submit a report demonstrating progress to date in addressing Requirements 5 to 8 to the department by email to southwest.es@des.qld.gov.au or by post to PO Box 731, Toowoomba QLD 4350.

~~11. By **30 September 2024** you must submit a draft copy of the written procedures required by Requirement 5 and in accordance with Requirements 6 to 9 to the department for review and comment by email to southwest.es@des.qld.gov.au or by post to PO Box 731, Toowoomba QLD 4350.~~

11. From **21 November 2024** until you comply with Requirement 13, you must provide written progress updates and advice about any factors impacting compliance with the requirements of this notice to the department by the end of each month (except for the month of December).

12. By **30 March 2025** you must submit a draft copy of the written procedures required by Requirement 5, and which are in accordance with Requirements 6 to 9, to the department for review and comment by email to southwest.es@des.qld.gov.au or by post to PO Box 731, Toowoomba QLD 4350.

13. Within **2 months** of receiving comments from the department on the draft written procedures submitted under Requirement 12~~11~~, you must submit a final version of the written procedures to the department, by email to southwest.es@des.qld.gov.au or by post to PO Box 731, Toowoomba QLD 4350 which:

   (a) comply with Requirements 5 to 9; and

   (b) incorporate any comments and recommendations made in writing by the department.

14. The written procedure(s) developed under Requirements 5 to 9 must be implemented from the date they are submitted under Requirement 13~~12~~.

Appropriately qualified person(s) means 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 to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

Groundwater means water that occurs naturally in, or is introduced artificially into, an aquifer.

Groundwater monitoring system means a system of groundwater monitoring devices, such as monitoring bores, used to provide data in respect to the level and quality of groundwater in the uppermost aquifer where the location of the groundwater monitoring devices is such that comparisons of groundwater quality and groundwater level can be made between groundwater flowing from beneath the site (down-gradient flow) of the activity and groundwater flowing towards the site of the activity (up-gradient flow).

Leachate means a liquid that has passed through or emerged from, or is likely to have passed through or emerged from, a material stored, processed or disposed of at the site that contains soluble, suspended or miscible contaminants likely to have been derived from the said material.

Written procedures means a document(s) that fulfils the requirements specified in condition P1-G1 of the EA EPPR00407513

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 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 EP Act.

A person who is dissatisfied with an original decision made by the Department of the Environment, Tourism, Science and Innovation (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 the Environment, Tourism, Science and Innovation: 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 Lisa Fritz ~~or Shari Griinke~~ by emailing southwest.es@des.qld.gov.au.

	21/11/2024 ~~25/01/2024~~
Signature	Date

Tim Brain

Manager Compliance

Delegate of the Chief Executive

Department of the Environment, Tourism, Science and Innovation

Environmental Protection Act 1994

Enquiries: ~~Shari Griinke or~~ Lisa Fritz

Compliance Centre: Toowoomba
Email: southwest.es@des.qld.gov.au