Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Essential Spill Products Pty Ltd
146 Callide Street
BILOELA QLD 4715

Our reference: C-CPLRC-100337819 I E-100555941

10/01/2024

Dear Sir,

Take notice: that under the *Environmental Protection Act 1994* (EP Act) this environmental protection order (EPO) is issued to Essential Spill Products Pty Ltd (ACN: 151 347 698) (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 Essential Spill Products Pty Ltd on land described as Lot 17 on Plan RP612749 situated at 146 Callide Street, Biloela QLD 4715 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. Section 363E of the EP Act states that a person who is issued with a Direction Notice must comply with it unless the person has a reasonable excuse.
2. The department alleges that you have failed to comply with Direction Notice (E-100354590) issued to you dated 14 February 2023.
3. You failed to provide a reasonable excuse for allegedly contravening section 363E of the EP Act.

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

1. On 20 December 2022, you were issued a Direction Notice (E-100354590) for allegedly carrying out ERA 62 – Resource Recovery and Transfer Facility Operation at Lot 17 on Plan RP612749, situated at 146 Callide Street, Biloela QLD 4715 (the premises) without holding or acting under an Environmental Authority (EA).
2. Direction Notice (E-100354590) dated 20 December 2022, Required Step 3 states:

   Within 56 days after the date of this notice, you must:

   a. Apply for, and have an application under assessment for an EA to carry out the ERA; or

   b. Hold or be acting under an effective EA to carry out the ERA; or

Queensland Government

c. Have removed all general waste in excess of six tonnes or six cubic metres and category 2 regulated waste in excess of four tonnes or four cubic metres from the premises and lawfully transport and dispose of the waste to a facility that can lawfully receive it.

3. Direction Notice (E-100354590) dated 20 December 2022, Required Step 4 states:

   If you remove the waste from the premises, you must provide written documentation to the department to demonstrate the lawful removal and disposal of all material from the premises within 56 days after the date of this notice. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations

4. By 14 February 2023, Direction Notice (E-100354590) dated 20 December 2022, required you to apply for or act under an EA to carry out the activity, or remove all required waste from the premises.

5. On 14 February 2023, you were issued an extension to Direction Notice (E-100354590) dated 20 December 2022.

6. Direction Notice (E-100354590) dated 14 February 2023, Required Step 3 states:

   By 31 March 2023, you must:

   a. Apply for, and have an application under assessment for an EA to carry out the ERA; or

   b. Hold or be acting under an effective EA to carry out the ERA; or

   c. Have removed all general waste in excess of six tonnes or six cubic metres and category 2 regulated waste in excess of four tonnes or four cubic metres from the premises and lawfully transport and dispose of the waste to a facility that can lawfully receive it.

7. Direction Notice (E-100354590) dated 14 February 2023, Required Step 4 states:

   If you remove the waste from the premises, you must provide written documentation to the department to demonstrate the lawful removal and disposal of all material from the premises by 31 March 2023. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations

8. During inspections on 11 April 2023 and 9 November 2023, authorised persons of the department observed general waste in excess of six tonnes or six cubic meters and category 2 regulated waste in excess of four tonnes or four cubic metres remaining on the premises, allegedly in contravention of Direction Notice (E-100354590) dated 14 February 2023.

9. Based on the inspections, it is alleged that you have failed to comply with Direction Notice (E-100354590) as you have not removed all required waste from the premises, and you do not hold or are not acting under an EA for the ERA.

10. Section 363E of the EP 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 has been provided to the department.

11. The administering authority may issue an order (an environmental protection order) to a person if the person is, or has been, contravening section 363E.

12. The administering authority reasonably believes that you have failed to comply with Direction Notice (E-100354590) dated 14 February 2023 and have contravened section 363E of the EP Act.

B. Requirements

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

1. **By 5pm 1 March 2024**, you must remove all general waste in excess of six tonnes or six cubic metres and all category 2 regulated waste in excess of four tonnes or four cubic metres from the premises and lawfully transport and dispose of the waste to a facility that can lawfully receive it.
2. You must provide written documentation to the department to demonstrate the lawful removal and disposal of all regulated waste from the premises by **5pm 1 March 2024**. This may include transport receipts, waste tracking documentation for all regulated wastes and/or receipts from disposal locations.
3. The written documentation must be provided to cwes_gladstone@des.qld.gov.au or via mail to Department of Environment and Science, GPO Box 2454, Brisbane QLD 4001.

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 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.

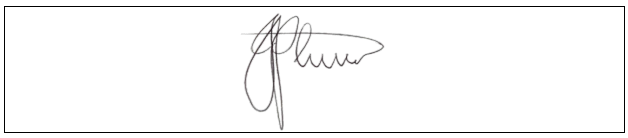
Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

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 Morgan Purdy on (07) 4971 6506 telephone number.



Signature

10/01/2024

Date

Dr Jason Plumb

A/Compliance Delivery Manager

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

Enquiries: Morgan Purdy

COMPLIANCE CENTRE: Gladstone
Ph: (07) 4971 6500
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