

Environmental Enforcement Order

NOTICE ID	STAT-E-100589687
Date of issue	1 October 2024 <u>10 December 2024</u>
Issued to	Mr Randall James Ford
Registered address	22 George Street, Mackay, QLD 4740
Site address (the premises)	841 Kinchant Dam Rd, Kinchant Dam, QLD 4741
Land reference	Lot 10 on CI3568
Administering Authority	Chief Executive of the Department of Environment, Science and Innovation (the department)
Legal reference	Pursuant to s362 Environmental Protection Act 1994
Service method	☒ Registered post ☐ Hand delivered ☒ Also by email ☐ Orally (s369(2))
Contact	If you have any questions about this EEO, please contact: Sheila Villora, Mackay Compliance Centre, Coal and Central Compliance Email: Sheila.Villora@des.qld.gov.au Telephone: (07) 4999 6886

Please read the [Information Sheet - Recipient of an Environmental Enforcement Order \(desi.qld.gov.au\)](https://www.desi.qld.gov.au) for further information (search for ESR/2024/6802 on www.desi.qld.gov.au).

Terms used in this Environmental Enforcement Order (EEO) have their meaning defined in the **Definitions** section in **Appendix A** of the EEO or, if not defined, in the Environmental Protection Act 1994 (the Act).

This EEO was originally issued on 1 October 2024. New text in this amended EEO dated 10 December 2024 is shown as underlined and deleted text is shown as strikethrough. The EEO originally issued on 1 October remained in force until the issue of this amended EEO.

Why the department is issuing this Order to you:

For the purpose of this Notice, “you” means the recipient of this Notice or your authorised representative.

You have a proactive **general environmental duty** to prevent and minimise any environmental harm. You also have a proactive **duty to restore the environment** if environmental harm has been caused by you.



The department has responsibility for enforcing the Act. The delegate for the department is issuing this EEO to you, pursuant to s362 *Environmental Protection Act 1994* of the Act, to secure compliance with the Act in relation to activities being undertaken at the premises.

This EEO is issued with respect to the activities undertaken at the premises which are in contravention of section 430 of the Act.

This EEO is issued to you based on the ground described in: s359(e)(ii) of the Act – it is necessary to issue an EEO to secure your compliance with conditions of an environmental authority (EA).

The department believes you are not in compliance and measures are necessary to secure compliance with conditions of your environmental authority, namely EPPR00514413 dated 11 January 2021. The relevant conditions state:

A. Condition A3-1 - Site based management plan

From commencement of the activity, a Site Based Management Plan (SBMP) must be implemented. The SBMP must identify all sources of environmental harm, including but not limited to the actual and potential release of all contaminants, the potential impact of these sources and what actions will be taken to prevent the likelihood of environmental harm being caused. The SBMP must also provide for the review and 'continual improvement' in the overall environmental performance of all Environmentally Relevant Activities that are carried out.

The site-based management plan must address the following matters:

- *Environmental commitments - a commitment by senior management to achieve environmental goals.*
- *Identification of environmental issues and potential impacts.*
- *Control measures for routine operations to minimise likelihood of environmental harm.*
- *Contingency plans and emergency procedures for non-routine situations.*
- *Organisational structure and responsibility.*
- *Effective communication.*
- *Monitoring of the contaminant releases.*
- *Conducting environmental impact assessments.*
- *Staff training.*
- *Record keeping.*
- *Periodic reviews of environmental performance and continual improvement.*

B. Condition A5-1 - Records

Record, compile and keep all monitoring results required by this document and present this information to the administering authority when requested.

C. Condition F1-1 Monitoring Bore Installation

Groundwater monitoring bores must be installed and used for groundwater monitoring. At least, one monitoring bore must be installed and located down gradient from the irrigation area (situated between surface waters of Kinchant Dam and the effluent irrigation area), by 31st October 2003.

D. Condition F2-1 - Land disposal

The only contaminants permitted to be released to land are treated effluents and stormwater to an area, of at least 5500m², on Lot 10 Plan CI3568 in compliance with the release limit levels stated in Table 1 of the Land Schedule and the conditions of this authority.

E. Condition F2-6 – Effluent monitoring records

Monitoring must be undertaken and records kept of effluent and water quality at the monitoring bore and effluent disposal area (described in Schedule 1, Figure 1), at the frequency, and for the parameters specified in Schedule F – Table 2; and

- made in accordance with the methods prescribed in the latest edition of the Environment Protection Agency Water Quality Sampling Manual; and
- be representative of the bore water and effluent discharge.

Schedule F - Table 1 (Release limits - 'Land')

Quality characteristics	Release Limit				
	Minimum	50th Percentile	80th Percentile	Maximum	Median
5-day Biological Oxygen Demand (mg/L)				20mg/L	
Suspended Solids (mg/L)				30mg/L	
Total Nitrogen				25mg/L	
Total Phosphorus				10mg/L	
Thermotolerant coliforms		10CFU		200CFU	
pH	6.5			8.5	

Schedule F - Table 2 (Monitoring program)

Monitoring point	Quality characteristics	Units	Frequency
Release to irrigation area	BOD	mg/l	6 monthly
Release to irrigation area	Suspended Solids	mg/l	6 monthly
Release to irrigation area	pH		6 monthly
Release to irrigation area	Total Nitrogen	mg/l	6 monthly
Release to irrigation area	Total Phosphorus	mg/l	6 monthly
Release to irrigation area	Thermotolerant coliforms	CFU	3 monthly
Groundwater monitoring bore	Thermotolerant coliforms	CFU	Annually
Groundwater monitoring bore	Nitrate	mg/l	Annually
Groundwater monitoring bore	Ammonia	mg/l	Annually

Background and relevant matters:

1. You are the owner of the premises (Lot 10 on CI3568).
2. You are the holder of EA EPPPR00514413 (the EA) which authorises the environmentally relevant activity (ERA) 63- Sewage Treatment, 1(a)(i): Operating sewage treatment works, other than no-release works with a total daily peak design capacity of 21 to 100 equivalent persons (EP) – if treated effluent is discharged from the works to an infiltration trench or through an irrigation scheme.
3. The department is satisfied that you are responsible for operating and maintaining the sewage treatment plant (STP) at the premises.
4. On 1 February 2024, the department was notified by a community reporter via the Pollution Hotline alleging the mismanagement of sewage and effluent at the Kinchant Dam Caravan Park including the release of raw sewage to land and waters.
5. On 5 March 2024, authorised persons of the department, conducted a compliance inspection at the premises. Authorised persons observed that you were carrying out the activity in non-compliance with conditions **A3-1**, **A5-1**, **A6-1**, **F1-1**, **F2-1** and **F2-6** of the EA.
6. During the inspection as required by condition **A3-1** you were not able to produce a plan or procedure which provided details on the layout or operation of the sewage treatment plant.
7. During the inspection as required of condition **A5-1** and condition **F2-6** you were not able to compile monitoring results from your records and present this information to the administering authority when requested.

8. During the inspection authorised officers did not observe any groundwater monitoring bores and no records were provided to demonstrate monitoring is carried out, as required by condition **F1-1**.
9. During the inspection authorised officers observed that you are irrigating effluent outside of the premises (Lot 10 on CI3568) and within a road reserve. This is an alleged contravention of condition **F2-1** of the EA.
10. On 15 April 2024 the department issued you a letter outlining alleged non-compliances identified during the inspection. The department afforded you an opportunity to take all reasonable and practicable measures to rectify the non-compliances.
11. On 2 May 2024 you responded to the letter and stated the following:
 - a. you have engaged an appropriately qualified person (AQP);
 - b. in accordance with condition F2-1, irrigation of effluent outside of the premises has been rectified and the disposal of treated effluent outside of the required area has ceased.
 - c. a water meter has been installed and has been monitored daily water consumption and daily records are being kept. The department notes that condition A6-1 does not require monitoring for water consumption, however, is used to assist you in calculating the volume of sewage treated by the STP.
 - d. in accordance with condition A5-1, testing of effluent has commenced and records are being kept.
12. On 10 May 2024, authorised officers conducted another site inspection with the purpose of understanding the site status following the commissioning of the AQP and to review the alleged non-compliances.
13. During the inspection, you advised authorised officers that the AQP you commissioned was developing a proposal, including timeframes, to inform the actions required to secure compliance with the conditions of the EA.
14. On 10 May 2024 following the inspection, the department requested a copy of the proposal including actions and timeframes to inform how compliance will be secured.
15. On 23 May 2024 the department sent a follow-up email to you regarding the proposal.
16. On 27 May 2027 you replied stating that you have engaged a different AQP to complete the necessary tasks.
17. On 12 June 2024 the department requested an update on the status of the proposal and works. The department also requested the latest effluent monitoring results from the NATA accredited laboratory.
18. On 19 June 2024 the department conducted an in-person meeting with Gordon Howard (Caravan Park Manager) and the AQP you commissioned to discuss the status of the works required to bring the STP back into compliance. The following information was presented to the department:
 - a. The current STP is in a satisfactory condition. The current inflow is between 8000 L/day and 14,500 L/day (which equates to less than the 75 EP scope stated in the EA). These volumes are based on a 2-month period of monitoring water usage at the site.
 - b. It is envisaged a balancing tank will be installed with a maximum capacity of 15,000L to manage the effluent. It is also envisaged that glycerol will be dosed to manage nitrogen, and alum will be dosed to manage phosphorus.
 - c. A pumping station will be installed to pump effluent to a new designated irrigation area. This area was inspected by the department on 10 May 2024.
 - d. A groundwater monitoring bore will be installed by a local contractor.

- e. A site-based management plan including daily/weekly record sheets and incident record sheets will be developed and implemented.
 - f. It is anticipated that a proposal with timeframes would be available within 4 weeks and provided to the department. The implementation of measures to comply with the EA will take approximately 6 months.
19. To date, no further information has been provided to the department.
 20. The department has afforded you many opportunities to rectify the non-compliances and provide details to the department of this.
 21. On 22 November 2024, you emailed the department requesting changes to the dates listed in the requirements section of the EEO giving the following reasons:
 - a. unavailability of subcontractors to complete the required works by the due date; and
 - b. supply chain issues to procure parts required to complete the works by the due date.
 22. On 28 November 2024, the department met with you to discuss this request.
 23. The department has considered this request, and based on the information provided, considers the request reasonable.

Grounds:

1. In summary, the department considers that, given the facts and circumstances detailed above, you have failed to comply with conditions **A3-1, A5-1, F1-1, F2-1** and **F2-6** of the EA.
2. In accordance with s362 of the Act the department believes that an enforcement ground exists under section 359(e)(ii) and considers it necessary to require you to take reasonable steps to comply with the EA.

Required actions:

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

Assessment by an appropriately qualified person

1. **By 7 October 2024** you must engage an appropriately qualified person(s) (AQP) to undertake the requirements of this EEO and confirm the engagement in writing to CWES_Mackay@des.qld.gov.au. The written confirmation of the engagement must include each person's qualifications and suitable experience relevant to the scope of work each AQP will undertake.

Groundwater monitoring

2. **By 5pm 30 October 2024**, you must install one (1) groundwater monitoring bore that meets the requirements of condition **F1-1** of the EA.
3. **By 5pm 31 October 2024**, you must notify the department via email at CWES_Mackay@des.qld.gov.au that requirement **2** has been completed.

Effluent limits

4. By ~~31 January 2025~~ **4 November 2024**, you must implement, **and continue to implement**, measures at the STP to ensure contaminant limits stipulated in condition **F2-1** of the EA are complied with.
5. By ~~28 February 2025~~ **4 December 2024**, you must carry out monitoring of the effluent to confirm it complies with the limits stipulated in condition **F2-1** of the EA. The monitoring must be analysed at a NATA laboratory in accordance with the requirements of condition **F2-6** of the EA.
6. By ~~5pm 28 February 2025~~ **5pm 5 December 2024**, you must notify the department via email at CWES_Mackay@des.qld.gov.au that requirements **4** and **5** has been complied with.

Irrigation requirements

7. By **31 May 2025** ~~15 December 2024~~, you must install all infrastructure required to meet the effluent irrigation area requirements stipulated in **condition F2-1** of the EA.
8. By **5pm 1 June 2025** ~~5 pm 16 December 2024~~, you must notify the department via email at CWES_Mackay@des.qld.gov.au that requirement **7** has been completed.

Site Based Management Plan

9. By **1 June 2025** ~~16 December 2024~~, you must develop and implement a Site Based Management Plan that meets the requirements of condition A3-1 of the EA.
10. By **5pm on 1 June 2025** ~~16 December 2024~~, you must provide a copy of the Site Base Management Plan as required under **9** the department via email at CWES_Mackay@des.qld.gov.au.

Issued by

10 December 2024

Tim Brain
Manager (Compliance)

Department of Environment, Science and Innovation
PO Box 2001
Mackay QLD 4740

Delegate of the Administering Authority**Considerations**

Human rights were considered prior to issuing this EEO.

Offences

Failure to comply with this EEO is an offence unless you have a reasonable excuse. The maximum penalties are significant and are provided in s369A of the Act.

Appendix A: Definitions used in this Order

Appropriately qualified person (AQP)	This means a person or persons who has professional qualifications, training, skills and experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis of performance in relation to the subject matter using the relevant protocols, standards, methods or literature.
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Penalties and obligations

It is important that you know the impact to you personally as an individual or as a corporation for not meeting your obligations.

- If you propose to dispose of the place or business to which the EEO relates, you must advise the buyer of the existence of this EEO. **Failure to provide a written notice to the buyer of the existence of the order is an offence.** The maximum penalty is provided in s369C of the Act.
- If you cease to carry out the activity to which this EEO relates, you must give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity. **Failure to provide written notice to the department within 10 business days of ceasing the activity to which an EEO relates is an offence.** The maximum penalty is provided in s369D of the Act.

Right of review and appeal

The provisions regarding reviews of decisions and appeals are found in s519 to s539 of the 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, 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.

For a decision that is not an original decision, there are no formal review and appeal rights for a person who is dissatisfied with the decision made by the administering authority. The person may have other legal rights and may wish to seek legal advice.

Privacy statement

Section 540 of the Act requires the department 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 redaction in part 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.

Accessibility

Contact us if you need this information in an accessible format such as large print or audio.

Interpreter assistance

If you need interpreter assistance or want this document translated, please contact us and advise your preferred language. If you are deaf, or have a hearing or speech impairment, contact us through the [National Relay Service](#)

