

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.

26 March 2024

Chemprod Nominees Pty Ltd
21 Paw Paw Road
BROOKLYN VIC 3012

CC via email: elalla@omegachem.com.au
mfried@omegachem.com.au

Our reference: C-CPLRC-100427049 / STAT-E-100589788

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, Science and Innovation (the department).

The EPO is issued with respect to the activities of Chemprod Nominees which include ERA 07 - Chemical manufacturing; 6(c) Manufacturing, in a year more than 10,000 tonnes to 100,000 tonnes of inorganic chemicals on land described as Lot 16 and 17 on RP168126 situated at 32 – 34 Boron Street, Sumner Queensland 4074 (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. You are the holder of environmental authority (EA) EPPR00667413.
2. In accordance with section 358(d) of the EP Act, this EPO STAT-E-100589788 is issued to secure compliance with Section 358 of the EP Act.



3. On 20 October 2023, the department issued Chemprod Nominees with an EPO STAT-E-100448042 based on the following grounds:

The administering authority may issue an order (an environmental protection order) to a person—

- (d) to secure compliance by the person with –
 - (i) the general environmental duty
 - (iii) a condition of an environmental authority
 - Condition C1 of EPPR00667413 states that contaminants must not be released from the licensed place to any water or the bed and banks of any waters.
 - On 3 May 2023, 25 May 2023, 6 June 2023, 28 June 2023, 1 August 2023 and 6 August 2023 the department received notifications from both Brisbane City Council (BCC) and members of the public reporting contaminants being released from the BCC stormwater line into Wolston Creek (Spine Street stormwater pipe outlet).
 - The department considered that Chemprod Nominees had not met its General Environmental Duty (GED) or complied with condition C1 of EPPR00667413.
4. On 31 October 2023, the department received a notification from BCC and a member of public advising of a contaminant release occurring at the time of the report from the Spine Street stormwater pipe outlet into Wolston Creek.
- The notifiers described and provided images that depicted a milky foam like substance in and on top of the water flowing into Wolston Creek from the Spine Street stormwater pipe outlet.
 - Authorised persons under the EP Act attended the premises and Wolston Creek and formed a reasonable belief that Chemprod Nominees was the source of the contaminant release.
5. On 3 November 2023, the department enlisted the services of Pipe Management Australia (PMA) to carry out a CCTV survey of the BCC stormwater line, leading into the premises to identify the contaminant pathway and origin, the pipe survey identified the following:
- White staining and corroded concrete pipes leading from the Spine Street stormwater pipe outlet through the BCC main stormwater line, up to the outlet from the premises. The BCC stormwater line traveling North, upgradient of the Chemprod Nominee's premisses outlet shows no signs of white staining or corrosion.
 - A large crack and white staining in the main stormwater line on the premises, believed to be from the intrusion of a tree root.

6. On 3 November 2023, the department issued an Emergency Direction Notice to Chemprod Nominees to:
 - Enlist an appropriately qualified person (AQP) to remove the contaminated water and soil at the incident site.
 - Commence the removal of contaminated water and soil at the incident site.
 - Remove all contaminated water and soil from the incident site and lawfully transport the water and soil to a facility that can lawfully receive it.
 - Undertake validation sampling of the incident site to confirm all contaminated water and soil has been removed.
 - Ensure validation samples are analysed at a NATA accredited laboratory and the results must be provided to the department via email address within 1 business day of the results being received.
7. On 13 November 2023 Chemprod Nominees called the departments acting Compliance Delivery Manager Simon Vanderduys to discuss amending the EPO and the request for an extension.
8. On 15 November 2023 the department received an email from Chemprod Nominees detailing the reasons behind their request for an amendment, including:
 - Additional information had been discovered by the department since 3 November 2023 which may assist in the assessment, Chemprod Nominees and the AQP has requested copies of laboratory results and surveys conducted by the department in response to the release on 31 October 2023.
 - Chemprod Nominees advised that the AQP is unable to make the final assessment by the EPO due date of 17 November 2023 without the requested information and therefore request an extension until 22 December 2023.
9. On 17 November 2023, the department responded to Chemprod Nominees via email confirming an extension to the EPO due date until 8 December 2023 due to the following considerations:
 - The department is of the view some actions may have been able to be completed in shorter timeframes prior to the issuing of the EPO.

- There have been ongoing releases of contaminants into Wolston Creek with the department becoming aware of releases on 31 October 2023 and on the 14 November 2023.
- The department is of the view that Chemprod Nominees should have been undertaking all reasonable and practicable measures to prevent any releases of contaminants since the department became aware in mid-May 2023.
- It is the department's view that the pipe survey and the water sampling could have been conducted by Chemprod Nominees at any stage since becoming aware of the allegation of contamination leaving the premises.

10. On 17 November 2023, the department issued Chemprod Nominees with an amended EPO as requested reflecting a new due date for Requirement 5 (final report submission) of 8 December 2023.

11. On 8 December 2023, the department received a response from Chemprod Nominees as per requirement 5(a) of the EPO and from the appointed AQP as per requirement 5(b) of the EPO.

12. The AQP report outlined a range of recommendations, including: integrity testing, audit of hazardous materials storage, water balance and a survey of all works completed to date to mitigate the risk of release of contaminants into stormwater exiting the site.

13. On 5 January 2023, the department issued Chemprod Nominees with a pre-enforcement detailing the following alleged non – compliance(s) with the requirements of the EPO.

- **Requirement 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.
- **Requirement 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

14. On 20 January 2023, Chemprod Nominees provided a response to the departments pre-enforcement via email advising:

- **Requirement 1:** Chemprod believes the releases that have occurred are not recent but rather legacy issues, possibly triggered by the 2011 flood and only recently dislodged from their resting place.
- **Requirement 2 :** Chemprod believes that the coordinate locations (a. -27.56780,152.93642 and b. -27.56795,152.93642) were not clear.

15. On 31 January 2024, the department issued two (2) Penalty Infringement Notices to Chemprod Nominees for contravention of EPO STAT-E-100448042 on 31 October 2023 and between 23 October 2023 and 8 December 2023.
16. On 1 March 2024, the department provided Chemprod Nominees with draft requirements for EPO STAT-E-100589788 indicating comment by 8 March 2024.
17. On 1 March 2024, the department provided Chemprod Nominees with an extension on time to comment on draft EPO STAT-E-100589788 requirements until 18 March 2024.
18. On 18 March 2024, Chemprod Nominees responded to the department stating that Chemprod Nominees has taken all reasonable steps and is continuing improvements aimed at protecting the environment. Chemprod Nominees did not provide feedback on the requirements.

B. Requirements

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

1. Immediately on and from receipt of this notice on **26 March 2024**, you must take actions to cease discharging water containing any **prescribed water contaminants** under section 10 of the Environmental Protection Act (1994) to offsite stormwater infrastructure and/or surface waters.

Engaging an appropriately qualified person

2. By 5pm on **26 April 2024**, you must engage an appropriately qualified person/s (AQP) to carry out the requirements of this notice and confirm the engagement to the department in writing to: ersbrisbanemoretoncompliance@des.qld.gov.au.
3. The written confirmation of the engagement must include each AQP's academic and professional qualifications, suitable skills, experience and training, relevant to the nominated subject matter and that the AQP can give authoritative assessment, advice and analysis of performance in relation to the subject matter using the relevant protocols, standards, methods or literature relevant to this notice.

Integrity testing

- 4.** By 5pm on **3 May 2024**, you must commission the AQP engaged in requirement 2 of this EPO to undertake a review of the effectiveness and performance of all chemical and liquid storages, sumps, tanks and bunds at the premises.
- 5.** The review required by requirement 4 must include the following as a minimum:
 - a) Integrity testing of onsite chemical and liquid storage infrastructure.
 - b) Integrity testing of bunding.
 - c) Integrity testing of pipework.
 - d) A review of the design and construction of chemical storages and determine if they are fit for purpose.
 - e) An assessment of the storage requirements and regulations of hazardous materials (as per Australian Standards 1940, 3780 and 4452) at the premises with considerations of the potential risks of product loss to stormwater.
 - f) Undertake a feature and level survey of onsite drainage at the premises.
 - g) Develop a water balance model for the premises that details stormwater generation under various design weather events (including various rates of precipitation intensity), quantify clean and potentially contaminated catchment areas, storage retention capacities for both runoff streams, if any, and quantify the volumes of offsite release for both runoff streams for each weather event. The AQP must consider the findings, assess risks of stormwater runoff, and make recommendations for implementation to demonstrate GED.
- 6.** By 5pm on **29 July 2024**, you must submit a report that has been developed by the AQP engaged by you to meet the requirements of this EPO to the department on the outcomes of requirements 4 and 5.
- 7.** The environmental report must include:
 - a) A summary and evaluation of the integrity testing obtained under the requirements of this notice.
 - b) The outcomes of the assessments carried out under requirement 5 (a) to (g).
 - c) With consideration of (a) to (g) of this requirement make recommendations for the implementation of measures to improve chemical storage and minimise impacts to the receiving environment.
 - d) Identification of timeframes for the implementation of measures identified as a result of (c) above.

8. By 5pm on **26 April 2025**, you must submit a report to escompliancebrisbanemoreton@des.qld.gov.au demonstrating that recommendations submitted as per requirement 7(c) have been implemented in line with timeframes identified in requirement 7(d)
9. By 5pm on **26 April 2025**, you must update your Integrated Environmental Management System (IEMS) as per EPPR00667413 condition A4 to reflect the actual and potential environmental impacts resulting from implementation of requirements 4 – 7.
10. You must notify the department via email (pollutionhotline@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 and the EP Act.

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.

Contaminant

As per section 10 of the Environmental Protection Act (1994) a **contaminant** can be.

- a) a gas, liquid or solid; or
- b) an odour; or
- c) an organism (whether alive or dead), including a virus; or
- d) energy, including noise, heat, radioactivity and electromagnetic radiation; or
- e) a combination of contaminants. –

Australian Standards

1940 – The storage and handling of flammable and combustible liquids

3780 – The storage and handling of corrosive substances

4452 – The storage and handling of toxic substances

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 \$967,500.00 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 EP Act, the department is required to maintain a register of certain documents and information authorised under the EP 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 EP 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.

Notice
Environmental Protection Order

Should you have any queries in relation to the notice, please contact Shannon Henderson on (07) 3330 5667 telephone number.



Signature

26/03/2024

Date

Elena Moeller
Compliance Delivery Manager
Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

Enquiries:
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