

Environmental Enforcement Order

Section 362 (1) of the *Environmental Protection Act 1994*



Order id: STAT-E- 100776709
Issued to: JLLT MANAGEMENT PTY LTD ACN 629 800 684
22 BAYSWATER AVENUE, VARSITY LAKES, QLD, 4227

Department of the
**Environment, Tourism,
Science and Innovation**

Mr Justin Taylor – Director (justin@resteasylvillage.com.au)

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

Site address: Rest Easy Village 1513 BRUCE HIGHWAY, KYBONG, QLD, 4570 (Lot 10 RP139458) (“the premises”)
Issued by: Rod Garner, Senior Environmental Officer, Department of the Environment, Tourism, Science and Innovation (the department), an authorised person of the administering authority (“the delegate”) C-CPLRC-100724465

A handwritten signature in black ink, appearing to read 'Rod Garner'.

Signed by delegate

Date: 13 December 2024

Relevant matter/ enforcement grounds: The *Environmental Protection Act 1994* (the Act) Section 359 Enforcement ground
S359 (e) it is necessary to issue an environmental enforcement order to secure the person’s compliance with (ii) a condition of an environmental authority. Specifically, conditions L2, L4, L5 and L7 of environmental authority EPPR00515613 (the EA) effective 24 April 2019.
S359 (c) it is necessary to issue an environmental enforcement order to secure the person’s compliance with the general environmental duty. Section 319 *General environmental duty (1) A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonably practicable measures to prevent or minimise the harm (the general environmental duty).*

Service method: Via email and registered post

Why are we writing to you?

This EEO is issued on the following grounds that relate to the relevant matter:

Under section 362(1) of the *Environmental Protection Act 1994* (the Act) the administering authority may issue an order (an environmental enforcement order) to a person if the authority believes an enforcement ground exists for the person.

Under section 359 of the Act, each of the following is a ground (an enforcement ground) on which to issue an environmental enforcement order to a person.

Section 359 © of the Act states *it is necessary to issue an environmental enforcement order to secure the person’s compliance with the general environmental duty.*

The department requires that you take reasonable measures to secure compliance with the general environmental duty. The general environmental duty is detailed in section 319 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).

Environmental Enforcement Order STAT-E-100776709

Section 359 (e) of the Act states *it is necessary to issue an environmental enforcement order to secure the person's compliance with -*

(ii) a condition of an environmental authority.

The department requires that you to take reasonable measures to secure compliance with conditions L2, L4, L5 and L7 of environmental authority EPPR00515613 (the EA) effective 24 April 2019.

#Note - The requirements of EEO STAT-E-100738080 issued to you on 11 October 2024 will remain in effect until all requirements of that EEO have been completed.

What are you required to do?

Please read this EEO carefully and carry out all the required actions listed below by the required dates.

Terms used in this order have the meaning defined in the Background and Definitions section of the EEO, or if not defined, in the Act.

If you have any questions about this EEO, please contact Rod Garner by email rod.garner@des.qld.gov.au or telephone (07) 54 596 132.

A. Required actions:

1. You must undertake the following actions in compliance with this EEO:
 - complete a review of the current sewage treatment plant in accordance with requirement 3. of this EEO; and
 - in accordance with requirement 3. develop an action plan for implementation of all necessary actions identified in the review as necessary to enable compliance with the EA and your general environmental duty, including timeframes and anticipated completion dates; and
 - implement the action plan once comments received from the department (item 4.).
2. **By 5pm on 20 December 2024** you must engage an AQP(s) (Appropriately Qualified Person(s)) to undertake requirement 3. of this EEO and you must confirm this engagement in writing to the department via email sunshinecoast.esr@des.qld.gov.au and the notification should include:
 - a copy of the AQP's resume identifying their academic qualifications, skills, experience and knowledge specific to this type of investigation\assessment\review.
 - experience relevant to identifying and resolving soil and groundwater contamination issues; and
 - experience relevant to sewage treatment works design and/or review and assessment.
3. **By 5pm on 30 April 2025** you must ensure that the AQP engaged in requirement 2. has completed an investigation into the current sewage treatment plant (STP) at the premises and has prepared a draft review report covering all the matters below and prepared an action plan with timelines for any recommendations that are required. This review report and action plan must be submitted to the department for review by this date.

The review report must include an assessment of:

- i. The design life, capacity and condition of the current STP and demonstrate that it is compliant with the requirements set out in the environmental authority and the prescribed environmentally relevant activity ERA 63 1(a-i) category (Sewage treatment (the **relevant activity**)).
- ii. The capacity and condition assessment of the STP must include but not be limited to:
 - A. Demonstrate that the current STP is sized correctly for the quantity and quality of effluent generated by the equivalent person\s (EP) at the premises.

- B. Demonstrate that it can comply with the conditions of the EA.
 - C. Demonstrate that the STP is compliant with all relevant plumbing and wastewater codes, guidelines, Australian standards and Gympie Regional Council requirements, local laws and/ or development approval conditions.
 - D. Demonstrate that the STP is designed, constructed, installed, and maintained;
 - (a) to protect public health by ensuring that risks associated with the dispersal of wastewater to the irrigation area is minimised;
 - (b) to protect the environment by ensuring:
 - (i) surface, ground water and waterways are not contaminated; and
 - (ii) soil productivity is maintained;
 - (c) with adequate treatment and storage capacity for the volume of waste received and the frequency of disposal;
 - (d) with adequate size, for the flow rates, volume of wastes and/or waste products which must be processed;
 - (e) to avoid the likelihood of foul air and gases accumulating within or entering into nearby premises;
 - (f) to permit cleaning, maintenance, measurement and performance sampling;
 - (g) to avoid the likelihood of surface water and stormwater entering the system;
 - (h) to avoid the likelihood of unintended or uncontrolled discharge;
 - (i) to minimise nuisance (e.g., noise) to the occupants of nearby premises;
 - (j) so that the installation throughout its design life will continue to satisfy the requirements of items (a) to (j).
 - E. Demonstrate that the current sewage treatment works can comply with the limits specified in EA Table 3 – Contaminant release.
- iii. A review of the council development approval and the department's environmental authority, both stipulating approved irrigation areas at the premises and the corresponding EA condition requirements L4 to determine if the minimum of 3,000m² of land is available at the premises. The review must include a full schematic diagram of the subsurface irrigation areas, their locations (GPS coordinates), dimensions, and network of valves\pipes connected to the sewage treatment plant.
 - iv. A review of the irrigation areas to ensure that they are designed, constructed, installed and maintained so that it can complete the treatment, uptake and absorption of the final effluent within the boundaries of the approved irrigation areas. This review must ensure that the irrigation areas are fully functional and are evenly distributing the treated effluent in compliance with the EA condition L4.
 - v. A soil and subsoil evaluation to determine the capacity of the irrigation areas and whether they can continue to assimilate nitrogen, phosphorus, salts and organic matter, and determine whether the soil's ability to assimilate these has not been met and/or exceeded.
 - vi. An evaluation of the soil sodicity in the irrigation areas and determine whether the build-up of nutrients and heavy metals is impacting upon the soils ability to continue to assimilate the irrigated effluent.
 - vii. The development of written procedures for the release of treated effluent to land in accordance with EA condition L2 and provide the draft procedures to the department for review.
- 4. **By 5pm, 15 business days** after receiving comments from the department on the draft review report and action plan required by item 3. this EEO, you must incorporate the comments from the department into a final report and action plan and submit it to the department, via email to sunshinecoast.esr@des.qld.gov.au or posted to the Department of the Environment, Tourism, Science and Innovation, PO Box 362 Maroochydore, QLD, 4558.
 - 5. **By 5pm, on the final day of the agreed action plan timeline**, you must have completed all the required actions identified in the action plan by the due dates and provided evidence of completion to the department.

B. Background and Definitions

1. The department is the administering authority and has responsibility for enforcing the Act.
2. You are the holder of EA EPPR00515613 dated 24 April 2019.
3. The department is satisfied that you are responsible for the operation and maintenance of the STP at the premises under the EA.
4. AQP – Appropriately qualified person(s) means a person or persons who has relevant professional qualifications, training, skills and experience and can provide an authoritative assessment, advice and analysis relative to the subject matter using relevant legislation, standards, methods or literature.
5. Sewage treatment plant means the entire sewage collection network, pumps, the treatment tanks, storage tanks and infrastructure and the treated sewage effluent irrigation area.
6. On 19 September 2024, authorised persons from the department visited the premises and observed the below alleged breaches of the EA conditions.

- i. Condition G1 states *All reasonable and practicable measures must be taken to minimise the likelihood of environmental harm being caused.*

The below ground septic tanks had broken openings on the top surface allowing the escape of odorous gases. These openings were at ground level and may allow stormwater ingress into the tanks and could also result in the release of contaminated sewage to land. The land surrounding the septic tanks appeared to have been contaminated by the release of sewage from the STP, which authorised persons confirmed via soil sample analysis. This resulting soil contamination can result in further contamination of the surrounding area due to run-off during wet weather and can produce odours and cause environmental nuisance. This is an alleged breach of condition G1 of the EA.

Soil samples were taken adjacent to the broken septic tanks and laboratory reports show elevated nutrients and E. coli in the soil. Escherichia coli >1,100 cfu/100ml and Total Nitrogen 15,000mg/kg, Total Phosphorus 2,600mg/kg

- ii. Condition G2 states *The activity must be undertaken in accordance with written procedures that:*
 - (a) *Identify potential risks to the environment from the activity during routine operations and emergencies; and*
 - (b) *Establish control measures that minimise potential for environmental harm; and*
 - (c) *Ensure plant and equipment is maintained and operated in proper and effective condition; and*
 - (d) *Ensure that staff are trained and aware of their obligation under the Environmental Protection Act 1994; and*
 - (e) *Ensure that reviews of environmental performance are undertaken at least annually.*

Written procedures were not available for review during the inspection. Staff responsible for the operation of the STP were not aware of all the EA condition requirements, they did not have a copy of the EA available, they were not aware of their obligations under the Act and the sewage treatment plant was not being maintained in a proper and effective condition. During the inspection, the primary tank alarm was continuously active, the submerged pumps did not appear to be fully functional, and the sewage level was extremely high with little freeboard remaining before potentially overflowing, which poses an environmental risk/harm. The large processing tank alarm was also active several times during the inspection. This is an alleged breach of condition G2 of the EA.

- iii. Condition G4 states *All documents and records that are required by the conditions of this environmental authority must be kept for a period of at least five years and provided to the administering authority upon request.*

Authorised officers requested to be provided with various documents and records in accordance with conditions of the EA. Limited records were able to be provided during the inspection for review. This is an alleged breach of condition G4 of the EA.

- iv. Condition G6 states *All complaints received by the holder of the environmental authority relating to releases of contaminants from operations at the site must be recorded and kept with the following details:*

- (a) time, date and nature of complaint; and*
- (b) type of communication (telephone, letter, personal, etc.); and*
- (c) name, contact address and contact telephone number of complainant (Note: if the complainant does not wish to be identified then "Not identified" is to be recorded); and*
- (d) response and investigation undertaken as a result of the complaint; and*
- (e) action taken as a result of the complaint investigation and signature of responsible person.*

Staff were aware of odour reports; however, no records were able to be produced during the site inspection or following the site visit. This is an alleged breach of condition G6 of the EA.

- v. Condition L2 states *Treated effluent is permitted to be released to land provided that it is done in accordance with a written procedure that ensures:*
 - (a) infiltration to groundwater and subsurface flows of contaminants to surface waters are prevented; and*
 - (b) surface pondage and run-off of effluent is prevented; and*
 - (c) degradation of soil structure is minimised; and*
 - (d) soil sodicity and the build-up of nutrients and heavy metals in the soil and subsoil are minimised; and*
 - (e) spray drift or overspray do not carry beyond effluent disposal areas; and*
 - (f) effluent disposal areas are maintained with an appropriate crop in a viable state for transpiration and nutrient uptake; and*
 - (g) the crop on the disposal area is harvested and removed from the disposal area.*

During the inspection, authorised officers requested to be provided with a copy of the written procedures as per condition L2, this was not available and has not been provided following the visit. As per EA condition G4, all documents required by conditions in this EA must be provided to the department upon request.

During the inspection, authorised officers observed liquid leaking from the sub-surface irrigation system, the ground surface was discoloured in the vicinity of the pipes and pooling of liquid was occurring around piping. Staff were unable to provide information regarding when the irrigation system was inspected/serviced or when the sub-surface irrigation system was flushed to ensure the effectiveness of the system. There was also no information available about when the irrigation area soil was examined to determine the level of buildup of nutrients and heavy metals in the soils. All observations indicate that irrigation of effluent is not being undertaken in accordance with any written procedures. This is an alleged breach of condition L2.

- vi. Condition L3 states *When weather conditions or soil conditions preclude the release of effluent to land, effluent must be directed to wet weather storage or be lawfully removed from the site.*

The site does not have a dedicated wet weather storage tank. A large above ground tank on-site was being used to store raw sewage for treatment because the system does not have the capacity to treat the large volume of sewage waste from residents according to staff. Staff stated that because they have no wet weather storage, they cannot preclude the release of effluent to the irrigation area when weather or soil conditions are not suitable. The department expects that if you are unable to withhold effluent from irrigation during wet weather you must organise for the effluent to be lawfully removed from site or install suitable wet weather storage.

Generally, approximately 20 days of effluent volume capacity is recommended as the storage capacity, except for schemes using fixed daily irrigation strategies which require a minimum storage capacity of 3-4 days of effluent volume to deal with contingencies (Technical Guideline for Disposal of Effluent via Irrigation 2020 QLD). The department also has concerns about the large above ground tank used to store untreated effluent has no method of determining the stored volume, posing a risk of overflow.

- vii. Condition L4 states *The treated effluent must be evenly distributed over the approved irrigation areas stated in Table 2 — Irrigation area requirements:*
Maximum Irrigation Rate = 4 mm/day (mm/day) Minimum land required = 3,000 (m²)

The approved EA irrigation areas (3x) indicated in Schedule 1 – Approved irrigation areas were not being fully utilised. The smaller irrigation area located on the western side of the site was covered by vegetation and a burnt pile of material and staff reported that the irrigation infrastructure in this area had been disconnected. With the reduction in available irrigation areas, the site does not meet the minimum land required for irrigation and effluent is not being evenly distributed over the approved areas. This is an alleged breach of condition L4 of the EA.

- viii. Condition L5 states *Treated effluent released to land must comply with the limits in Table 3 — Contaminant release.*

Table 3 – Contaminant release

Quality Characteristics	Release Limit	Limit Type
Total nitrogen*	60 mg/L	Maximum
Total phosphorus*	20 mg/L	Maximum
Electrical conductivity	3300 µs/cm	Maximum
pH	5.0-8.5	Range
Total residual chlorine (if used for disinfection)	1 mg/L	Maximum
E.coli	<1000 cfu/100ml	Maximum

*note that these limits would typically correspond to long term total nitrogen and total phosphorous concentrations of 30 mg/L and 10 mg/L respectively.

Several sampling reports were presented during the inspection that contained National Association of Testing Authorities (NATA) accredited results for bore water and effluent water. These reports showed a range of results that exceeded the release limits stipulated in Table 3 – Contaminant release. No Total residual chlorine results were recorded on any test results. This is an alleged breach of condition L5 of the EA.

- ix. Condition L6 states *Quarterly monitoring of treated effluent must be carried out in accordance with the Monitoring and Sampling Manual 2009 (DES) to assess compliance with condition (L5) and records of the results maintained.*

During the inspection, officers requested to see monitoring results. Only one monitoring report (15/02/2024) for 2024 was available and two for 2023 (8/02/2023 & 15/6/2023). This is an alleged breach of condition L6 of the EA.

- x. Condition L7 states *The daily volume of sewage discharging from the sewage treatment plant must not exceed 9,000 L in any one day and records kept of such determinations and estimates.*

No records were available when requested and staff stated that they don't keep records of the daily volume released. This is an alleged breach of condition L7 of the EA.

- xi. Condition L8 states *Notices must be prominently displayed on any irrigation area warning the public not to enter these areas, use or drink the effluent. These notices must be maintained in a visible and legible condition.*

During the inspection authorised officers observed a single sign at each of the two irrigation areas that were reportedly being utilised. The sign was displaying a tap\cup with a red line through it, with the words 'Recycled water, Do not drink'. Both signs were covered with vegetation and not clearly visible. These signs do not warn the public not to enter the irrigation areas as required by the condition. This is an alleged breach of condition L8 of the EA.

7. On 27 September 2024, the department issued you with a post inspection letter containing the list of the 11 alleged non-compliances with the EA conditions and invited you to make a written representation by Friday 11 October 2024, as to why the department should not take enforcement action in relation to the alleged non-compliances
8. On 4 October 2024, the department received an email from you which included a site-based management plan in response to the department's request for a copy of the written procedures as required by EA condition G2.

Written procedures ensuring (a) to (g) required under EA condition L2 regarding treated effluent permitted to be released to land was not available or provided.

9. On Friday 11 October 2024, the department issued you with an Environmental Enforcement Order (EEO) STAT-E-100738080 to cease discharging effluent from the site sewage treatment plant to the site irrigation areas until you can demonstrate compliance with EA condition L5 Treated effluent released to land must comply with the limits in Table 3 – Contaminant release.
10. On Friday 11 October 2024, the department received an email with an attached 'Action Plan for STP – 2024-11-10-copy.xlsx' in response to the department's letter dated 27 September 2024. Your response did not make written representation as to why the department should not take enforcement action in relation to the alleged non-compliances outlined. The action plan provided a response to each of the 11 alleged non-compliances raised with a corresponding action and a date of completion.
11. The department has a copy of the Taylor Environmental – System Assessment and Design – On-site Wastewater and Effluent Disposal – Rest Easy Village, 1513 Old Bruce Highway Kybong QLD 4570 Report # TE222172, Revision C, dated 16 December 2022. This assessment offers an insight into the background, overview and status of the existing wastewater system which was commissioned as part of an MCU application to increase the number of residences.
 - The report states that the three existing subsurface land application total area is approximately 2,400m², the EA minimum land required is 3,000m² (L4).
 - The report states that the primary septic tank lids are collapsing and lids to be replaced. During inspection there was no lids on the primary septic tank.
 - The report states that there are 58 sites and during a 2022 count they had 62 permanent residents. The original wastewater system design was undertaken by Uearthed Geotechnical in 2003 with the following key aspects: 90 residents x 100L/person/day (campground with no reticulated water). Given the fact that all residents are permanent in 2024, whether in a caravan, cabin or relocatable home the EP ERA formula is 200 L/person/day, the daily volume for 62 EP is 12,400L, the EA daily volume must not exceed 9,000L per day.
 - The report states in Table 3. Effluent quality sample, 5 September 2022, E.coli >20,000 cfu/100ml, the EA limit for E.coli is <1,000 cfu/100ml
 - The report states that the daily wastewater volumes for the years 2019 – 2021 ranged between 9,928 L/day up to 11,057 L/day, the EA daily volume must not exceed 9,000 L/day.
 - 2019 11,057 L/day average
 - 2020 9,928 L/day average
 - 2021 10,225 L/day average
12. Given the facts and circumstances above the department believes it is reasonable to issue this statutory notice requiring that you secure compliance with the EA.
13. The department considers that it is appropriate to require you to take reasonable steps to comply with the general environmental duty.
14. The delegate has considered the circumstances (including the standard criteria and human rights) and determined that the required actions are reasonable to remedy or otherwise address the relevant matters.
15. This EEO takes effect from the date of service and remains in force until written confirmation from the department that the EEO is stayed, amended, revoked or finalised.

C. Obligations

Take notice:

- the requirements of this order take effect immediately upon service of this order;
- failure to comply with this order is an offence under the Act;
- this order remains in force until further notice from the administering authority.

D. Offences

A Person who is bound by the EEO and who fails to comply with this EEO, without a reasonable excuse, commits an offence under the Act.

- The maximum penalty for wilfully contravening (s369A (1)(b)) an EEO is 1,665 penalty units (\$161.30 per penalty unit), totalling \$268,564.50 for an individual, or \$1,342,822.50 for a corporation.
- The maximum penalty for contravening (s369A (2)(b)) an EEO is 600 penalty units, totalling \$96,780.00 for an individual, or \$483,900.00 for a corporation.

Note that under section 493 of the Act, each executive officer of the corporation may be taken to have also committed an offence, of failing to ensure that the corporation complies with the Act.

If you propose to dispose of the premises or business to which the EEO relates, you must advise the buyer of the existence of this EEO. Failure to provide written notice to the buyer of the existence of the order is an offence under section 369C of the Act with a maximum penalty of 50 penalty units, totalling \$8,065.00 for an individual, or \$40,325.00 for a corporation.

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 is an offence under section 369C of the Act with a maximum penalty of 50 penalty units totalling \$8,065.00 for an individual, or \$40,325.00 for a corporation.

E. Reviews and appeals

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 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.

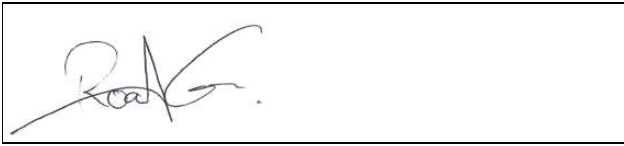
F. Public Register

Pursuant to s540 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 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.

G. Signature and contact details

Should you have any queries in relation to the notice, please contact Rod Garner at Sunshine Coast compliance centre via Mail: PO Box 362 MAROOCHYDORE QLD 4558 or Email: sunshinecoast.esr@des.qld.gov.au or on 07 5459 6132.

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'Rod Garner' written in a cursive, stylized script.

Delegate: Rod Garner

Department of the Environment, Tourism,
Science and Innovation

Environmental Protection Act 1994

Administering Authority Details

Department of the Environment, Tourism,
Science and Innovation

PO Box 362 Maroochydore, QLD, 4558

(07) 5459 6132