Environmental Enforcement Order

Section 362 of the *Environmental Protection Act 1994*

Contravention of condition of environmental authority

Queensland Government

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

Order id:	STAT-E-100783182
Issued to:	Mainstream Aquaculture Queensland Pty Ltd (ACN 625 858 693) 73-79 Lock Ave, WERRIBEE VIC 3030, Australia
	For the purpose of this notice "you" means the recipient of this notice or your authorised representative.
Site address:	6458 Captain Cook Highway, Killaloe, QLD 4877 ("the premises")
Land Reference:	Lot 204 on Plan SP264765
Issued by:	Mark Cavicchiolo, Compliance Delivery Manager, Department of the Environment, Tourism, Science and Innovation (the department), an authorised person of the administering authority ("the delegate")  Signed by delegate
Date:	10 April 2025
Relevant matter/ enforcement grounds:	Section 359(e)(ii) of the *Environmental Protection Act 1994* (the Act) – to secure compliance with conditions of your environmental authority, specifically conditions W5 and G8 of your environmental authority (EA) P-EA-100205095 effective 18 January 2024.
Service method:	Via registered post and email: p.harrison@mainaqua.com.au

Why are we writing to you?

The delegate reasonably believes that you have contravened section 430(3) of the Act at the premises and it is necessary under section 359(e)(ii) of the Act to issue this Environmental Enforcement Order (EEO) to secure your compliance with conditions W5 and G8 of your EA P-EA-100205095.

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 Sophie Mickelbourgh by email Sophie.mickelbourgh@des.qld.gov.au or ESTownsville@des.qld.gov.au or telephone 07 4222 5247.

Required actions:

1. By **5:00pm** on **13 June 2025**, you must submit to the administering authority a set of draft written procedures that comply with condition G8 of the EA P-EA-100205095 and include the requirements in this EEO.
2. The draft written procedures as per Required action 1 of this Environmental Enforcement Order (EEO) must, at a minimum, clearly identify:

(a) all potential and actual risks and sources of odour emanating from the premises into the receiving environment from activities on site because of a mass fish mortality event; and

(b) all potential and actual risks of contaminant release to waters from the onsite disposal of dead fish, prawns or other organisms.

3. The draft written procedures required by Requirement 1 of this Environmental Enforcement Order (EEO) must also include, as a minimum:

(a) measures that can be taken to minimise the death of fish and prawns;

(b) measures that can be taken to minimise odour emissions from the activity(ies) at the premises, particularly regarding future mass fish and prawn mortality events; and

(c) the proposed method(s) of disposal of dead fish and prawns following a mass mortality event; and

(d) measures that can be taken to ensure that onsite disposal of fish and prawns does not cause potential or actual environmental harm, including the minimisation of contaminated stormwater releases and direct rainfall infiltration into the mortality pit and the containment and management of any leachate generated; and

(e) measures that include disposal for wastewater in the event of a mass fish mortality event.

4. The draft written procedures required by Requirement 1 of this Environmental Enforcement Order (EEO) must also consider a strategy for communicating with potentially affected residents at nearby sensitive places in the event of a mass mortality at the premises.

5. The draft written procedures required by Requirement 1 must be sent to the administering authority for comments via email to: ESTownsville@des.qld.gov.au or via mail to Department of the Environment, Tourism, Science and Innovation to PO Box 7230 CAIRNS QLD 4870.

6. Within **twenty (20) business days** of receiving comments from the administering authority, you must incorporate the comments into the written procedures and resubmit the updated written procedures via email to: ESTownsville@des.qld.gov.au or via mail to Department of the Environment, Tourism, Science and Innovation to PO Box 7230 CAIRNS QLD 4870.

7. By **5:00pm** on **27 June 2025**, you must submit a report to the administering authority prepared by an appropriately qualified person that includes:

(a) an assessment of the soil type on site, depth to groundwater aquifer(s), surface water and groundwater interactions; and
(b) design and construction details of a lined pit(s), using synthetic material or compacted clay, that achieves sufficient permeability to prevent the release of contaminants to waters which can be constructed to be ready for mass mortality waste disposals; and
(c) the design and construction details of the lined pit must also include details of how the pit will be capped to ensure that water is directed away from the pit surface and not allowed to pool; and
(d) an assessment of an appropriate location to prevent the release of contaminants to waters and to minimise impacts to sensitive receptors from odour; and
(e) ongoing management actions to ensure that contaminant releases to the environment are prevented and minimised; and
(f) measures to minimise the release of offensive odours when operating the pit to dispose of dead fish and prawns; and
(g) calculations to demonstrate that the pit is able to accommodate all dead fish and prawns from at least one pond in a single mass mortality event.

8. The report referred to in Requirement 7 must be sent via email to: ESTownsville@des.qld.gov.au or via mail to Department of the Environment, Tourism, Science and Innovation to PO Box 7230 CAIRNS QLD 4870.

Environmental Enforcement Order

Background, facts and circumstances and Definitions:

1. The department is the administering authority and has responsibility for enforcing the Act.
2. You are the occupier of the land described as Lot 204 on Plan SP264765 on 6458 Captain Cook Highway, Killaloe, QLD 4877 (the premises).
3. You are authorised to undertake environmentally relevant activities (ERA) 1(1b) Cultivating or holding crustaceans in enclosures that are on land and have a total area of more than 10ha but not more than 100ha; ERA 1(2b) Cultivating or holding marine, estuarine or freshwater organisms, other than crustaceans; and ERA 27 Seafood processing, under Environmental Authority (EA) P-EA-100205095 at the premises.
4. Between 23 October 2024 to 26 November 2024, the department received multiple notifications from nearby residents alleging they were experiencing offensive odour emanating from the premises.
5. During this period, authorised persons of the department investigated the odour reports and identified that the premises was the source of the offensive odour emissions.
6. It was identified by the department through those investigations that you experienced mass fish deaths in pond 44.
7. The department considers your response in managing the odour from the fish deaths was protracted and did not minimise the extent and duration of odour emissions from the premises.
8. On 26 November 2024, the department requested a copy of the written procedures required by condition G8 of the EA P-EA-100205095.
9. Condition G8 of the EA P-EA-100205095 states:

   Written procedures must be developed and document within three months of the environmental authority taking effect that:

   *a) Identify all potential risks to the environment from the **activity**, including during and outside routine operations, during closure, and in an emergency; and*
   *b) Identify **measures** to prevent or minimise the potential for environmental harm for each of the potential risks identified; and*
   c) Establish an inspection and maintenance program for plant and equipment including calibration and servicing that is in accordance with manufacturer's instructions; and
   d) Establish a staff training program on obligations under this environmental authority and the Environmental Protection Act 1994 *to be conducted as part of staff inductions and at least annually; and*
   e) Establish processes to review environmental risks, incidents, performance and complaints; and
   f) The prevention of unauthorised releases of contaminants to water, including during wet weather events; and
   g) Effective stormwater management.

10. Upon review of documents submitted on 26 November 2024 and 21 January 2025, the department believes that your written procedures do not adequately address the potential environmental risks from the activity, including the risks associated with fish deaths. They fail to clearly identify the receiving environment's environmental values and how the activity has the potential to adversely affect those values. It does not identify actions to minimise odour emissions, potential disposal method(s), nor the pit requirements for onsite disposal of dead fish and prawns.
11. During the site inspections on 30 October 2024, 6 and 11 November 2024, the authorised persons observed the disposal of fish carcasses from pond 44 in the mortality pit onsite and that the pit was not lined and bunded.
12. Condition W5 of the EA P-EA-100205095 states:

    *Any diseased, or potentially diseased, organisms and **affected water** removed from the **ponds** for disposal onsite must be disposed of in a separate lined and bunded disposal area.*

13. The department alleges that the mortality pit onsite does not comply with condition W5 of the EA P-EA-100205095 and that the disposal of greater than 70t of fish within the mortality pit may release contaminants to waters because the pit is not lined or bunded.

14. It has been demonstrated that not having a set of adequate written procedures in place has adversely affected your ability to respond to environmental nuisance (odour) in a timely manner, causing ongoing and unnecessary environmental harm in the form of environmental nuisance (odour).

15. The department is satisfied that by failing to ensure that the written procedures are adequate and contemporary, you are not taking all reasonable and practical measures to prevent or minimise environmental harm, including environmental nuisance in the form of odour.

16. The adverse, widespread impact of the odour emissions from your premises as a result of the mass fish death event on nearby sensitive receptors during October and November 2024 highlights the need for you to adequately identify all potential risks associated with your activities and ensure that you take all reasonably practicable measures to ensure that the risks are minimised and prevented where possible.

17. The department 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.

18. This EEO takes effect from the date of service and remains in force until further notice, unless this order is stayed, amended, revoked or finalised.

Definitions that apply to this notice:

The following definitions apply to this Order:

a) ‘Activity’ means the environmentally relevant activities, whether resource activities or prescribed activities, to which the environmental authority relates.

b) ‘Administering authority’ or ‘the department’ means the Department of the Environment, Tourism, Science and Innovation.

c) ‘Appropriately qualified person’ means someone with professional qualifications, training, skills and experience relevant to the requirements of this notice. The person or persons must be able to give authoritative assessment, advice and analysis using the appropriate protocols, standards, methods and literature.

d) ‘Measures’ have the broadest interpretation and includes plant, equipment, physical objects, monitoring, procedures, actions, directions and competency.

e) ‘Sensitive place’ includes places and parts of places as follows: (a) a dwelling, residential allotment, mobile home or caravan park, residential marina or other residential premises; or (b) a motel, hotel or hostel; or (c) a kindergarten, school, university or other educational institution; or (d) a medical centre or hospital; or (e) a protected area under the *Nature Conservation Act 1992*, the *Marine Parks Act 2004* or a World Heritage Area; or (f) a public park or garden; or (g) for noise, a place defined as a sensitive receptor for the purposes of the Environmental Protection (Noise) Policy 2019.

f) ‘Waters’ include river, stream, lake, lagoon, pond, swamp, wetland, unconfined surface water, unconfined water, natural or artificial watercourse, bed and bank of any waters, dams, non-tidal or tidal waters (including the sea), stormwater channel, stormwater drain, roadside gutter, stormwater run-off, and groundwater and any part thereof.

Warnings and information about this EEO

A PERSON WHO IS BOUND BY THIS 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 an EEO is 1655 penalty units, totalling $266,951.50 for an individual, or $1,334,757.50 for a corporation.
- The maximum penalty for contravening 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 that each executive officer of the corporation may be taken to have also committed an offence, of failing to ensure 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.

Further information about EEOs can be found on the department's website.

Review and appeal rights

Under Chapter 11, Part 3 of the Act, a dissatisfied person may apply for a review of this EEO within 10 business days of receiving this EEO; and a dissatisfied person who is dissatisfied with the review decision may appeal against the decision to the Court.

A request for review is to be made using the approved form 'Application for review of original decision' (available at www.qld.gov.au). 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.

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.

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 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. 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.