# Notice

***Environmental Protection Act 1994***

## Decision to approve a draft transitional environmental program

*This notice is issued by the administering authority pursuant to 340 of the Environmental Protection Act 1994 (the Act) to advise of a decision made on a draft transitional environmental program (TEP).*

Teys Australia Beenleigh Pty Ltd
112 – 148 Logan River Road
Beenleigh QLD 4207

Your reference: vTEP

Our reference: 101/0007645: EPPR00789313

11 November 2014

Dear Sir/Madam

**Take notice:** that under the provisions of the *Environmental Protection Act 1994* (the Act) this notice advising of the decision to approve a draft transitional environmental program (TEP) is issued to Teys Australia Beenleigh Pty Ltd (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

This notice is issued in respect to the activities of Teys Australia Beenleigh Pty Ltd at Beenleigh on land described as Lot 123, 124 and 127A on Plan WD4441, Lot 122 on Plan W31722 and Lot 2 on Plan RP46665 situated at 112 – 148 Logan River Road, Beenleigh QLD 4207 (the premises).

## A. Application details

Your application for the approval of a draft TEP was received by the department on 17 June 2014.

This TEP relates to progression of the operations at the said premises to compliance with the conditions, including reference to the environmental authority permit number where relevant.

## B. Decision

The administering authority has decided to approve your application.

The approved TEP reference number MAN17840 consists of the following:



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- the submitted application documents dated 31 October 2014 including any amendments made at the request of, or with the agreement of, the department; and
- any conditions imposed by the department.

The TEP will remain in force until **11 November 2017.**

The anniversary day is 11 November.

## C. Conditions

Nil

## D. Grounds

- Teys Australia Beenleigh Pty Ltd occupies the said premises, with much of the stormwater infrastructure of the site presumed to originate to the start of the use of the premises as an abattoir (~1954).
- The administering authority is satisfied that you have failed to comply with conditions C1, E17 and E18 of environmental authority EPPR00789313.
- The draft TEP establishes requirements that are, in my opinion, reasonable and proportionate response to the non-compliances observed against the conditions of the environmental authority.
- I am satisfied that, on the basis of the information given to the Department that the implementation of the draft TEP and associated requirements will not have an unreasonable impact on environmental values in the receiving environment.

## E. Reviews and appeals

The provisions regarding review of decisions and appeals may be found in sections 519 to 539 of the Act.

A person who is dissatisfied with certain decisions of the department, may be able to apply to have the department review that original decision.

Generally, a request to have a decision reviewed must be made:

- within 10 business days of the decision being notified to the person;
- be supported by enough information to enable the department to decide the application for review; and
- be made using the application for review of an original decision form (EM709).[1]

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

[1] This is the publication number. The publication number can be used as a search term to find the latest version of a publication at www.ehp.qld.gov.au.

may also be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

For further information about reviews and appeals see the information sheet - internal review and appeal to the Planning and Environment Court (EM1866).

You may have other legal rights or obligations and should seek your own legal advice.

## F. Fee and annual return

Fees apply for the assessment of a draft TEP and any subsequent annual returns lodged. The applicable fees are outlined in the attached operational policy - Transitional environmental program fees (EM335).

A total fee of $2493.10 has been determined as appropriate for the assessment of the application, and is in accordance with the operational policy. This fee is payable and an invoice will follow shortly OR has already been paid. As your TEP is valid for 12 months or more, an annual return and assessment fee apply while the TEP has effect. These must be submitted to the administering authority no later than 22 business days after each anniversary of the day the TEP was approved. A blank annual return for a TEP has been attached.

## G. Additional information

### Contaminated land

It is a requirement of the Act that if an owner or occupier of land becomes aware that a notifiable activity (as defined in schedule 3 and schedule 4 of the Act) is being carried out on the land, or that the land has been, or is being, contaminated by a hazardous contaminant, the owner or occupier must, within 22 business days after becoming so aware, give written notice to the department in the approved form.

### Obligations under the Act

In addition to the requirements of the TEP and the conditions imposed, the holder must also meet their obligations under the Act, and the regulations made under the Act. For example:

- the holder must comply with the following provisions of the Act:
  - general environmental duty (section 319); and
  - duty to notify of environmental harm (sections 320 - 320G);
- the holder must also ensure that they do not commit offences of:
  - causing serious or material environmental harm (sections 437 - 439);
  - causing environmental nuisance (section 440);
  - depositing prescribed water contaminants in waters and related matters (section 440ZG); and
  - placing contaminant where environmental harm or nuisance may be caused (section 443).

Should you have any queries in relation to this notice, please contact John Rice of the department on telephone number 3894 8159.

| | |
|---|---|
| | 11 November 2014 |
| Signature | Date |

Scott Blanchard
Compliance Delivery Manager, Ipswich
Delegate of the Chief Executive
Department of Environment and Heritage Protection
*Environmental Protection Act 1994*

**Enquiries:**
Department of Environment and Heritage Protection
South Queensland Compliance
Environmental Services and Regulation, Ipswich
4/117 Brisbane Street, IPSWICH QLD 4305
PO Box 875, IPSWICH QLD 4305
Ph: (07) 3894 8153
Email: ipswich.esr@ehp.qld.gov.au

**Attachments**

Information sheet – Internal review and appeal to Planning and Environment Court (EM1866)

Operational policy - Transitional Environmental Program Fees (EM335)

Form: Annual return for transitional environmental program (EM667)

# *Teys Australia Beenleigh Pty Ltd*

# *Draft Transitional Environmental Program*

## Stormwater Management

31 October 2014 – 30 September 2017

# Introduction

A Draft Transitional Environmental Program (TEP) was prepared to reply to correspondence from the Department of Environment and Heritage Protection (DEHP) dated 21 November 2013. The letter nominated that Teys provide a Draft Transitional Environmental Program (TEP) to DEHP by a mutually agreed date of 11 February 2014, after Teys initially submitted correspondence seeking to enter into a voluntary TEP. Teys proposed a TEP voluntarily, as an effective means to provide a long term solution to the management of site storm water, and submitted a Draft TEP on 7 February 2014.

Following Teys' submission of the Draft TEP and review by the Department, an RFI (Notice – information request) was issued on 21 February 2014, requesting that Teys provide further information on the objectives to be achieved under the program, and the particular actions required to achieve the objectives. This document represents the revised Draft TEP, amended to fulfil the requirements of the RFI.

Following some interim dialogue, on 29 July 2014, the Department provided Teys with a notice of extension of decision making period, extending the decision date until 4 October 2014. This extension was intended to allow Teys to explore alternative and innovative methods for achieving compliance under the Draft TEP. Teys have performed some preliminary investigations and will explore opportunities for potential wetland treatment technology and the application of the Department's market based mechanism for nutrient management, within the TEP framework. One final extension to the decision making period was issued by DEHP on 3 October 2014, extending the decision making period until 31 October 2014.

The TEP will identify objectives and actions that will allow amendments to be made to current stormwater management practices to transition Teys into compliance with conditions C1, E17 and E18 of their Environmental Authority EPPR 00789313 and with the standard hierarchy of stormwater management. The TEP will focus on prioritising areas of risk to compliance, and to the environment in achieving compliance with these conditions. These conditions are identified in correspondence from DEHP dated 21 November 2013 (Reference: CA27147/IPDE00950508).

Condition C1 of Environmental Authority EPPR 00789313; states that:
"*Contaminants are not directly or indirectly released, from the approved place to any waters or the bed and banks of any waters except:*

a) *As permitted under the Water Schedule; or*
b) *As permitted under the Stormwater Management Schedule; or*
c) *To a sewer as permitted or otherwise agreed from time to time by the relevant Local Government*"

Condition E17 of Environmental Authority IPDE00950508 states that:
*"All ponds used for the storage or treatment of contaminants or wastes must be installed operated and maintained to prevent any discharge through the bed or banks of the pond to any waters (including ground waters)."*

Condition E18 of Environmental Authority IPDE00950508; states that:
"*All ponds used for the storage of contaminants or wastes must be installed and maintained so that a freeboard of not less than 0.5 metres is maintained at all times*"

Teys and DEHP subject matter experts agreed during a meeting held on 17 April 2014, that the appropriate design standard for any stormwater management systems and processes, is a 1 in 20 year, 24 hour storm event, as outlined in the "Establishment and Operation of Beef Cattle Feedlots in Queensland" (Skerman 2000) and the "National Guidelines for Beef Cattle Feedlots". General agreement was also reached that condition E17 of the relevant Environmental Authority will be amended to reflect the design standard, and permit discharge of stormwater in weather events greater than the design standard. It is both DEHP and Teys' intention that Condition E18 (and other edits as necessary) will also be amended to allow a freeboard less than 0.5 metres in 'adverse weather conditions'.

Teys will continue to manage the site Stormwater Pond, during the TEP period to minimise the risk of any potential discharge to the environment. Teys have successfully managed the site Stormwater Pond, to prevent any discharge and maintain compliance with the site EA, since March 2013.

## Background Information

On the 26 January and 29 January 2013, Teys' Beenleigh facility experienced an overflow of a stormwater catchment pond located on Lot 123, SP174628. The overflow of this catchment pond was attributed to significant rainfall experienced on site, which caused localised flooding in the Logan area. The facility's Environmental Authority does not permit any release to receiving surface waters and the event therefore was a non-compliance to the licence conditions. It was determined through sampling performed in the receiving environment at the time, that no environmental impact was detected from this non conformance. As a result of this non-compliance, and to proactively address this environmental aspect, Teys have decided to enter into a Voluntary TEP to transition to comply with the facility's Environmental Authority.

This draft TEP is being submitted in accordance with the Notice received from DEHP dated 21 November 2013, the DEHP information request received 21 February 2014 and DEHP's decision extension notice dated 3 October 2014, and has been prepared in close consultation with the legislative requirements of s.331 of the *Environmental Protection Act 1994*.

In alignment with DEHP's hierarchy of methods of dealing with stormwater, the options to be employed listed in order of most preferred to least preferred in managing stormwater, shall be as follows:

α) Avoid the contamination of stormwater in the first place, for example by roofing areas where contaminants and or wastes are stored or handled, diverting uncontaminated stormwater run-off away from areas where contaminants or wastes are stored or handled, by preventing the contact of incident rainfall with contaminants or wastes and utilising alternate materials and or processes.

β) Minimise the quantity and or hazardous nature of the contaminated stormwater generated, for example by minimising the size of area where contaminants or wastes are stored or handled and by utilising alternate materials and or processes.

χ) Recycling of contaminated stormwater generated, for example by incorporating reuse, reprocessing and utilisation of the stormwater for a worthwhile purpose

δ) Treatment of any contaminated stormwater to render it less or non hazardous.

ε) Release of contaminated stormwater as a last resort (outside of the design parameter of 1 in 20 year, 24 hour storm event).

Teys will approach stormwater management under this TEP consistent with the hierarchy of methods of dealing with stormwater. Teys will also maintain a strong focus on prioritising those areas of highest environmental risk, and ensuring that where practicable, actions are taken to respond these areas with preference over other actions identified to be of lower risk. A key consideration will be the separation of contaminated stormwater generated by the cattle holding yards and cattle feed lot yards and any other source; from the 'clean' surface run-off. Therefore, 'clean' stormwater surface run-off will be allowed to discharge from the property via overland flow, with potentially contaminated streams managed appropriately.

## Summary Table – Milestone Deliverables to DEHP

| Phase | Milestones | Milestone Deliverable to DEHP | Due Date | Financial Year |
|---|---|---|---|---|
| 1 | Milestone 1 | Submit report on the investigation of drainage system | 28 Feb 15 | 14/15 |
| | Milestone 2 | Submit investigation report detailing preliminary design | 31 Mar 15 | |
| | Milestone 3 | Submit report detailing selected options | 30 Jun 15 | |
| 2 | Milestone 4 | Submit report on detailed design works. | 30 Oct 15 | 15/16 |
| | Milestone 5 | Submit Draft Stormwater Management Plan | 30 Dec 15 | |
| | Milestone 6 | Submit report on stormwater drainage system works | 30 Apr 16 | |
| 3 | Milestone 7 | Submit report on Tendering Process completion to DEHP | 30 Jun 16 | |
| | Milestone 8 | Submit construction report – Stage 1: Begin construction | 30 Dec 16 | 16/17 |
| | Milestone 9 | Submit construction report – Stage 2: Complete construction | 30 Jun 17 | |
| | Milestone 10 | Submit commissioning report (upgraded stormwater system) | 30 Aug 17 | 17/18 |
| | Milestone 11 | Submit Final Stormwater Management Plan | 30 Sep 17 | |

# Phase 1

During Phase 1, three reports will be prepared as deliverables for DEHP. The reports will describe activities to be completed under the TEP as follows:

**Milestone 1**

***Action***

An investigation and assessment (which may include CCTV) will be performed on the current drainage system reporting to the stormwater pond. This will provide Teys with valuable information regarding potential clean and/or routine waste streams currently reporting to the stormwater pond, that should be managed more appropriately e.g. be diverted to the clean water pathways and/or waste water treatment system.

***Deliverable***

An investigation report with findings and preliminary planned actions for stream diversion, will be submitted to DEHP by 28 February 2015

**Milestone 2**

***Action***

Investigate options to separate 'clean' stormwater run-off away from the cattle holding pens and perform catchment analysis on holding pens to determine run-off in a 1 in 20 year, 24 hour storm event. This process allows Teys to look at a number of options with regards to the prevention of contamination in line with the most preferred method for dealing with stormwater according to hierarchy of stormwater management. Options may include; earthen bunding, concrete bunding, diversion channels, over land flow paths, pipework and/or wetland treatment technology. Catchment area analysis of holding pens will be performed to determine volumes of run-off generated under design storm events, which may then influence potential infrastructure required and potential impact on the upgraded WWTP. This will form part of the final option/s selection.

Prepare preliminary construction estimates for options to separate stormwater run-off away from cattle holding pens and cattle feed lot pens as well as any diversion or other streams currently reporting to the stormwater pond. Potential construction cost will be internally communicated to begin the process of negotiating and analysing options for adoption.

Additionally, (although not a milestone deliverable under this TEP) a wetland treatment feasibility report will be developed as an alternative potential option complex hard engineering options. This feasibility report may also include possible opportunities for the application of DEHP's market based mechanism for nutrient management, if deemed applicable by Teys Australia and DEHP.

***Deliverable***

A report detailing preliminary design and preliminary costings for investigated options, will be submitted to DEHP by 31 March 2015 .

**Milestone 3**

***Action***

Based on the findings from milestone two and after internal discussions, the most feasible option(s) to separate any 'clean' stormwater run-off from cattle holding pens will be adopted by Teys.

Teys are currently investigating the following options for dealing with contaminated water from the holding pens (these options may form future actions under the TEP, subject to completion of the phase 1 investigative phase);

1. Contaminated water to be pumped from the stormwater catchment pond to the decommissioned storage ponds on site, at a rate that complies with the agreed design standard. Once the storm event has cleared, this water can be discharged to Logan City Council trade waste at a rate that poses no risk to any waste water infrastructure.
2. Contaminated water to be pumped from the stormwater catchment pond to the upgraded waste water treatment system, at a rate that complies with the agreed design standard. This contaminated water will pass through an anaerobic pond and/or Biological Nutrient Removal system before discharging to Logan City Council trade waste.
3. Contaminated water to be directed to a passive wetland treatment system that complies with DEHP regulations and requirements. In addition, Teys will explore possible applications of DEHP's Market Based Mechanism for managing nutrient inputs to the environment. This will be completed by Teys in reviewing site storm water management; it is not a milestone deliverable under this TEP.

Options will satisfy and consider proposed amended EA conditions. Preliminary investigations do not indicate that the entire stormwater catchment currently reporting to the site storm water pond can be managed as a clean water catchment.

***Deliverable***
A report will be issued as outlined in the milestone 3, detailing the investigations performed and the decision making process that led to the adopted methods of separating stormwater run-off from the cattle holding pens. Teys will consider all options to achieve compliance. This includes implementing a combination of options that are cost effective, low risk to the business and result in improved environmental outcomes (e.g. alternative wetland treatment technologies in combination with hard engineering solutions). The option/s selection report, for contaminated stormwater management, will be submitted to DEHP, by 30 June 2015.

# Phase 2

Phase 2 of the TEP will focus on;

- Detailed design of selected option/s from milestone 3.
- A Draft Stormwater Management Plan developed alongside selected option/s from milestone 2.
- Report on works carried out with regards to the stormwater drainage investigation report in milestone 1.

**Milestone 4**
***Action***
Detailed design will comply with the agreed design standard of a 1 in 20 year, 24 hour storm event, as outlined in the Establishment and Operation of Beef Cattle Feedlots in Queensland (Skerman 2000) and the National Guidelines for Beef Cattle Feedlots.

Detailed design may include the following (depending on final option selection);

- Any additional catchment area analysis for holding pens to determine volume of run-off in a 1 in 20 year, 24 hour storm event. Pump sizing and infrastructure required, e.g. floating pontoon, electricity, level switch, pipework.
- Concrete spillway and scour protection designed and certified by a Registered Professional Engineer of Queensland (RPEQ) to comply with a minimum 50 year ARI design flow.
- Earthen basin and/or wetland design (drawings) for managing stormwater for a 1 in 20 year, 24 hour storm event.
- Earthen bund and/or concrete bund to prevent contamination of stormwater (if practicable)
- Swale drains or other means for catching contaminated run-off from holding pens.
- Outlet weir of the decommissioned pond/s to be altered (depending on final option decision).

***Deliverable***
Provide a copy of detailed design report and documentation of the selected option/s to DEHP by 30 October 2015.

**Milestone 5**
***Action***
Dependent on the outcome from the detailed design, a Draft Stormwater Management Plan will be developed and shared internally before being submitted to DEHP by 30 August 2015. The Draft Stormwater Management Plan may consider (although depending on the final options, may not necessarily implement all of) the following;

- Prevention of incident stormwater and stormwater run-off from contacting wastes or contaminants.
- Minimisation of the size of contaminated catchment areas.
- Cleaning of contaminated areas without water e.g. manure removal, and other management practices to be adopted to manage site infrastructure to achieve compliance with EA conditions for the site.
- Installation of silt and solids traps, stormwater diversion systems and other control devices.
- Collection, treatment and disposal of contaminated stormwater run-off, from cattle yards and any short term solid waste storage areas.
- Preventative maintenance on appropriate infrastructure e.g. pumps, sludge removal, wetland vegetation and periodic maintenance.
- Consider opportunities for water reuse.

***Deliverable***
Submit a Draft Stormwater Management Plan to DEHP by 30 December 2015

**Milestone 6**
***Action***
In addition, any works which may be required to redirect either routine wastewater streams draining to the stormwater pond to the primary waste water treatment plant or clean stormwater to surface waters, will be completed by 30 December 2015.

***Deliverable***

Submit report on works carried out on the stormwater drainage system as a result of investigation report completed in milestone 1, to DEHP by 30 April 2016.

## Phase 3

Tendering, construction and commissioning of infrastructure, or other works as described in milestone 2, will be completed over the period of 29 February 2016 through to 30 May 2017. All infrastructure will be designed, constructed and/or purchased to comply with the agreed 1 in 20 year, 24 hour storm event.

**Milestone 7**

***Action***

Following detailed design work, works will be tendered out for contract. This process will be completed by 30 June 2016.

***Deliverable***

Submit report to DEHP by 29 February 2016, detailing the completion of tendering process. Report will detail which contractors will be undertaking particular works.

**Milestone 8 & 9**

***Actions***

Construction and commissioning of any or all of the following items, will take place during Phase 3 (depending on the option/s selected);

- Construction of earthen bund and swale drain (or equivalent means) for cattle holding pens as per detailed design.
- Construction of earthen basins (wetland and/or storage pond).
- Installation of wetland treatment infrastructure (vegetation, weirs and any assocoiated infrastructure)
- Running electrical infrastructure to the required location.
- Construction of spill way on the stormwater pond, wetland and/or storage lagoon, to relevant design standards.
- Installation of pipework for pumping contaminated water.
- Purchase and installation of any additional pump infrastructure including pumps, pontoons and level switches.
- Outlet weir of the decommissioned pond/s to be altered.

***Deliverables***

Progress reports will be submitted to DEHP at six (6) monthly intervals for milestones 8 and 9, respectively (30 December 2016 and 30 June 2017).

**Milestone 10**

***Action***

Following completion of construction works, there will be a commissioning period for the new stormwater management system. This will provide Teys with an opportunity to resolve any commissioning issues with the stormwater management system.

***Deliverable***

Submit a final commissioning report to DEHP by 30 August 2017, detailing;

- Any issues with commissioning

- System performance

**Milestone 11**

***Action***

For the final milestone and completion of the TEP, a Final Stormwater Management Plan will be completed

***Deliverable***

Submit a Final Stormwater Management Plan to DEHP by 30 September 2017.

## TEP Phases and Corresponding Milestones

### Phase 1

| Milestone | Milestone Deliverable | Milestone Completion Date |
|---|---|---|
| 1 | Submit stormwater pond drainage investigation report to DEHP. | 28 February 2015 |
| 2 | Submit investigation report to DEHP detailing;<br>• preliminary design | 31 March 2015 |
| 3 | Submit report to DEHP detailing<br>• selected option/s for contaminated stormwater management | 30 June 2015 |

### Phase 2

| Milestone | Milestone Deliverable | Milestone Completion Date |
|---|---|---|
| 4 | Submit report on detailed design works to DEHP. | 30 October 2015 |
| 5 | Complete and submit a Draft Stormwater Management Plan to DEHP. | 30 December 2015 |
| 6 | Submit report on works carried out on the stormwater drainage system as a result of investigation report completed in milestone 1. | 30 April 2016 |

### Phase 3

| Milestone | Milestone Deliverable | Milestone Completion Date |
|---|---|---|
| 7 | Submit report to DEHP on the completion of tendering process for the TEP. | 30 June 2016 |
| 8 | Submit construction progress report for Stage 1 of construction to DEHP | 30 December 2016 |
| 9 | Submit construction completion report for Stage 2 of construction to DEHP | 30 June 2017 |
| 10 | Submit commissioning report to DEHP (upgraded stormwater system) | 30 August 2017 |
| 11 | Complete and submit Final Stormwater Management Plan to DEHP. | 30 September 2017 |

# Annual return

## Transitional environmental program

## Annual return for transitional environmental program

*This form must be completed and submitted to the administering authority[1] each year by the holder of an approval for a transitional environmental program, as required under section 345 of the* Environmental Protection Act 1994. *Please answer the questions on this form in order, unless instructed to go to another question and label any attachments alphabetically (e.g. Attachment A).*

**GUIDE**

**IMPORTANT**: This is the period for which all of the questions within this annual return relate to.

If the anniversary day has changed, since your last annual return for a transitional environmental authority, you must ensure that there is no gap in reporting because of the change.

### Annual return details

### 1. Annual return period

| | |
|---|---|
| FROM | <INSERT return from date> |
| TO | <INSERT return to date> |

### 2. Transitional environmental program (TEP)

| |
|---|
| CERTIFICATE OF APPROVAL NUMBER |
| HOLDER OF THE CERTIFICATE OF APPROVAL |
| PERSON RESPONSIBLE FOR THE IMPLEMENTATION OF TEP |
| TITLE/TOPIC OF TEP |

[1] The Department of Environment and Heritage Protection is the administering authority under the *Environmental Protection Act 1994*.



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### 3. Current environmental authority number (if applicable)

ENVIRONMENTAL AUTHORITY NUMBER

See sections 332 and 333 of the *Environmental Protection Act 1994* for the grounds for creating a transitional environmental program.

### 4. On what grounds was the program created?

- ☐ Required as a condition of an environmental authority or development approval
- ☐ Required for reduction of environmental harm
- ☐ Required as compliance with an environmental protection policy or regulation could not be achieved
- ☐ Required as a condition of an environmental authority had been contravened
- ☐ Required as a prescribed condition for the carrying our of a small scale mining activity had been contravened
- ☐ Required as a development condition of a development approval had been contravened
- ☐ Voluntarily submitted
- ☐ Other (please describe below)

DESCRIBE GROUNDS

The objectives to be achieved and maintained will be listed in the contents of the program.

### 5. List the objectives to be achieved and maintained under the program

OBJECTIVES

The performance indicators and the time interval can be found in the content of the program documentation that was submitted to the administering authority.

### 6. List the performance indicators, the timetable to achieve the objectives for each indicator and the progress that has been achieved (attach separate sheets if you require more space)

| Performance Indicator | Time interval | Progress to date |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

For information about the monitoring requirements, see the provisions for monitoring and reporting in the TEP documentation that was submitted to the administering authority and approved.

**7. List the monitoring requirements of the program**

| MONITORING REQUIREMENTS |
|---|
| |

This question does not authorise late completion of a transitional environmental program. Contravention of a transitional environmental program is an offence under the *Environmental Protection Act 1994*.

**8. Do you expect that the program will be completed before the date contained in the program?**

☐ Yes → provide the projected time of completion below

☐ No → go to question 9

| MONTH | YEAR |
|---|---|
| | |

**9. Have you fully complied with the conditions in the certificate of approval (if applicable)?**

☐ Yes

☐ No → ☐ I have already provided all non-compliance information to the administering authority. No further documentation has been attached.

OR

☐ I have not yet provided non-compliance information and have attached the following documentation.

a) a statement describing the non-compliance/incident including photographs where appropriate.

b) a statement describing the environmental impacts resulting from the non-compliance/incident.

c) a statement describing the actions taken to repair any damage to the environment resulting from the non-compliance/incident.

d) details of any monitoring data which exceeded any of the environmental limits set out in the conditions.

**10. Do you have any monitoring or reporting requirements as part of the program or as a condition of your certificate of approval?**

☐ Yes → Go to question 11.

☐ No → Go to question 14

The point source database can be accessed through the website **www.dsitia@qld.gov.au**

**11. Have you submitted the monitoring and reporting to the point source database?**

☐ Yes → ☐ All monitoring and reporting has been submitted to the point source database. Go to question 15.

OR

☐ Only some of the monitoring and reporting has been submitted to the point source database. Go to question 12.

☐ No

**12. Has all of the monitoring and reporting been carried out in accordance with your certificate of approval?**

☐ Yes

☐ No → ensure question 9 is filled out correctly and includes all of the necessary details.

**13. Provide a summary of your monitoring and reporting undertaken since your last annual return. Attach the monitoring results where applicable.**

| REPORT AND/OR MONITORING DATA TITLE | PREPARED BY | DATES COVERED BY REPORT/MONITORING | LOCATION OF REPORT/MONITORING |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

The applicable fee is based on the time spent assessing the annual return. The applicable fee payable with this annual return has been set out in the annual notice for a transitional environmental program. This fee is based on the minimum fee in the operational policy 'Transitional environmental program (TEP) fees' (EM335).

If the assessment time is greater than two hours you will be invoiced for

**14. Payment**

| The applicable fee[2] is: | $ |
|---|---|

You may pay the fee via cheque, money order or credit card.

Select the payment method below:

☐ Payment by cheque or money order made payable to the Department of Environment and Heritage Protection (attached)

☐ Please contact me (the applicant) for credit card payment:

Phone number: _____

[2] The applicable fee is detailed in the operational policy 'Transitional environmental program (TEP) fees' (EM335). This operational policy is available at www.ehp.qld.gov.au using the publication number (EM335) as a search term or through Permit and Licence Management by phoning 13 QGOV (13 74 68).

the additional amount.

To pay by credit card you will need to provide contact details so you can be contacted for your credit card payment to be made over the phone.

Where there is more than one holder of the TEP, this declaration is to be signed by all holders, unless there is an agreement between all holders that one can sign on behalf of the other.

**Note:** If only one holder is signing this annual return form, they are committing all holders to the content of the application and the declaration.

Where the TEP holder is a company, this form must be signed by an authorised person for that company.

**Privacy statement**

The Department of Environment and Heritage Protection is committed to protecting the privacy, accuracy and security of your personal information in accordance with the *Information Privacy Act 2009*.

The department is collecting the information on this form in order to assess the progress of your transitional environmental program. The Department is authorised to collect his information under section 345 of the EP Act. The information will only be accessed by authorised employees within the department.

Your information will not be given to any other person or agency unless you have given us permission or we are authorised or required by law.

All information supplied on this form may be disclosed publically in accordance with the *Right to Information Act 2009* and *Evidence Act 1977*.

## 15. Declaration

**Note:** If you have not told the truth in this annual return you may be prosecuted.

I declare that:

- I am the holder of the transitional environmental program or authorised signatory
- I have supplied all of the required information.
- the information provided is true and correct to the best of my knowledge. I understand that it is an offence under section 480 of the *Environmental Protection Act 1994* to give to the administering authority or an authorised person a document containing information that I know is false, misleading or incomplete in a material particular
- I understand that all information supplied on or with this annual return may be made available upon request, subject to the provisions of the *Right to Information Act 2009* and the *Evidence Act 1977*.

| | |
|---|---|
| TEP HOLDER'S NAME | |
| SIGNATURE | |
| POSITION OF SIGNATORY | DATE |
| JOINT HOLDER'S NAME (IF APPLICABLE) | JOINT HOLDER'S SIGNATURE (IF APPLICABLE) |
| JOINT HOLDERS NAME (IF APPLICABLE) | JOINT HOLDERS SIGNATURE (IF APPLICABLE) |

For queries about privacy matters email: **privacy@ehp.qld.gov.au** or telephone: (07) 3330 6270.

**Applicant checklist**

☐ Annual return form has been signed and completed

☐ Question 9: Non-compliance documentation attached (if applicable)

**Please submit your completed annual return to:**

**Email: palm@ehp.qld.gov.au**

**Post:**
Permit and Licence Management
Department of Environment and Heritage Protection
GPO Box 2454
BRISBANE QLD 4001

**Courier or hand delivery:**
Permit and Licence Management
Department of Environment and Heritage Protection
Level 3, 400 George Street
BRISBANE QLD 4001
Business hours: 8:30 am – 4:30 pm business days

**Enquiries:**
Permit and Licence Management
Phone: 1300 130 372
Fax: (07) 3330 5875
Email: **palm@ehp.qld.gov.au**

**Further information**

The latest version of this publication and other publications referenced in this document can be found at www.qld.gov.au using the relevant publication number (EM667 for part 2 of this document—part 1 is a notice sent by the department and is not available online as it is not for external use) as a search term.

# Operational policy

**Fees**

## Transitional environmental program fees

*Operational policies provide a framework for consistent application and interpretation of legislation by the Department of Environment and Heritage Protection. Operational policies will not be applied inflexibly to all circumstances. Individual circumstances may require an alternative application of policy. This policy concerns s. 140 of the Environmental Protection Regulation 2008.*

### Policy issue

What are the administering authority[1] fees for considering a transitional environmental program (TEP)?

### Background

Section 334 of the *Environmental Protection Act 1994* (EP Act) provides for the administering authority to charge a person or public authority for submitting a draft TEP for approval.

Section 140(1) of the Environmental Protection Regulation 2008 (EP Reg) prescribes that the fees for consideration of a draft TEP or an amendment of an approval for a TEP is the amount that:

- the authority considers to be reasonable
- is not more than the reasonable cost of deciding the application for approval of the program or the amendment of the approval.

Section 140(3) of the EP Reg prescribes that the fees for assessing the holder's annual returns and monitoring compliance with the program is the amount that:

- the authority considers to be reasonable
- is not more than the reasonable cost of the assessment and monitoring.

### Determination

Fees for the assessment of a draft TEP are a minimum of $416.10 (includes GST), plus an additional $207.70 per hour (includes GST) or part thereof, charged after the first two hours.

Fees for assessment of a TEP annual return and monitoring of a compliance program of a draft TEP are a minimum of $416.10 (includes GST), plus an additional $207.70 per hour (includes GST), or part thereof, charged after the first two hours plus any reasonable costs for analysis and travel.

The reasonable cost of analysis cost will be the actual cost of the analysis to the department, plus GST.

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[1] The Department of Environment and Heritage Protection (EHP) is the administering authority under the *Environmental Protection Act 1994.*



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The reasonable cost of travel will be the cost of travel[2], plus GST.

The fee for assessing an application to amend a TEP is $213.20 (includes GST).

## Other issues to consider

The person having a draft TEP considered should be advised at the time of approval of the TEP that the administering authority will require payment of a fee for assessment of the annual return and monitoring compliance of the TEP.

## Further information

The latest version of this publication can be found at www.ehp.qld.gov.au using the publication number EM335 as a search term.

**Disclaimer:**

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Heritage Protection should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

## Approved:

Date: 30 June 2014

## Enquiries:

Permit and Licence Management
Ph: 13 QGOV (13 74 68)
Fax: (07) 3330 5875
Email: palm@ehp.qld.gov.au

[2] The reasonable cost of travel will be calculated as outlined in s. 4 (employees who choose to use their own vehicles) of the schedule in the Queensland Government *Directive No. 14/10 Motor Vehicle Allowances September 2010*, issued by the Attorney-General and Minister for Industrial Relations. For a motor vehicle this is set at 37.5 cents per kilometre.

# Information sheet

***Environmental Protection Act 1994***

## Internal review and appeal to Planning and Environment Court

*This information sheet forms part of an information notice under the* Environmental Protection Act 1994. *It gives a summary of the process for review and appeal to the Planning and Environment Court under the* Environmental Protection Act 1994 *(EP Act) and subordinate legislation. Refer to ss. 519-539 and Schedule 2 of the Environmental Protection Act for complete information about the process for internal review and appeal to the Planning and Environment Court.*

### Introduction

The EP Act provides for a right of internal review and appeal against certain decisions made under the EP Act. Decisions that can be reviewed or appealed are listed in Schedule 2 of the EP Act and within certain sections of the regulations and subordinate legislation[1] made under the EP Act. The EP Act also provides that a dissatisfied person for a review decision, other than those listed in Part 1 of Schedule 2 of the EP Act[2], may appeal the decision to the Planning and Environment Court (the Court).

### Summary of the process for internal review and appeal to the Court

#### Chapter 11, Part 3 of the EP Act

#### Division 1 — Interpretation

**Section 519 Original decisions**

1) A decision mentioned in Schedule 2 is an 'original decision'.
2) A decision under an environmental protection policy or regulation that the policy or regulation declares to be a decision to which this part applies is also an 'original decision'.

**Section 520 Dissatisfied person**

This section nominates the dissatisfied person for an original or review decision.

#### Division 2 — Internal review of decisions

**Section 521 Procedure for review**

1) A dissatisfied person may apply for a review of an original decision.
2) The application must—
   a) be made in the approved form to the administering authority within—
      i) 10 business days[3] after the day on which the person receives notice of the original decision or the administering authority is taken to have made the decision (the 'review date'); or
      ii) the longer period the authority in special circumstances allows; and
   b) be supported by enough information to enable the authority to decide the application.



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3) On or before making the application, the applicant must send the following documents to the other persons who were given notice of the original decision—

   a) notice of the application (the 'review notice');

   b) a copy of the application and supporting documents.

4) The review notice must inform the recipient that submission on the application may be made to the administering authority within five business days (the submission period) after the application is made to the authority.

5) If the administering authority is satisfied the applicant has complied with subsection (2) and (3), the authority must, within the decision period—

   a) review the original decision;

   b) consider any submissions properly made by a recipient of the review notice; and

   c) make a decision (the 'review decision') to—

      i) confirm or revoke the original decision; or

      ii) vary the original decision in a way the administering authority considers appropriate.

6) The application does not stay (i.e. suspend or stop) the original decision.

7) The application must not be dealt with by—

   a) the person who made the original decision; or

   b) a person in a less senior office than the person who made the original decision.

8) Within 10 business days after making the review decision, the administering authority must give written notice of the decision to the applicant and persons who were given notice of the original decision.

9) The notice must—

   a) include the reasons for the review decision; and

   b) inform the persons of their right of appeal against the decision.

10) If the administering authority does not comply with subsections (5) or (8), the authority is taken to have made a decision confirming the original decision.

11) Subsection (7) applies despite the *Acts Interpretation Act 1954*, section 27A.

12) This section does not apply to an original decision made by—

   a) for a matter, the administration and enforcement of which has been devolved to a local government, the local government itself or the chief executive officer of the local government personally; or

   b) for another matter — the chief executive personally.

13) Also, this section does not apply to an original decision to issue a clean-up notice.

14) In this section—

   'decision period' means—

   a) if a submission is received within the submission period—15 business days after the administering authority receives the application; or

b) if no submissions are received within the submission period—10 business days after the administering authority receives the application.

**Section 522 Stay of operation of particular original decisions**

1) If an application is made for review of an original decision mentioned in Schedule 2, Part 1 or 2, the applicant may immediately apply for a stay of the decision to—

   a) for an original decision mentioned in Schedule 2, Part 1—the Land Court; or

   b) for an original decision mentioned in Schedule 2, Part 2—the Court.

2) The Land Court or the Court may stay the decision to secure the effectiveness of the review and any later appeal to the Land Court or the Court.

3) A stay may be given on conditions the Land Court or the Court considers appropriate and has effect for the period stated by the Land Court or the Court.

4) The period of a stay must not extend past the time when the administering authority reviews the decision and any later period the Land Court or the Court allows the applicant to enable the applicant to appeal against the review decision.

## Division 4 — Appeals to Court

**Section 531 Who may appeal**

1) A dissatisfied person who is dissatisfied with a review decision may appeal against the decision to the Court.

2) However, the following review decisions cannot be appealed against to the Court—

   a) a review decision to which subdivision 1[4] applies;

   b) a review decision that relates to an original decision mentioned in Schedule 2, Part 3[5].

3) The chief executive may appeal against another administering authority's decision (whether an original or review decision) to the Court.

4) A dissatisfied person who is dissatisfied with an original decision to which s. 521 does not apply may appeal against the decision to the Court.

**Section 532 How to start appeal**

1) An appeal is started by—

   a) filing written notice of appeal with the registrar of the Court; and

   b) complying with rules of court applicable to the appeal.

2) The notice of appeal must be filed—

   a) if the appellant is the chief executive—within 33 business days after the decision is made or taken to have been made; or

   b) if the appellant is not the chief executive—within 22 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.

3) The Court may at any time extend the period for filing the notice of appeal.

4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

**Section 533 Appellant to give notice of appeal to other parties**

1) Within 8 business days after filing the notice of appeal, the appellant must serve notice of the appeal on—
   a) if the appellant is the chief executive—all persons who were given notice of the original decision; or
   b) if the appellant is not the chief executive—the other persons who were given notice of the original decision.
2) The notice must inform the persons that, within 10 business days after service of the notice of appeal, they may elect to become a respondent to the appeal by filing in the Court a notice of election under rules of court.

**Section 534 Persons may elect to become respondents to appeal**

A person who properly files in the Court a notice of election becomes a respondent to the appeal.

**Section 535 Stay of operation of decisions**

1) The Court may grant a stay of a decision appealed against to secure the effectiveness of the appeal.
2) A stay may be granted on conditions the Court considers appropriate and has effect for the period stated by the Court.
3) The period of a stay must not extend past the time when the Court decides the appeal.
4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

**Section 535A Stay of decision to issue a clean-up notice**

5) This section applies to an application under section 535 for a stay of a decision to issue a clean-up notice.
6) In deciding the application, the Court must have regard to—
   a) the quantity and quality of contamination of the environment that is likely to be caused if the stay is granted; and
   b) the proximity of the place at or from which the contamination incident is happening or happened to a place with environmental values that may be adversely affected by the contamination.

**Section 536 Hearing procedures**

1) The procedure for an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.
2) An appeal is by way of rehearing, unaffected by the administering authority's decision.

**Section 537 Assessors**

If the judge hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge may appoint one or more assessors to help the judge in deciding the appeal.

**Section 538 Appeals may be heard with planning appeals**

1) This section applies if—
   a) a person appeals against an administering authority's decision (whether an original or review decision)—

i) to refuse to accredit an environmental risk management plan (ERMP); or

ii) about an application for an environmental authority for a prescribed ERA; and

b) a person appeals against the assessment manager's decision under the *Sustainable Planning Act 2009* about a planning or development matter for the premises to which the ERMP or the application for the authority relates.

2) The Court may order—

a) the appeals to be heard together or one immediately after the other; or

b) one appeal to be stayed until the other has been decided.

3) This section applies even though the parties, or all of the parties, to the appeals are not the same.

**Section 539 Powers of Court on appeal**

1) In deciding an appeal, the Court may—

a) confirm the decision appealed against; or

b) vary the decision appealed against; or

c) set aside the decision appealed against and make a decision in substitution for the decision set aside.

2) If on appeal the Court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the administering authority.

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[1] The original decisions under the subordinate legislation are subject to change. As at 31 March 2013 they are listed in:

- Regulation 110 of the Environmental Protection Regulation 2008; and
- Regulation 68C of the Environmental Protection (Waste Management) Regulation 2000.

[2] An appeal may be made to the Land Court for original decisions in Part 1 of Schedule 2.

[3] Under the *Environmental Protection Act 1994* "business days does not include a business day that occurs during the period starting on 20 December in a year and ending on 5 January in the following year".

[4] Subdivision 1 is about appeals to the Land Court.

[5] Original decisions mentioned in Schedule 2, Part 3 are original decisions for internal review only.