Notice

Environmental Protection Act 1994

Decision to approve a draft transitional environmental program

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

Toowoomba Regional Council (ABN 99788305360)
4 Little Street
Toowoomba, QLD 4350

Your reference: EPPR00852813

Our reference: MAN19640

12 April 2017

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 Toowoomba Regional Council (ABN 99788305360) (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 Toowoomba Regional Council at Clifton Waste Water Treatment Plant on Lot 1 SP106958 (formally Lot 1 RP125666) situated at 74 McOscar Road, Kings Creek (the premises).

Background

Your submission for the approval of a draft TEP entitled Clifton WWTP was received by the department on 1 March 2017.

This TEP relates to reducing environmental harm caused by the activity of sewage treatment at Clifton WWTP, and transitioning the sewage treatment plant to comply with Condition C9 of Attachment 2 Part E (WT0076 – Amendment 2) of the Environmental Authority (EA) EPPR00852813.

Decision

The administering authority has decided to approve your application with conditions.

The approved TEP reference number MAN19640 consists of the following:

- the submitted application documents including amendments made at the request of, or with the agreement of, the administering authority as described in the letter, including a TEP Approved form and six attachments, from Toowoomba Regional Council and dated 28 February 2017; and
- The conditions described below in Schedule 1 and imposed on you by the administering authority.

The TEP will remain in force for the period of **12 April 2017** until **30 October 2019**.

Requirements

Please note that under section 354 failure to comply with the approved TEP will remove your immunity from prosecution for the continuation of the original offence stated in the program notice.

Fee to assess the draft TEP or amendment to a TEP

Payment of the assessment fee of the TEP is required to be paid.

A total fee of $2,892.00 has been determined as reasonable for the assessment of the draft TEP. An invoice for this fee will follow shortly.

Annual Return and annual return fees

As your TEP is valid for 12 months or more, an annual return in the approved Form: Annual return for a transitional environmental program (ESR/2016/2213) must be submitted to the administering authority no later than 22 business days after each anniversary of the day the TEP was approved.

The anniversary day for this TEP is **12 April 2018**.

Conditions

The draft TEP is approved subject to the conditions set out in Schedule 1 of this Notice.

Grounds

The decision to approve your application is made under the following grounds:

- On 17 October 2016 you submitted a Program Notice for non-compliance with condition C9 of Attachment 2 Part E (WT0076 – Amendment 2) of EA EPPR00852813.
- Condition C9 specifies release limits for effluent quality released from the Clifton Waste Water Treatment Plant (WWTP).
- In response the department issued a Receipt of Program Notice on 26 October 2017, accepting the Program Notice and requiring the submission of a TEP.
- You submitted a draft TEP on 1 March 2017 stating that under section 330(a) of the Act you would reduce environmental harm caused by the activity by achieving compliance with the effluent quality criteria specified in EA EPPR00852813 for the Clifton WWTP which you state will have the desired effect of reducing potential environmental harm by decreasing the loads of BOD_5 and Suspended Solids discharged to Kings Creek.
- The draft TEP you submitted also stated that under section 330(c) of the Act you would comply with a condition of an environmental authority (EA)/development condition: WT0076 (Amendment 2) Schedule C Table 1 – Release Quality Characteristic Limits for BOD_5 and Suspended Solids.

- The TEP is approved on the grounds that by the completion of the program, you will no longer discharge treated effluent to Kings Creek in contravention of condition C9 of Attachment 2 Part E (WT0076 – Amendment 2) of EA EPPR00852813.

The facts and circumstances forming the basis for these grounds are:

- The non-compliance with Condition C9 (Schedule C Table 1 release quality characteristics limits) of Attachment 2 Part E (WT0076 – Amendment 2) of EA EPPR00852813 has occurred for BOD_5 maximum, BOD_5 85th percentile, Suspended Solids maximum and Suspended Solids 85th percentile; for the period of 1 July 2015 to June 30 2016 and for the period 1 July 2016 to date.

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 administering authority, may be able to apply to have the administering authority 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 administering authority to decide the application for review; and
- be made using the application for review of an original decision form (ESR/2015/1573).[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 administering authority 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 (ESR/2015/1572).

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

Should you have any queries in relation to this notice, please contact Catherine Hughes of the department on telephone number (07) 4529 8328.

[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.

Signature	Date
	12 April 2017

Kate Harbert

Manager (Compliance)

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

Enquiries:

Toowoomba Compliance Office

146 Herries Street, Toowoomba QLD 4350

Ph: (07) 4529 8336

Email: southwest.es@ehp.qld.gov.au

Attachments

Attachment 1: Copy of the Environmental Authority with the notation of approval of the TEP.

Attachment 2: Letter from Toowoomba Regional Council dated 28 February 2017 (Re: Information Request Draft Transitional Environmental Program Clifton WWTP) and attachments.

Schedule 1—Conditions of transitional environmental program MAN19640

The transitional environmental program at the location described above must be conducted in accordance with the following conditions of approval.

Condition number	Condition
Agency interest: General	
TEP - 1	You must comply with all of the conditions contained within EA EPPR00852813 for the duration of the TEP except for the following conditions from Attachment 2 Part E (WT0076 – Amendment 2) of the EA: - Condition C3; - Condition H3; and - Condition H4.
TEP - 2	The letter from Toowoomba Regional Council dated 28 February 2017 (Re: Information Request Draft Transitional Environmental Program Clifton WWTP) and the attachments to that letter are taken to be the approved program under section 341 of the Act. The TEP must be undertaken in accordance with the letter dated 28 February 2017, including the actions, end dates, performance indicators, monitoring and reporting requirements, other than as follows: - The end date for Action 1 Desludge Lagoon 5 (attachment 1 of the letter dated 28 February 2017) is amended. Action 1 is now required to be completed by 30 July 2017; and - The first reporting date for the three (3) monthly progress report in reporting requirement 1 (attachment 1 of the letter dated 28 February 2017) is deleted. The first three (3) monthly progress report is required to be prepared and submitted on 30 June 2017.
Agency interest: Water	
TEP - 3	The only contaminants to be released to waters are from the sewage treatment plant to waters described as Kings Creek from Release Point W1 in accordance with conditions TEP – 7 and TEP – 8 of this TEP.
TEP - 4	Monitoring of contaminant releases to waters must be undertaken in accordance with *Table 1—Monitoring frequency* and the associated monitoring requirements and records of the results must be kept and provided to the administering authority in conjunction with the monitoring and reporting specified in the TEP.
TEP - 5	For the duration of this TEP, Release Point W1 is either: - The exit point of the final lagoon (Pond 4) at the Clifton Waste Water Treatment Plant; or - The temporary release point from Lagoon 2. - The temporary release point from Lagoon 3.

Condition number	Condition
TEP - 6	Where a risk of contaminant release to waters has been identified in the draft TEP, including but not limited to the 'New risks identified from TEP' in the 'Clifton WWTP Risk Register of Environmental Aspects and Impacts (Including Clifton WWTP TEP Aspects)', you must implement control measures to prevent and/or minimise the unauthorised release of contaminants to waters.
TEP - 7	You must comply with condition C9 from Attachment 2 Part E (WT0076 – Amendment 2) of EA EPPR00852813 for the duration of the TEP except for the following quality characteristics in Schedule C Table 1: Release Quality Characteristic Limits: - 5-day Biological oxygen demand (mg/L), - Total Suspended Solids (mg/L); and - Dissolved Oxygen (mg/L).
TEP - 8	You must cease discharging to waters immediately when monitoring identifies that water quality characteristics 50m downstream of Release Point W1 exceed background values by the following: - Maximum limit of 200mg/L for 5-day Biological oxygen demand (mg/L), or - Maximum limit 400 mg/L for Total Suspended Solids (mg/L); or - Minimum limit of 2mg/L for Dissolved Oxygen. Background values are determined by the results of monitoring conducted 50m upstream of Release Point W1. Discharging to waters can only resume when monitoring results of the discharge at Release Point W1 no longer exceed background values by the limits above.

Table 1 - Monitoring frequency

Quality Indicator (units)	Measurement (units)	Minimum frequency[1,2]
BOD5 (mg/L)	(mg/L)	Weekly
Total Suspended Solids	(mg/L)	Weekly
Volume (inflow)	(ML)	Weekly
Volume (outflow)	(ML)	Weekly
pH	N/A	Weekly
Dissolved Oxygen	(mg/L)	Weekly
Faecal coliforms (organisms/100 mL)	(organisms/100mL)	Weekly

Associated monitoring requirements

1. Monitoring must be in accordance with the Water Quality Sampling Manual and all monitoring devices must be effectively calibrated and maintained.
2. Monitoring must be undertaken when the activity is in operation and samples must be taken during a release.

End of conditions