

Notice

Environmental Protection Act 1994

Environmental Evaluation

Notice to conduct or commission an environmental evaluation

This notice to conduct or commission an environmental evaluation is issued by the administering authority pursuant to section 326B of the Environmental Protection Act 1994.

The Chief Executive Officer
Whitsunday Regional Council
83-85 Main Street
PROSERPINE QLD 4800

Your reference: EPPR00190813

Our reference: CA38878 / STAT1075

8 February 2017

Take notice: that under the *Environmental Protection Act 1994* (the Act) a notice to conduct or commission an environmental investigation is issued to Whitsunday Regional Council (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Heritage Protection (the department).

The notice to conduct or commission an environmental investigation is issued in respect of the activities of Whitsunday Regional Council at the Kelsey Creek Landfill, on land described as Lot 160 on SP171910, Lot 277 on SP113325, and Lot 299 on SP113325, situated at Kelsey Creek Road, Proserpine, QLD (the site).

A. Grounds

In accordance with s326B(1)(b) of the Act, the department is satisfied on reasonable grounds that activities at the Kelsey Creek Landfill are causing, or are likely to cause environmental harm on surface water and groundwater environmental values.

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

1. Whitsunday Regional Council (WRC) hold environmental authority EPPR00190813 (EA) (previously registration certificate ENRE00693807 and conditions for which are included in developmental approval IPDE00656507), approving environmentally relevant activity (ERA) 60 – waste disposal, less than 50,000t of waste in a year [subsection 1(a)] and more than 20,000t, but less than 50,000t of waste in a year [subsection 2(e)].

Notice

Notice to conduct or commission an environmental evaluation

2. A site inspection was conducted by departmental officers with a WRC representative on 17 February 2016, which identified contraventions of conditions of the EA and concerns in relation to potential leachate management controls and subsequent potential exposure to groundwater and surface water.
3. WRC provided the department a report titled '*December 2015 Leachate, Environmental Monitoring: Bowen and Kelsey Creek Landfills*' which contained the results of surface and groundwater monitoring conducted by Golder Associates on 17 and 18 December 2015. The department's Technical Support Unit assessed the report and advised that chemicals of concern (characteristic of leachate) were identified in both groundwater and surface water at the site and recommended further investigation.
4. WRC provided the department a report titled '*May 2016 Leachate, Environmental Monitoring: Kelsey Creek Road Landfill*' which contained the results of surface and groundwater monitoring conducted by Golder Associates on 11 and 18 May 2016. The results show that numerous samples exceed the National Environment Protection Measure (NEPM) published guidelines.
5. In accordance with s326B(1) (b) of the Act, the department is satisfied on reasonable grounds that the above alleged non-compliances at the Kelsey Creek Landfill are causing, or are likely to cause environmental harm on the following environmental values: surface water and groundwater.

B. Requirements

Assessment

1. Conduct an assessment of the nature and extent of groundwater and surface water contamination from the landfill, and the effects on surrounding environmental values.
2. The scope of the assessment must at minimum:
 - a. Provide a description of all surface and subsurface infrastructure (e.g. pipes, tanks, sumps, dams, bores) that could:
 - i. have been a source of contaminants;
 - ii. be affected by contaminants; and
 - iii. be a barrier to and/or facilitate the migration of contaminants.
 - b. Provide a description of the surrounding land, including:
 - iv. all environmentally sensitive areas;
 - v. The quality of existing environmental values, in the context of the *Environmental Protection (Water) Policy 2009*;
 - vi. surface water, groundwater, wetlands and surface drainage that could be affected by or disperse contaminants; and
 - vii. any potentially impacted groundwater and/or surface water users.
 - c. Provide information on the leachate analysis of any contaminants identified in the surface and subsurface soil directly beneath the site; under the areas (cells) where waste is buried and actively deposited.
 - d. Identify the type(s), depth(s), location(s) and hydrogeology of groundwater aquifer(s) in the area.

Notice to conduct or commission an environmental evaluation

- e. Determine ground water movement (transmissivity) based on the local hydrogeology.
 - f. Investigate and report on whether any leachate from under the areas (cells) where waste is buried and actively deposited, is causing groundwater contamination.
 - g. Determine the extent of contamination of groundwater by conducting a contamination plume assessment.
 - h. Establish an appropriate background control(s) groundwater monitoring well location to establish background quality data of each aquifer identified.
 - i. Compare the results from the background wells to the results within the plume and consider the impact of the areas (cells) where waste is buried and is actively deposited, measured against relevant water quality guidelines (ANZECC 2000).
 - j. Investigate and report on whether any leachate from under the areas (cells) where waste is buried and actively deposited, is causing surface water contamination;
3. The assessment report containing the above information must be submitted to the department on or before **31 July 2017**.

Remediation

1. Based on the results of the assessment and the extent of released contaminants (leachate), a remediation action plan must be developed by a suitably qualified person and must ensure the ongoing protection of the environmental values of the receiving environment.
2. The remediation action plan must be submitted to the department on or before **31 October 2017**.

Important Notes:

- All assessments and reports must be completed by a suitably qualified person (see s564 of *Environmental Protection Act 1994* for definition of suitably qualified person)
- All reports to be submitted to the department to cwes_mackay@ehp.qld.gov.au.
- All water samples must be taken in accordance with the administering authority's Monitoring and Sampling Manual 2009 (Version 2, July 2013).
- All monitoring samples are to be analysed by a NATA accredited laboratory, accredited to analyse for the analytes monitored.

As the recipient of this notice, you are also required to provide a statutory declaration in the form EM494, to accompany the environmental report submitted to the department. The suitably qualified person who prepares the investigation report, remediation action plan and validation report must also provide a statutory declaration in the form EM471 to accompany all reports/plans submitted to the department.

Notice to conduct or commission an environmental evaluation

You can view an electronic version of the statutory declaration for a recipient using the following search term (EM494).¹

An electronic version of the statutory declaration for a suitably qualified person form is available using the search term (EM471).

Take notice:

1. the requirements of the notice to conduct or commission an environmental investigation take effect immediately upon service of this notice;
2. this notice remains in force until further notice from the department; and
3. you are responsible for meeting the costs of conducting or commissioning the environmental evaluation, preparing the environmental report and providing any further information as requested by the department.

C. Reviews and appeals

The provisions regarding reviews of decisions and appeals are 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).

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 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:

1. [Information sheet - internal review and appeal to the Planning and Environment Court \(EM1866\)](#).
2. [Information sheet - internal review and appeal to the Land Court \(EM1157\)](#).

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

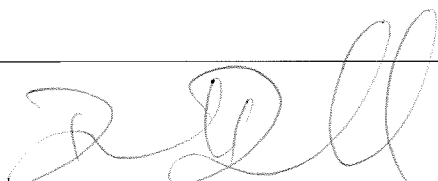
¹ This is the publication number. The publication number can be used as a search term to find the latest version of a publication at <www.ehp.qld.gov.au>.

Notice to conduct or commission an environmental evaluation

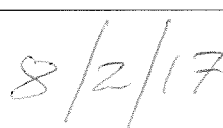
D. Penalty

Failure to comply with a notice to conduct or commission an environmental evaluation is an offence.

1. The maximum penalty for a corporation is 1500 penalty units, totalling \$176,700



Signature



Date

David Darvall

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Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

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