

Notice

Environmental Protection Act 1994

Environmental Evaluation

Notice of decision to refuse to accept an environmental report for an environmental investigation

This notice is issued by the administering authority pursuant to section 326G(4) of the Environmental Protection Act 1994 to advise you that the administering authority has decided to refuse to accept an environmental report for an environmental investigation.

Whitsunday Regional Council
83-85 Main Street
PROSERPINE QLD 4800

Your reference: EPPR00190813

Our Reference: CA38878

9 October 2017

Take notice: that under the *Environmental Protection Act 1994* (the Act), a notice of decision to refuse to accept an environmental report for 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 of decision to refuse to accept an environmental report for an environmental investigation is issued in respect to the activities by 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).

The decision

The decision to refuse to accept an environmental report about a stated matter is based on the following grounds:

- On 8 February 2017 the department issued a notice to conduct or commission an environmental investigation to you (the 8 February 2017 notice).
- On 31 July 2017 you submitted an environmental report (the report) to the department.
- On 14 August 2017 the department issued a notice requesting further information to you.
- On 11 September 2017 you submitted further information to the department.
- The department is satisfied, that the report and the further information submitted by you does not adequately address requirements 1, 2(a)(i), 2(a)(ii), 2(a)(iii), 2(b)(iv), 2(b)(v), 2(b)(vii), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 2(i) and 2(j) of the 8 February 2017 notice.

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

Requirement 1 of the 8 February 2017 notice states:

Conduct an assessment of the nature and extent of groundwater and surface water contamination from the landfill, and the effects on surrounding environmental values.

The report does not adequately address the relevant matters for the environmental evaluation because it does not provide an assessment (investigation) of the nature and extent of groundwater and surface water contamination from the landfill, and the effects on surrounding environmental values. Rather the report details a review of existing groundwater data within the region. The data presented in the report is limited, with some non-current data being used for various parameters (such as EC). No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (a) (i) of the 8 February 2017 notice states:

Provide a description of all surface and subsurface infrastructure (e.g. pipes, tanks, sumps, dams, bores) that could have been a source of contaminants.

You have identified some potential sources of contaminants within the report. However, the report does not detail the source of the data nor does it further investigate why it may be acting as a source of contamination. In addition, the report in relation to sources of contaminants is limited, given that some of the data used to determine any potential sources of contaminants in the surrounding bores is out dated. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (a) (ii) of the 8 February 2017 notice states:

Provide a description of all surface and subsurface infrastructure (e.g. pipes, tanks, sumps, dams, bores) that could be affected by contaminants.

The report does not adequately identify infrastructure that could be affected by contaminants from the landfill. The report states that the surrounding land uses include agricultural activity (sugar cane farming), your sports facility to the east, and a recycling facility to the west however it does not adequately identify and discuss this as required by the original notice. The original notice requires the recipient to identify surface and subsurface infrastructure that may be impacted by the activities at the landfill. The report does not indicate any consultation with the surrounding landholders that may possess such knowledge in relation to infrastructure. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (a) (iii) of the 8 February 2017 notice states:

Provide a description of all surface and subsurface infrastructure (e.g. pipes, tanks, sumps, dams, bores) that could either be a barrier to or facilitate the migration of contaminants.

The report details soil types and how they act in relation to permeability. Some conflicting data is presented within the report. The report states that '*shale beds have been observed in the area which act as a barrier to groundwater movement, limiting any chemical of concern transport in upper layers*'. However, the report also details that the major soil types are sand and gravel, which are porous and allow for movement between the surface and groundwater. Furthermore the statements made within the report are assumptions from existing data and are not based on an actual assessment or evaluation of the area's soil types.

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The report in relation to sources of contaminants is limited, given that some of the data used to determine any potential sources of contaminants in the surrounding bores is only current up until 2000. Therefore, the validity of the data used is questionable. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (b) (iv) of the 8 February 2017 notice states:

Provide a description of the surrounding land, including all environmentally sensitive areas.

The report does not adequately address the surrounding land because it does not address the environmentally sensitive areas. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (b) (v) of the 8 February 2017 notice states:

Provide a description of the surrounding land, including the quality of existing environmental values, in the context of the Environmental Protection (Water) Policy 2009

The report does not adequately address the surrounding land because it does not identify the existing environmental values in the context of the *Environmental Protection (Water) Policy 2009*. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (b) (vii) of the 8 February 2017 notice states:

Provide a description of the surrounding land, including any potentially impacted groundwater and/or surface water users.

The report does not adequately address the description of the surrounding land because it does not identify any potentially impacted groundwater or surface water users. The report identifies surrounding land uses, however it does not identify if the users may be impacted by the activities occurring at the landfill. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (c) of the 8 February 2017 notice states:

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.

The report does not provide information on leachate within soil, as no analysis or assessment of the soils directly beneath the site, under the cells where waste is buried and actively deposited was undertaken. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (d) of the 8 February 2017 notice states:

Identify the type(s), depth(s), location(s) and hydrogeology of groundwater aquifer(s) in the area.

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The report has not adequately undertaken an assessment of the groundwater because it has not identified the types, depths, locations and hydrogeology of the groundwater aquifers in the area. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (e) of the 8 February 2017 notice states:

Determine ground water movement (transmissivity) based on the local hydrogeology.

The report does not adequately address the transmissivity of the groundwater as there is conflicting information provided in the report. It has not provided the data used to determine the flow of groundwater or the data used to determine that there is groundwater gradient towards the landfill resulting from a hydraulic head. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (f) of the 8 February 2017 notice states:

Investigate and report on whether any leachate from under the areas (cells) where waste is buried and actively deposited, is causing groundwater contamination.

The report does not identify whether any leachate from under the areas (cells) where waste is buried and actively deposited is causing groundwater contamination, because a groundwater contamination plume assessment has not been conducted as per Requirement 2 (g). Therefore, the report cannot determine the extent, if any, of groundwater contamination as a result of the activities occurring at Kelsey Creek Landfill. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (g) of the 8 February 2017 notice states:

Determine the extent of contamination of groundwater by conducting a contamination plume assessment.

A groundwater contamination plume assessment was not undertaken. The report does not address the relevant matters required under the environmental investigation notice. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (h) of the 8 February 2017 notice states:

Establish an appropriate background control(s) groundwater monitoring well location to establish background quality data of each aquifer identified.

The report does not adequately identify an appropriate background monitoring bore because it doesn't provide a sufficient justification as to why it is deemed appropriate. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (i) of the 8 February 2017 notice states:

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).

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The report does not compare results from the background wells to the results within the plume, measured against the relevant water quality guidelines (ANZECC 2000) because a groundwater contamination plume assessment has not been undertaken. No further information was provided in response to the information request issued by the department on 14 August 2017.

Requirement 2 (j) of the 8 February 2017 notice states:

Investigate and report on whether any leachate from under the areas (cells) where waste is buried and actively deposited, is causing surface water contamination.

The report does not adequately report on whether leachate from under the areas (cells) where waste is buried and actively deposited is causing surface water contamination because a groundwater contamination plume has not been identified. No further information was provided in response to the information request issued by the department on 14 August 2017.

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 ([ESR/2015/1573](#)).

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

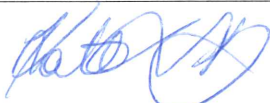
For further information about reviews and appeals see:

- [Information sheet - internal review and appeal to the Planning and Environment Court \(ESR/2015/1572\)](#).
- Information sheet - internal review and appeal to the Land Court ([ESR/2015/1742](#)).

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 Louise Pinn of the department on telephone number (07) 4999 6889.

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Signature

9 October 2017

Date

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Department of Environment and Heritage Protection
Environmental Protection Act 1994

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