Notice

Environmental Protection Act 1994

Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Isaac Regional Council
Grosvenor Complex, Batchelor Parade
MORANBAH QLD 4744

Your reference:

Our reference: 101/0003334

9 December 2016

Dear Sir

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Isaac 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 EPO is issued in respect to the activities of Isaac Regional Council (IRC) at Moranbah Sewage Treatment Plant on land described as Lot 1 on Plan GV282 and other lots listed on the relevant environmental authority and situated at Forrest Drive, Moranbah (Moranbah STP) and at Dysart treated effluent storage dam.

A. Grounds

This EPO is issued on the following grounds:

- To secure compliance with the General Environmental Duty under section 319 of the *Environmental Protection Act 1994*

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

- The Department of Environment and Heritage Protection (the department) received a report from Isaac Regional Council (IRC) on 27 October 2016 (and further supplementary information was submitted on 18 November 2016) in relation to the current status of their treated effluent dams at Dysart, Middlemount, Moranbah, Nebo, Clermont, Nebo and Glenden.
- The report titled '*Isaac Regional Council STP Effluent Dams Condition Assessment Report*', dated April 2016 identified the following:
    - Most of the dams are in satisfactory condition;
    - Gauge boards should be installed at all dams to clearly indicate the top operating water level;

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  - An assessment of the existing outflow and spillway structures should be undertaken and upgrades or remedial works should be undertaken where appropriate. Where no spillway exists, a spillway should be designed and constructed as soon as possible;
  - Regular inspections and maintenance should be undertaken in accordance with operational plans.
- Based on the report recommendations for each structure and the associated risks identified, IRC prioritised each of the dams:
  - Priority 1 – Moranbah STP, Dysart STP (note this dam was originally assessed a priority 1-2 prior to its failure in February 2016), Middlemount STP;
  - Priority 2 – Glenden STP, Nebo STP;
  - Priority 3 – Clermont STP.
- On 4 November the department provided comments to IRC in relation to the reports submitted prior to that date.
- IRC requested advice on the proposal to release treated effluent to waters. Council has stated that the release of treated effluent is required prior to works taking place.
- On 30 November 2016 IRC submitted draft STP effluent management emergency action plans for each of their treated effluent dams.
- In order for IRC to complete the initial works under the action plans, which include the installation of spillways and gauge boards, the water level within the dams must be lowered.
- IRCs current environmental authority conditions do not permit the release of treated effluent to waters.
- In correspondence council has advised that another dam failure may possibly result in material environmental harm.
- The consequences of the failure of dams in terms of public safety or other specific environmental values have not been provided by council.
- Advice has been provided by the Bureau of Meteorology that rainfall, possibly including severe thunderstorms, has been forecast for the 9 December 2016 and the following few days.
- Having been advised by council that dam failure is a risk the department has considered the unknown nature of this risk, and that for example, it is possible that if another dam failed, there may be a specific consequence that could have some level of impact on public safety. A considered precautionary approach to minimise the possible consequences of dam failure is considered reasonable.

B. Requirements

In accordance with this EPO, you are required to do the following:

Action
1. From 9-12-16 to 12 pm on 14-12-16 when rainfall results in the flow of water in receiving waters sufficient to provide dilution of the treated sewage effluent to be released and when you assess and document that inflows to the treated effluent storage dams at Dysart and Moranbah present an immediate risk of dam failure, IRC may discharge treated effluent to waters in compliance with the requirements 2, 3, 6 and 7 of this environmental protection order.
2. If you decide to discharge treated effluent to waters you must: - control the release to minimise the impacts of the release on the receiving environment; - manage the release in accordance with the required release plan; and - stop the release if any adverse effects on environmental values are observed .

3. Prior to commencing any release of treated effluent to waters, IRC must develop a treated effluent release plan that aims to protect environmental values and users of the receiving environment. The treated effluent release plan must include the following:
    a. Consideration of the current treated sewage effluent quality within the Moranbah and Dysart treated effluent storage dams and its suitability for release to waters.
    b. Consideration of the receiving environment and identification of any downstream impacts from the release, including on other water users.
    c. The clear identification of the location of the discharge points including GPS co-ordinates, maps and photos of discharge location.
    d. The monitoring and recording of the estimated volumes of treated effluent to be released, and actually released, including discharge flow rate and release duration.
    e. The monitoring and estimation of the volumes of water flowing in the creek upstream of the discharge location and an estimation of the dilution rate once every six hours.
    f. A receiving environment monitoring program which identifies:
    - monitoring locations, including background water quality (upstream of the discharge point), at the discharge point (end of pipe) and two points downstream of the discharge point to the receiving environment. (The monitoring locations must be representative of the water at the specified location.)
    - the identification of contaminants to be monitored (for both in field and laboratory measurement).
    g. Procedures to immediately assess the results of monitoring and to stop the release if any adverse effects on environmental values are observed.

4. From 9-12-16 to 12 pm on 14-12-16 when there are no flows of water in the receiving waters and you assess and document that inflows to the treated effluent storage dams at Dysart and Moranbah present an immediate risk of dam failure, IRC may discharge treated effluent to waters in compliance with requirements 2, 5, 6, 8 and 9 of this environmental protection order.

5. Prior to discharging treated effluent to waters in the circumstances described in requirement 4, IRC must develop a treated effluent release plan that protects environmental values and users of the receiving environment. The treated effluent release plan must include the following:
    h. An assessment of the current treated sewage effluent quality within the Moranbah and Dysart treated effluent dams and its suitability for release to waters.
    i. An assessment of the receiving environment and identification of any downstream impacts from the release, including on other water users. The assessment must include the estimated extent of how far the effluent would travel.
    j. The clear identification of the location of the discharge points including GPS co-ordinates, maps and photos of discharge location.
    k. The monitoring and recording of the estimated volumes of treated effluent to be released, and actually released, including discharge flow rate and release duration.
    l. The monitoring of how far downstream the released treated effluent travelled.
    m. A receiving environment monitoring program which identifies:
    - monitoring locations, including background water quality of any waters upstream of the discharge point, at the discharge point (end of pipe) and sufficient points downstream of the discharge point to the receiving environment (at least three downstream points must be monitored if treated effluent is visible in the bed of waters). (The monitoring locations must be representative of the water at the specified location.)
    - the identification of contaminants to be monitored (for both in field and laboratory

measurement). n. Procedures to immediately assess the results of monitoring and to stop the release if any adverse effects on environmental values are observed.
6. You must prepare the treated effluent release plan and implement it before, and during, the release of treated effluent and submit the treated effluent release plan, with any available information about releases that have already occurred, to the department by 12 pm on 12-12-16.
7. You must cease the release of treated effluent when the level of treated effluent in dams reaches the level required to facilitate initial works.
8. You must cease the release of treated effluent when the level of treated effluent in dams reaches the level required to minimise the risk of dam failure or to facilitate initial works, whichever comes first.
9. The level determined as required to minimise dam failure must be estimated by a suitably qualified person and provided to the administering authority upon request.

C. Obligations

If you propose to dispose of the place or business to which the EPO relates, you **must** advise the buyer of the existence of this EPO.

If you cease to carry out the activity to which this EPO relates, you **must** give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity.

Take notice:

- the requirements of this order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

Failure to comply with an EPO is an offence.

- The maximum penalty for an individual for wilfully contravening an EPO is 6250 penalty units, totalling $761,875 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3,809,375.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $548,550
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $2,742,750

Failure to provide written notice to the buyer is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $6,095.
- The maximum penalty for a corporation is 250 penalty units, totalling $30,475.

Failure to provide written notice within 10 business days of ceasing the activity to the department is an offence.

- The maximum penalty for an individual is 50 penalty units, totalling $6,095.
- The maximum penalty for a corporation is 250 penalty units, totalling $30,475.

Section 3 of the Penalties and Sentences Regulation 2015 prescribes the monetary value of a penalty unit.

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 (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 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 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 the notice, please contact Alisha Stewart, Team Leader on telephone number 49996885

T. Brain

Signature

9 December 2016

Date

Tim Brain

Manager (Compliance) Industry and Development

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

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[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>.