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: STAT1257, ENFACT00012

8 February 2017

Dear Sir/Madam

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 with respect to your activities at the Clermont Waste Water Treatment Plant (Clermont WWTP) on land described as Reserve 165, Lot 186 on Plan CLM370 listed on the environmental authority NM140 (now referenced as EPPR00791913) and situated at Cheeseborough Road, Clermont.

A. Grounds

This EPO is issued on the following grounds:

1. To require you to take appropriate measures to secure compliance with the General Environmental Duty pursuant to section 358(d)(i) of the Act. The General Environmental Duty is detailed in s319 of the Act which states the following:

   *A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practical actions to prevent or minimise the harm (the **general environmental duty**).*

2. To secure compliance with condition G9 of Environmental Authority NM140, also known as EPPR00794946 (EA), under section 358(d)(iii) of the Act. This condition is as follows:

ABN 46 640 294 485

Quality Characteristics of Release to Land

(G9) The contaminant released must comply, at sampling and in-situ measurement points, with each of the release limits specified in Table 1 for each quality characteristic.

Schedule G Table 1 – RELEASE QUALITY CHARACTERISTIC LIMITS

Quality characteristic	*Release limit*	*Limit type*
5-day Biological Oxygen Demand	*20 mg/L*	*Maximum*
Suspended Solids	*30 mg/L*	*Maximum*
pH (pH units)	*6.5 – 8.0*	*Range*
Faecal Coliforms (organisms/100 ml)	*< 10 Thermotolerant coliforms/100 ml*	*Maximum*
Free Chlorine Residual	*1 mg/L*	*Maximum*

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

1) On 2 June 2017 and 8 September 2017 authorised officers of the department received two separate emails from you, each containing eight (8) notifications (and a subsequent report submitted on 22 September 2017), advising of non-compliances with condition G9 of the EA at the Clermont WWTP Plant A.

2) The Clermont WWTP is comprised of two treatment processes, Plant A mainly utilising a trickling filter, and Plant B mainly utilising an oxidation ditch. Plant B appears to be capable of producing effluent which complies with the EA.

3) The two emails established that on eight (8) separate occasions between 26 April 2017 and 16 August 2017 effluent sampled at the sampling and in-situ measurement point for Clermont WWTP Plant A returned analytical results demonstrating the effluent was, or was reasonably expected to be, not in compliance with the limits in Condition G9 of the EA.

4) The notifications received on 2 June 2017 identified the following:

   a) Operator competency/experience may not meet the required level to maintain plant operation; and

   b) Plant equipment failed due to operator management.

5) The subsequent report submitted to the department via email on 22 September 2017 identified the following:

   a) The Clermont WWTP Plant A, trickle filtration, was taken offline on 21 August 2017; and

   b) Subsequent sample analysis of effluent released from Clermont WWTP Plant B was compliant with limits prescribed under the EA.

6) The department considers that you are not in compliance with condition G9 of your EA as contaminants were released to land that did not comply with the release limits.

7) The department considers that, in consideration of the facts and circumstances detailed above, you have failed to take all reasonable and practicable measures to prevent or minimise the risk of environmental harm, have contravened condition G9, and have therefore failed to comply with the general environmental duty under the Act.

8) The department believes that compliance with the general environmental duty involves the following:

   a) It is not appropriate to use Plant A of the Clermont WWTP until the plant has been assessed, and appropriate improvement works undertaken to ensure that it is capable of complying with the general environmental duty; and

b) Plant A is not reintroduced into operation until operators of the Clermont WWTP have been appropriately equipped to operate Plant A to achieve compliance with the general environmental duty.

9) The department also believes that compliance with condition G9 of the EA involves the following:

a) It is not appropriate to use Plant A of the Clermont WWTP until the plant has been assessed, and appropriate improvement works undertaken to ensure that it is capable of complying with condition G9 of the EA; and

b) Plant A is not reintroduced into operation until operators of the Clermont WWTP have been appropriately equipped to operate Plant A to achieve compliance with the EA.

B. Requirements

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

1) By close of business on **5 February 2018** you must cease the release of contaminants from the Clermont Waste Water Treatment Plant (Plant A) to any waters, lands or effluent holding ponds until the completion of the program of works required by Requirement 3 and there is a reasonable expectation that compliance with G9 will be achieved.

2) By close of business on **30 April 2018** you must submit to the department, an investigation report prepared by an appropriately qualified person into the capacity of the Clermont Waste Water Treatment Plant (Plant A and Plant B) to comply with condition G9 of the environmental authority (EA). The report must include recommendations for achieving compliance with the conditions of the EA.

3) Following the receipt of comments from the department about the investigation report required by Requirement 2 and before submitting the program of works required by Requirement 4, you must incorporate any comments made by the department into the program of works.

4) By close of business on **29 June 2018** you must submit to the department, a program of works, including timeframes, for the implementation of the recommendations resulting from the investigation report required by Requirement 2.

5) The written notifications or submissions to the administering authority required by this notice must be provided to the administering authority via email at cwes_mackay@ehp.qld.gov.au or post PO Box 2001 Mackay, QLD 4740 on or before the dates required by Requirements 2 and 4.

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 $788,437.50; or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $3,942,187.50.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling $567,675.00.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $2,838,375.00

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

- The maximum penalty for an individual is 50 penalty units, totalling $6,307.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.50.

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 $6,307.50.
- The maximum penalty for a corporation is 250 penalty units, totalling $31,537.50.

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*.

[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>.

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, Compliance Delivery Manager on telephone number (07) 4999 6883.

	8 February 2018
Signature	Date

Tim Brain

Manager (Compliance)

Delegate of the Chief Executive

Department of Environment and Heritage Protection

Environmental Protection Act 1994

Enquiries:

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