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.

Fitzroy Island Investments Pty Ltd (ACN: 141 069 347)
5th Floor, 21 Lindsey Street
DARWIN Northern Territory 0800

Your reference: CA53116; EPPR00533913
Our reference: 101/0008856; STAT1400

30 August 2019

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to Fitzroy Island Investments Pty Ltd ACN: 141 069 347 (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued with respect to the activities of Fitzroy Island Investments Pty Ltd at the Fitzroy Island sewage treatment plant (STP) on land described as Lot 169 on SP280075 situated at Fitzroy Island Resort (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. To require you to take reasonable measures to secure compliance with conditions L1and L3 of environmental authority (EA) EPPR00533913 under section 358(d)(iii) of the Act. Those conditions are as follows:

    L1 The only contaminants permitted to be released to land are tertiary treated sewage effluent in compliance with the limits stated in Table 2 and the conditions of this approval.

    L2 Conduct and keep records of any monitoring of contaminant releases to the irrigation area for the treated effluent at the point of discharge from the sewage treatment plant(s) at the frequency, and for the parameters specified in Table 2.

ABN 46 640 294 485

Table 2 — Contaminant release limits to land

Quality characteristics	Limit Type	Limit	Monitoring frequency
5 day BOD (mg/L)	**maximum**	20	Monthly
Suspended Solids (mg/L)	**maximum**	30	Monthly
pH (pH units)	range	6.5 — 8.5	weekly
Total Nitrogen (mg/L)	**maximum**	10	Monthly
	50th percentile	8	
Total Phosphorus (mg/L)	**maximum**	1	Monthly
Faecal Coliforms (organisms/100mL)	**maximum**	100	Monthly
Total Dissolved Solids (mg/L)	**maximum**	1000	weekly

Associated requirements

1. Monitoring must be in accordance with the administering authority's Water Quality Sampling Manual and all monitoring devices must be effectively calibrated and maintained.

2. Indicators for TN and TP are recommended to be done as grab samples.

L3 A minimum area of 22,000 square metres of land, excluding any necessary buffer zones, must be utilised for the irrigation of treated effluent.

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

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

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

1) You hold Environmental Authority EPPR00533913 (the EA) authorising you to conduct environmentally relevant activity (ERA) 63 Sewage Treatment, Operating sewage treatment works other than no-release works, with a total daily peak design capacity of— 21 to 100EP - if treated effluent is discharged from the works to an infiltration trench or through an irrigation scheme.

2) Sections 430(1) and (3) of the the Act stipulate that:
   a. This section applies to a person who is the holder of, or is acting under, an environmental authority.
   b. The person must not contravene a condition of the authority.

3) The department considers that you have contravened conditions L1 and L3 of the EA.

4) You have contravened the limits prescribed within condition L1, Table 2 of the EA as described below:
    a. On 14 December 2018, you reported an exceedance of the total nitrogen (TN) limit (10mg/L), for samples collected on 11 December 2018, with a reported value of 17mg/L.
    b. On 5 February 2019, you reported an exceedance of the TN limit, for samples collected on 29 January 2019, with a reported a value of 23mg/L. The laboratory report was provided on 10 February 2019 and reported a value of 25mg/L.
    c. On 12 March 2019, you reported an exceedance of the TN limit, for samples collected on 5 March 2019, with a reported value of 65mg/L.
    d. On 16 April 2019, Fitzroy Island reported an exceedance of the faecal coliforms limit (100 organisms/100mL), for samples collected on 9 April 2019, with a reported value of 53,000CFU/100mL.
5) As a result, the department considers that you have contravened condition L1 of the EA by not complying with the effluent quality stated in Table 2 – Contaminant release limits to land in the EA.
6) Condition L3 of the EA requires a minimum area for the irrigation of treated effluent of 22,000 m^2 and the effluent irrigation area at the Fitzroy Island Resort is separated into three sections known as Area A (2,000m^2) Area B (7,500m^2) and Area C (10,000m^2).
7) On 5 December 2018, your representatives stated that; effluent is only irrigated to Area B, (an area of 7,500m^2); that Area A had not been irrigated for 2 years; and that there was no infrastructure to irrigate Area C.
8) On 5 December 2018, authorised officers observed irrigation infrastructure and saturated soils at Area B which indicated that irrigation was occurring at this location.
9) On 5 December 2018, authorised officers observed irrigation Area A was dry and did not appear to be used for effluent irrigation.
10) A minimum area of 22,000m^2 is not being utilised for irrigation of treated effluent as required by condition L3.
11) As a result, the department considers that you have contravened condition L3 of the EA by not providing the minimum required area for the irrigation of treated effluent.
12) 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 the above mentioned conditions, and have therefore failed to comply with the general environmental duty under the Act.

B. Requirements

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

1. By 30 October 2019, you must submit a report prepared by an **appropriately qualified person(s)***, detailing how compliance with condition L1 of Environmental Authority EPPR00533913 will be achieved.

***appropriately qualified person** means:*
a person or persons who has professional qualifications, training, skills and experience relevant to the EA requirements and can give authoritative assessment, advice and analysis in relation to the EA requirements using the relevant protocols, standards, methods or literature.

2. The report required by Requirement 1 must include, but not be limited to, the following:
    - An assessment and evaluation of the sewage treatment plants (STP's) influent quality;

- an evaluation of the appropriateness of the sizing of the STP and associated infrastructure, particularly in relation to the equivalent person estimates for Fitzroy Island Resort;
- an evaluation of the suitability of the STP's treatment process configuration;
- details of the appropriately qualified person(s) who prepared the report;
- details of the works conducted to expand the irrigation system to at least the area required by condition L3 of the EA;
- details of how the expanded irrigation system is to be operated and managed to achieve the even distribution of treated effluent over the whole irrigation area;
- details of any permanent maintenance schedule that would be required to keep the STP in good working order;
- if it is determined by the investigation that reticification works are required:
  - details of the works to be conducted on the STP to achieve compliance with the limits prescribed in condition L1 and L2 - Table 2;
  - a schedule of works and implementation timeline for retification works on the STP, if retification works are required;

3. By 30 October 2019 and continuing thereafter, you must irrigate all treated effluent from the Fitzroy Island STP to irrigation areas B (7,500m^2) and C (10,000m^2), as illustrated below in Figure 1.
4. By 18 November 2019, you must provide written confirmation to the department that the irrigation of treated effluent is being undertaken in compliance with Condition L3 in EPPR00533913 for irrigation areas B and C, as illustrated below in Figure 1.
5. By 6 December 2019 and continuing thereafter, you must irrigate all treated effluent from the Fitzroy Island STP to an irrigation area with a minimum area of 22,000 square metres of land, comprising of irrigation areas A, B and C, as illustrated below in Figure 1.
6. By 16 December 2019, you must provide written confirmation to the department that the irrigation of treated effluent is being undertaken in compliance with Condition L3 in EPPR00533913.

Figure 1: Fitzroy Island Irrigation areas, A, B & C.



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 a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling $4,079,688.00.
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling $2,937,375.00.

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.

[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>.

Should you have any queries in relation to the notice, please contact Kerwin Swanson of the department on telephone number (07) 4222 5162.

	30 August 2019
Signature	Date

Tim Brain
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Delegate of the Chief Executive
Department of Environment and Science
Environmental Protection Act 1994

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