

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.

K'Gari Educational & Cultural Centre Inc.
242 Scrub Hill Road
Hervey Bay, QLD, 4655

Your reference:

Our reference: CR80021, CR80023

6 April 2018

Dear Ms Gala

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to K'Gari Education & Cultural Centre Inc. (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science, formerly the Department of Environment and Heritage Protection (the department).

The EPO is issued with respect to the activities of K'Gari Educational & Culture Centre on land described as Lot 1 on FS92 situated on Woralie Track, Fraser Island (the premises).

A. Grounds

This EPO is issued on the following grounds:

1. To require you to take reasonable measures to secure compliance with the General Environmental Duty under section 358(d)(i) of the *Environmental Protection Act 1994*. 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 practical actions to prevent or minimise the harm (the **general environmental duty**).*
2. To require you to take reasonable measures to secure compliance with condition F1 of Environmental Authority CM0179DA (also known as EPPR00512113) (EA), under section 358(d)(iii) of the Act. This condition is as follows:

(F1) The only contaminates permitted to be released to land is treated sewage effluent via subsurface irrigation to the areas shown in the attached map in schedule I, in compliance with the limits levels stated in Table 1 Schedule F and the conditions of this authority.

Schedule F - Table 1 (Release limits - 'Land')

Quality characteristics	Release limit	Limit type
BODs	15mg/l	Maximum
Suspended Solids	20mg/l	Maximum
Total Nitrogen	15mg/l	Maximum
Total Phosphorous	10mg/l	Maximum
Faecal Coliforms	10 organisms per 100mL	Median value (minimum of 5 samples taken at not less than half-hourly intervals in any one day, with 4 out of 5 samples containing less than 20 organisms per 100ml)
pH	6.5 – 8.5	Range

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

1. You hold an EA to carry out environmentally relevant activity (ERA) 63 (a)(i) sewage treatment with a total daily peak design capacity of 21-100EP at the premises.
2. On 3 October 2017 and 2 January 2018 the department received emails from Evergreen Wastewater containing monitoring results of treated effluent sampling collected on 12 September 2017 and 12 December 2017 at the premises. The analysis was completed by WaterOne Laboratory Services, LIMS Ref 17/2076 and LIMS Ref 17/2864 respectively.
3. The results were reviewed by authorised officers of the department and indicated two breaches of quality characteristics limits on 12 September 2017 and five breaches of quality characteristics limits on 12 December 2017.
4. Monitoring results received for June 2016, September 2016, December 2016, May 2017 and June 2017 all indicate non-compliant monitoring results with breaches of a number of quality characteristics.
5. On 6 September 2017, the department received an email from Evergreen Wastewater on your behalf confirming that treated sewage effluent produced during the period 1 January 2017 to 30 June 2017 was via sub-surface irrigation as per condition F1 of the EA.
6. A Fuji clean wastewater treatment system capable was installed and commissioned at the site in May 2016 and has improved the quality of treated effluent produced at the site. However, to date, the site has not demonstrated compliance with condition F1 of the EA since installing the new STP.
7. The department considers that you are not in compliance with condition F1 of your EA as contaminants have been released to land that did not comply with the release limits.
8. Under section 430 of the Act it is an offence to contravene a condition of an environmental authority.
9. The department considers that, in consideration of the facts and circumstances detailed above, you have failed to take all reasonable and practical measures to prevent or minimise the risk of environmental harm, have contravened condition F1, 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 20 April 2018, you must engage an appropriately qualified person* to carry out the requirements of this notice.
2. By 25 May 2018, you must submit to the department:
 - a. A summary of the findings of the investigation into the cause/s of non-compliance with treated sewage effluent release limits as specified in condition F1 of your EA; and
 - b. A project plan of corrective actions and associated works to be undertaken at the premises to rectify the issue/s.
3. By 24 August 2018, you must implement the project plan and associated works at the premises, including any feedback received from the department in response to the summary of findings and project plan.
4. From the date of this notice, you must conduct and submit to the department, monthly monitoring of treated sewage effluent until such time that you can demonstrate compliance with condition F1 of your EA by providing three consecutive monthly monitoring results to the department.

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

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 or five years imprisonment.
- The maximum penalty for a corporation for wilfully contravening an EPO is 31,250 penalty units, totalling \$3,942,187.
- The maximum penalty for an individual for contravening an EPO is 4500 penalty units, totalling \$567,675
- The maximum penalty for a corporation for contravening an EPO is 22,500 penalty units, totalling \$2,838,375

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

- The maximum penalty for an individual is 50 penalty units, totalling \$6,307.
- The maximum penalty for a corporation is 250 penalty units, totalling \$31,537.

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.
- The maximum penalty for a corporation is 250 penalty units, totalling \$31,537.

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.p

Should you have any queries in relation to the notice, please contact Brooke Ashcroft on telephone number (07) 4302 8566.



Signature

Kate Harbert
Manager Compliance
Delegate of the Chief Executive
Department of Environment and Heritage Protection
Environmental Protection Act 1994

6 April 2018

Date

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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>.