



Section 65
Environmental Protection Act 1986.

ENVIRONMENTAL PROTECTION NOTICE

Reference No: 202402

PERSON TO WHOM THIS NOTICE IS GIVEN:

Derby Industries Pty Ltd (ACN 009 033 612)
In its capacity as occupier of the **Premises**
6 Short Street
FREMANTLE WA 6160

PREMISES TO WHICH THIS NOTICE RELATES (the Premises):

The **Premises** the subject of this Environmental Protection Notice (**Notice**) is situated on part of Lot 89 on Plan 741 as shown on Certificate of Title Volume 1112 Folio 243, also identified as 230 Gull Road, Nambeelup, within the boundary identified in Appendix 2 of this Notice.

Reasons for which this notice is issued:

This Environmental Protection Notice (the Notice) is given to Derby Industries Pty Ltd under section 65 of the *Environmental Protection Act 1986* (EP Act) because I suspect on reasonable grounds that there is likely to be an emission from the Premises that is likely to cause pollution. The nature of the suspected pollution being the emission of odour into the environment at levels likely to result in the alteration of the environment to its detriment or degradation, or to the detriment of an environmental value.

In February 2024 the Department of Water and Environmental Regulation (the department) received more than 750 complaints from the public regarding odour impacting amenity in the Nambeelup area. The department carried out odour surveys in response to community complaints identifying the activities carried out at 230 Gull Road, Neerabup, to be a contributing source of odour identified in the community. A subsequent departmental visit to the Premises identified odour emission sources, predominately wastewater storage ponds 2 and pond 0 as shown on the map in Appendix 2, on the premises, to be contributing to odour impacts outside the boundary of the Premises.

I am satisfied that because Derby Industries Pty Ltd is the Licence holder and the occupier of the premises from which odour emissions have emanated; that you are the appropriate persons(s) to whom to give this Notice.

REQUIREMENTS OF THIS NOTICE:**Wastewater investigations**

1. Within 5 days of the date this Notice is given, the persons to which this Notice is given must engage a *suitably qualified and experienced wastewater consultant* (wastewater consultant).
 - 1.1. Details of the wastewater consultant are to be provided to the Chief Executive Officer of the Department (CEO) within 12 hours of engaging such consultant; and
 - 1.2. If the CEO provides notification that the selected consultant is not considered to be independent or does not hold suitable qualifications or experience the persons to whom this Notice is given must engage another consultant in accordance with Requirement 1.
2. Within 14 days of the date this Notice is given the wastewater consultant is to undertake an investigation into the performance and functions of the wastewater treatment ponds on the Premises as shown on the map in Appendix 2 and provide a summary report to the *CEO*, that identifies and provides details of factors that are likely to be contributing to the odour emissions from the ponds. The investigation must consider:
 - 2.1. The composition and quantity of effluent entering each pond;
 - 2.2. The measured biological treatment efficiency of each wastewater treatment pond; and
 - 2.3. The sludge volumes in each wastewater treatment pond.
3. Should the investigations undertaken in accordance with Requirement 2, or any other investigation undertaken in accordance with this Notice, identify an accumulation of sludge in any wastewater treatment pond which:
 - (a) Exceeds 30% of the pond volume; or
 - (b) Is contributing to the emission of odours that may impact persons outside the Premises,the person to which this Notice is given must, within 10 days of identifying the accumulated sludge, submit a plan to the *CEO* for desludging impacted wastewater treatment ponds to the extent that sludge in any wastewater treatment pond does not exceed 30% of the pond volume.

The plan must include:

 - 3.1. a timescale for the desludging of impacted wastewater treatment ponds;
 - 3.2. the method of desludging, which must use equipment designed to minimise the emission of odours to the community, such as a vacuum truck, or similar; and
 - 3.3. the proposed disposal premises for the accumulated sludge, which must be a facility located outside of 230 Gull Road, Nambeelup.
4. Within 40 days of the date this Notice is given the wastewater consultant is to undertake an investigation of the wastewater treatment plant and wastewater

treatment ponds. The investigation must:

- 4.1. Include collection of samples from each wastewater pond in accordance with AS 5667.1 and AS 5667.10 for National Association of Testing Authorities (NATA) Accredited analysis of the samples at a *NATA Accredited laboratory*. Samples must be collected twice weekly for a period of three weeks, with a gap of a minimum of 3 days between samples and analysed for the following:
 - 4.1.1. Oxygen Reduction Potential
 - 4.1.2. Dissolved Oxygen
 - 4.1.3. pH
 - 4.1.4. Temperature
 - 4.1.5. Biochemical Oxygen Demand
 - 4.2. Examine the design and operational effectiveness of the wastewater treatment plant and wastewater treatment ponds and their ability to manage the current effluent types and volumes received by the system to prevent emission of odours which may impact persons outside the Premises;
 - 4.3. Examine the feasibility of covering anaerobic ponds and managing biogas as a means to prevent or reduce odour emissions; and
 - 4.4. Identify any improvements to the wastewater treatment plant and wastewater treatment ponds that are necessary to ensure that effluent can be managed in a manner to not cause the emission of odours that may impact persons outside the Premises.
5. Within 47 days of the date this Notice is given, the persons to which this Notice is given must provide the CEO a report prepared by the wastewater consultant which provides the findings of all investigations required by Requirement 4 and including the following additional information:
- 5.1. All sample collection logs and laboratory analysis reports; and
 - 5.2. Works needed to implement any improvements and indicative timeframes to undertake such works.
6. Subject to section 65(4) of the Act, the CEO may vary the requirements of this Notice, including the specified requirements and timeframes where they consider sufficient justification has been provided, and it can be demonstrated that such variation will not result in an unacceptable risk to human health, the environment or any environmental value.

Ruth Dowd
Executive Director, Compliance and Enforcement
Department of Water and Environmental Regulation

22 February 2024

*for the Chief Executive Officer
under Delegation No. 143 dated 7 June 2019*

IMPORTANT INFORMATION:

A PERSON WHO IS BOUND BY THIS ENVIRONMENTAL PROTECTION NOTICE AND WHO DOES NOT COMPLY WITH THIS NOTICE COMMITS AN OFFENCE UNDER THE *ENVIRONMENTAL PROTECTION ACT 1986*.

Under section 103 of the *Environmental Protection Act 1986*:

- a person who is aggrieved by a requirement contained in this environmental protection notice may within 21 days of being given this notice lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal; and
- any other person who disagrees with a requirement contained in this environmental protection notice may within 21 days of the making of that requirement lodge with the Minister for Environment an appeal in writing setting out the grounds of that appeal.

PENDING THE DETERMINATION OF AN APPEAL REFERRED TO ABOVE, THE RELEVANT REQUIREMENTS CONTAINED IN THIS ENVIRONMENTAL PROTECTION NOTICE CONTINUE TO HAVE EFFECT.

Note that under section 118A of the *Environmental Protection Act 1986* that each person who is a director or who is concerned in the management of the body corporate may be taken to have also committed the same offence.

APPENDIX 1: DEFINITIONS

In this Notice, unless the contrary intention appears –

'Act' means the *Environmental Protection Act 1986* (WA);

'CEO' means Chief Executive Officer, Department of Water and Environmental Regulation or her delegate;

'CEO' for the purposes of correspondence means;

Chief Executive Officer
Department of Water and Environmental Regulation
Locked Bag 10
JOONDALUP DC WA 6919
Telephone: (08) 6364 7000
Fax: (08) 6364 7001
Email: compliance@dwer.wa.gov.au

'NATA Accredited laboratory' means a laboratory holding current accreditation by the National Association of Testing Authorities for the parameters being analysed.

Suitably qualified and experienced wastewater consultant means a person who:

1. holds a Bachelor of Civil Engineering, or a Bachelor of Environmental Engineering, or a Bachelor of Chemical Engineering, or a Bachelor of Chemistry; and
2. has a minimum of 5 years of experience working in the field of liquid waste and/or wastewater treatment and engineering, including in relation to physical, chemical, and biological treatment processes; and
3. has a sound understanding of relevant Western Australian guidelines and legislation for liquid waste and/or wastewater treatment and management

APPENDIX 2: Map of the premises

Note: this notice relates to the area marked in blue however excluding the areas marked in red.



Government of Western Australia
Department of Water and Environmental Regulation
Derby Industries Pty Ltd - CM Farms



Legend

Notes

Blue outline identifies Lot 89 on Plan 741
- areas marked in red are excluded from this Notice

0.5 0 0.23 0.5 Kilometers



WGS_1984_Web_Mercator_Auxiliary_Sphere

© Government of Western Australia, Department of Water and Environmental Regulation
THIS MAP IS NOT TO BE USED FOR NAVIGATION

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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Author: DWER Compliance
Recipient: