

Prevention Notice



CENTRO MANAGEMENT
Trading as BP SOUTH GRAFTON
ABN 19 075 640 470
PO BOX 3329
HELENSVALE QLD 4212

Attention: Michael Carr

Notice Number 1583569
File Number SF18/27200
Date 09-Aug-2019

Prevention Notice

Why is the EPA writing to you?

The Environment Protection Authority (EPA) reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at 1 Spring Street South Grafton. The EPA has issued you with this Prevention Notice. Further information is set out in the notice below.

What are you required to do?

Please read this notice carefully and carry out the prevention action specified in this notice by the date required. If you have any queries about this matter, please contact Stuart Murphy on 0408 634 153.

BACKGROUND

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997* (Act).
- B. Centro Management trading as BP South Grafton is the occupier of premises at the Premises at which underground petroleum storage is occurring in that Centro Management trading as BP South Grafton has management and control of the Premises for the purposes of s 96(2)(a) of the Act.
- C. The EPA is currently the appropriate regulatory authority for Underground Petroleum Storage Systems (UPSS).

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- D. On 1st August 2019 EPA Officers attended a road construction site at the corner of Spring and Ianthe Streets South Grafton at the request of Fulton Hogan staff working adjacent to the South Grafton BP service station. At 10:30AM EPA officers observed water being discharged from the South Grafton BP service station into a stormwater pit on Ianthe Street. This water had a slight odour of fuel and a reading of 0.2 parts per million on a photoionization detector was recorded in the stormwater pit receiving the discharging water. These two factors indicated it was highly likely the water was contaminated with hydro carbons or similar contaminant.
- E. As a result of discussions between EPA Officers, yourself and Centro Management staff on site, the de-watering activity was discontinued.
- F. Section 96 of the Act enables the EPA to issue a Prevention Notice where it reasonably suspects an activity has been or is being carried on in an environmentally unsatisfactory manner. Pursuant to s 95 of the Act and for the purposes of Part 4.3, an activity is carried on in an environmentally unsatisfactory manner if:
- a. it is carried on in contravention of, or in a manner that is likely to lead to a contravention of, this Act, the regulations or a condition attached to an environment protection licence (including a condition of a surrender of a licence) or an exemption given under this Act or the regulations, or
 - b. it causes, or is likely to cause, a pollution incident, or
 - c. it is not carried on by such practicable means as may be necessary to prevent, control or minimise pollution, the emission of any noise or the generation of waste, or
 - d. it is not carried on in accordance with good environmental practice".
- G. The Dictionary to the Act defines:
- a. "Pollution incident" as an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.
 - b. "Pollution" as including [land/water/air/noise] pollution water pollution as placing in or on, or otherwise introducing into or onto, waters (whether through an act or omission) any matter, whether solid, liquid or gaseous, so that the physical, chemical or biological condition of the waters is changed
 - c. "Waters" means the whole or any part of:
 - a. any river, stream, lake, lagoon, swamp, wetlands, unconfined surface water, natural or artificial watercourse, dam or tidal waters (including the sea), or
 - b. any water stored in artificial works, any water in water mains, water pipes or water channels, or any underground or artesian water.

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H. Section 120 of the POEO Act 1997 states:

- a. A person who pollutes any waters is guilty of an offence.
- b. In this section pollute waters includes cause or permit any waters to be polluted.

I. A pollution of water offence can carry a maximum penalty of \$1,000,000 in the case of a corporation or a Penalty Notice valued at \$15,000.

J. The EPA reasonably suspects that an activity has been or is being carried on in an environmentally unsatisfactory manner at the Premises (1 Spring Street South Grafton) in that:

- a. groundwater with an evident fuel odour was observed to be de-watered to a stormwater pit on Iolanthe Street, South Grafton constitutes water pollution, which is in contravention of s 120 of the Act.

K. The EPA is directing you to take action specified in this notice because you are the occupier of the Premises.

DIRECTION TO TAKE PREVENTIVE ACTION

1. The EPA directs Centro Management to take the following prevention action:
2. No further de-watering is to occur at the Premises from the date on this notice until the discharge water (groundwater) can be proven to be uncontaminated.
3. Provide a report confirming the groundwater at the South Grafton BP service station is not contaminated prior to discharging any water to the stormwater system.

FEE TO BE PAID

- You are required by law to pay a fee of \$550 for the administrative costs of issuing this notice. An invoice for the fee has been attached to this notice.
- It is an offence not to pay this fee. However you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

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Benjamin Lewin
Acting Manager
North - North Coast
(by Delegation)

WARNINGS AND INFORMATION ABOUT THIS PREVENTION NOTICE

- This notice is issued under section 96 of the Act.
- It is an offence against the Act not to comply with this notice.
- Details provided in this notice will be available on the Public Register in accordance with section 308 of the Act.

Penalty for not complying with this notice

- The maximum penalty that a court may impose for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues. The maximum penalty that a court may impose for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

Appeals against this notice

- You can appeal to the Land and Environment Court against this notice. The deadline for lodging your appeal is 21 days after you were served with the notice.

When this notice begins to operate

- This notice operates from the day the notice is given, unless a later date is specified in the notice.
- If an appeal is made against the notice, and the Land and Environment Court directs that the notice is stayed, the notice does not operate until the stay ceases to have effect, or the Land and Environment confirms the notice, or the appeal is withdrawn (whichever occurs first).

Continuing obligation

- Under section 319A of the Act, your obligations to comply with this notice continues until the notice is complied with in full, even if the due date for compliance is passed.

Occupier's duty

- If you are given this notice as the occupier of the Premises but you are not the person carrying on the activity giving rise to this notice, this notice is taken to require you to take all available steps to cause the action to be taken.

Deadline for paying fee

- The fee must be paid by **no later than 30 days after the date of this notice unless you appeal** to a court against the notice, or unless the EPA extends the time for payment of the fee or waives the fee. If you do appeal this notice the fee does not have to be paid unless and until the court confirms the notice.

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How to pay the fee

- Possible methods of payment are listed on the last page of the attached invoice/statement.
- Please include the payment slip from the attached invoice/statement with your payment.

How to apply for extension of time to pay/waive the fee

- Any application for an extension of time to pay the fee, or for the fee to be waived must be made in writing to the EPA. The application should set out clearly why you think your application should be granted.

Other costs

- The Act allows the EPA to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters.
- If you are required to pay these other costs and expenses you will be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

Variation or revocation of this notice

- The requirements of this notice may only be varied or revoked by written notice issued by the EPA.