

Compliance Report

Penalty Infringement Notice

PIN QA CHECKLIST

Tick once complete	Checklist
☒	Arrange meeting to discuss proposed PIN with relevant delegate
☒	Complete CAR Lite template
☒	Attach recent ASIC search for company (#8503551)
☒	Attach Environmental Authority in force at time of the offence (#7901711)
☐	Attach imagery of the site, with sampling and release points (if applicable)
☐	Attach sample results and discuss relevant results in CAR
☒	Attach relevant photos and discuss relevant photos in CAR
☒	Attach relevant correspondence (pre-enforcement (#8388940) /post inspection letter and reply from operator #8443893 and #8479413) and consider in CAR
☒	Get CAR light reviewed by TL and/or CDM
☒	Send CAR and attachments to Managers (Compliance) inbox, including KPI box
☒	Send draft PIN cover letter to delegate (to be requested by delegate)
☒	Review/draft ESR alert for PIN (to be requested by delegate)

Name of recommending officer: Lisa Snowdon

Name of reviewing officer: David Love

DECISION DETAILS

Alleged Offender/s: SANTOS GLNG PTY LTD, ACN: 131 271 648 (Joint Holder; primary operator)

Current Address (if Individual) / Registered Office (if Company): Ground Floor, Santos Centre
60 Flinders Street,
ADELAIDE SA 5000

Licence/Permit Type: Environmental Authority (EA)

Permit / EA Number: [EPPG00712213](#)

Name Of Holder On Permit: SANTOS GLNG PTY LTD
Total GLNG Australia
PAPL (Downstream) Pty Limited

Date Permit in Effect: 11/02/2019

CR / CA ref. CR93493

BACKGROUND DETAILS

- During the commissioning phase of the liquefied natural gas (LNG) processing facility in September 2015, the department received six (6) community complaints regarding the amount of black smoke emanating from the Santos GLNG process flare on Curtis Island. A warning letter for the contravention of section 440 (Environmental Nuisance) of the *Environmental Protection Act 1994* (EP Act) was issued in October 2015 in relation to this event.
- A PIN was issued in February 2016 for the contravention of section 440 EP Act for a flaring event on 3 November 2015 which resulted in four (4) community complaints.

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- The department issued an Environmental Audit to Santos GLNG under section 326 of the EP Act in October 2016. The third party auditor identified that the flare was not designed for smokeless operation during all operating conditions.
- The department received a notification from Santos GLNG on 18 August 2019 stating that GLNG has been undertaking a planned inspection and maintenance shutdown of LNG Train 1 on Curtis Island. Schedule to commence Monday 19 August, there may be intermittent flaring and smoke while Train 1 is being restarted.
- Authorised officers observed a black smoke plume emanating from the Santos GLNG flare from Saturday 24 August to 26 August 2019 (inclusive). The department also received four (4) community complaints (three {3} individuals and one {1} non-for-profit organisation) on 26 August 2019 in response to the flaring that occurred from 24 August to 26 August 2019. A PIN for breach of an EA condition is deemed appropriate in this instance as:
 - the flaring activity resulted in localised impact;
 - it would be in the public interest to take action as the black smoke emanating from the Santos GLNG flare impacted the Gladstone community's visual amenity;
 - high level of culpability involved in this event;
 - it would provide grounds for the department to amend the EA to ensure appropriate conditions for flaring outside normal operating conditions are included, consistent with those in the EA for the adjacent QCLNG facility which operates a similar flare.
 - warning or other statutory tools under the Act are not deemed appropriate in this circumstance. A financial penalty would act as a deterrent to Santos GLNG.

COMPLIANCE STRATEGY

The purpose of the PIN is twofold:

1. To financially penalise Santos GLNG for the contravention; and
2. To provide an opportunity for the department to amend the EA to include appropriate conditions for flaring consistent with those in the EA for the adjacent QCLNG facility.

ELEMENTS AND SUPPORTING EVIDENCE

Offence: Section 430 (3), *Environmental Protection Act 1994*. The person must not contravene a condition of the authority – condition B2 of EA EPPG00712213.

The release of dust and/or particulate matter resulting from the activities must not cause an environmental nuisance at any nuisance sensitive or commercial place.

Date DES aware 26/08/2019

Time (hours) / Date or Start date and end date of alleged offence: Flaring resulting in black smoke from 24 August up to, and including 26 August 2019.

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Location/Lot & Plan/Other Details: Santos GLNG Dry Gas Flare
PFL10

Lot 1/SP235007 – The lot and plan was confirmed via QLD Globe on 16 September 2019.

EA EPPG00712213 lists the 'activities' authorised at Santos LNG Processing Facility at PFL10 as Resource Activity, Schedule 3, 08: A petroleum or GHG storage facility, other than items 1 to 7, that includes an activity from Schedule 2 with an AES.

Particulate matter are airborne particulates and includes smoke (Air Quality Fact Sheet, Australian Government, Department of Environment and Heritage 2005) and the Santos GLNG Flaring Contingency Management Plan (dated 29 April 2019) identifies particulates in the form of PM2.5 and PM10 which contribute to smoke.

Photographs (refer to below) and Santos GLNG pre-enforcement ([#8451353](#)) confirms the release of particulate matter from A15 Dry Gas Flare (the flare).

Environmental nuisance is defined section 15 of the EP Act as unreasonable inference or likely interference with an environmental value cause by –

- (a) aerosols, fumes, light, noise, odour, particulates or smoke;

Environmental value is defined in section 9 of the EP Act as

- (b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy for regulation.

Section 7 of the Environmental Protection (Air) Policy 2008 (EPP in force at the time) states the environmental values to be enhanced or protected under this policy are –

- (c) the qualities of the air environment that are conducive to protecting the aesthetics of the environment, including the appearance of buildings, structures and other property.

This value is also maintained in the current Environmental Protection (Air) Policy 2019, section 6 (c).

Aesthetics is defined in the Macquarie dictionary (online) as science of the beautiful (*Philosophy*).

Sensitive place is defined in the EA and includes a protected area, public park or garden that is open to the public.

A commercial place is defined in the EA as a work place used as an office for business or commercial purposes.

In the pre-enforcement response ([#8451353](#)), Santos GLNG state they were required to flare some gas which resulted in intermittent visible releases from Stack A15 (A15 Dry Gas Flare).

Refer to below for a series of photographs taken from a public park provided by 4(6) Personal information (member of the public) on 24 August 2019 and associated comments on the Facebook post (attached) relating to the black smoke plume from Santos GLNG. Whilst some of the comments are tongue in cheek, it is clear that the black smoke is resulting in an unreasonable interference with the aesthetics of the Gladstone air environment.

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Additionally, ch4p4(6) Personal informati(member of the public) provided photos (below) from a commercial place (Curtis Island Ferry) on 24 August 2019. These photos also demonstrate the black smoke plume emanating from the Santos GLNG flare which is resulting in an unreasonable interference to the Gladstone air environment.

Photographic and video evidence (from protected area, public park and commercial places; [#8500119](#), [8500650](#), [8399708](#)) for 26 August 2019 supplied by both the public and an authorised officer, demonstrate the black smoke plume impacting the amenity and aesthetics of the air environment. Facebook posts from 25 and 26 August 2019, also highlight the Gladstone community's opinion of the impact of the black smoke on the air environment.

Community complaints received (refer to CR93493 run sheets) and the updated complaint information provided by the Gladstone Conservation Council ([#8490880](#)) as advocates for the Gladstone community, also highlight the impact that the smoke has had on the aesthetics of the air environment over the period 24-26 August 2019.

The photographs, public comments on Facebook and community complaints demonstrate that the black smoke emanating from the Santos LNG flare on Curtis Island has resulted in an unreasonable inference on the aesthetics of the Gladstone air environment.

Was the flaring authorised?

Condition B19 of the EA identifies parameters for visual smoke and particulate emissions under normal operating conditions. Normal operating conditions excludes start-ups which is the reason Santos GLNG were flaring (starting up Train 1 from planned inspection and maintenance). There are no other conditions in the EA that set expectations around what is considered acceptable flaring practice outside normal operating conditions, except for condition B2 which states that dust and/or particulate matter must not cause an environmental nuisance. The EA is silent in regards start-ups. It is the Compliance Centre's opinion that silence on a matter in an EA is not an approval to cause environmental harm or nuisance therefore, the EA does not authorise Santos GLNG to flare uncontrolled during start-ups that results in environmental harm or nuisance.

Condition B20 states

Contingency plans and emergency procedures must be developed and implemented for nonroutine situations to deal with foreseeable risks and hazards including corrective responses to prevent and mitigate environmental harm (including a contingency plan when the plant shuts down for maintenance or other reasons).

Santos GLNG stated in the pre-enforcement response that they conducted the start-up in accordance with the Flaring Contingency Management Plan ([#8479413](#)) which meets the requirements of condition B20. This condition does not authorise environmental nuisance and therefore, this condition has no bearing on the applicability of condition B2.

Aggravating circumstances:

- This was a planned flaring event. Notification provided to the department and the community notes that intermittent flaring and smoke while Train 1 is being restarted is expected. It appears that Santos GLNG's position is that they were required to flare some gas which resulted in intermittent visible releases. This level of flaring and intermittent visible releases is not acceptable nor meets the expectations of the Compliance Centre and the Gladstone community.
- The Flaring Contingency Management Plan only lists one corrective action for planned flaring events:
 - De-inventory of refrigerant vapour: Where practical de-inventory refrigerant vapour from an offline train into the online train rather than to flare.

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- It is unclear if Santos GLNG has investigated other contingency measures such as reducing the flow rate to the flare or feasibility of diluting the refrigerant to minimise smoke.
- History of Santos GLNG not meeting community or departmental expectations regarding acceptable level of interference with the air environment through the generation of black smoke from flaring events.
- Santos GLNG made financial decisions about the design and construction of the flare which has the potential to influence how effectively Santos GLNG can manage flaring events outside normal operating conditions.

Photograph, video and Facebook comments/posts

Full photographs submitted by Gladstone Conservation Council can be found [#8499830](#) and [#8501986](#)

<p>Date: 24 August 2019</p> <p>Time: ~ 10am</p> <p>Location: Auckland Hill (Public Park)</p> <p>Photographer: p4(6) Personal information (member of the public)</p>	
<p>Date: 24 August 2019</p> <p>Time: ~2.16pm</p> <p>Location: Auckland Hill (Public Park)</p> <p>Photographer: p4(6) Personal information</p>	
<p>Date: 24 August 2019</p> <p>Time: ~2.20pm</p> <p>Location: Curtis Island Ferry (Commercial place)</p>	

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Photographer: sch4p4(6) Personal information
(member of the public)



Date: 24 August 2019

Time: ~3.30pm

Location: Curtis Island Ferry
(Commercial place)

Photographer: sch4p4(6) Personal information



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Date: 25 August 2019	sch4p4(6) Personal information
Time: Unknown	Personal 25 August at 14:01 Not pretty today 😞
Location: Gladstone Harbour (Protected Area)	
Photographer: sch4p4(6) Personal information (source Facebook)	 <p>32 38 comments</p>
Date: 25 August 2019	
Time: ~1pm	
Location: South End (Public area)	
Photographer: sch4p4(6) Personal information	
Date: 26 August 2019	Video - #8500119
Time: ~ 6am	
Location: Auckland Hill (Public Park)	
Videographer: p4(6) Personal information	
Date: 26 August 2019	Video - #8500650
Time: ~6.27am	
Location: Auckland Hill (Public Park)	
Videographer: David Love (Authorised Officer)	

19-317

File A

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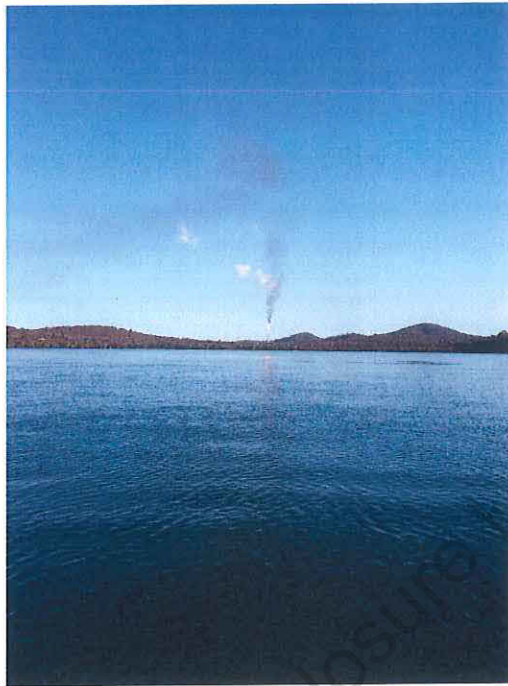
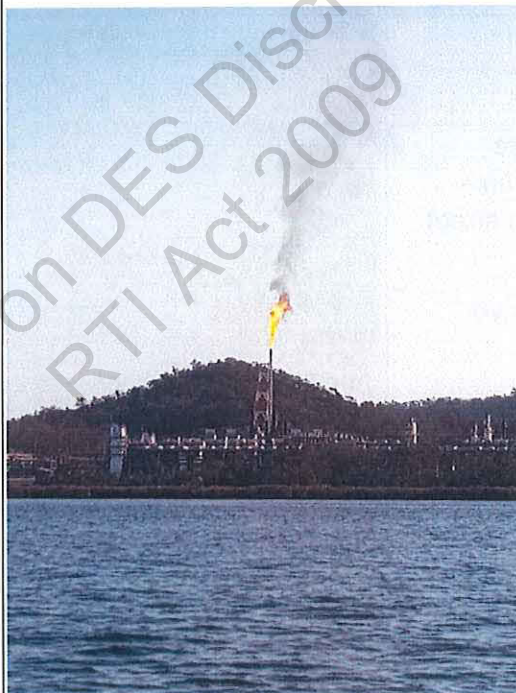
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<p>Date: 26 August 2019</p> <p>Time: ~6.27am</p> <p>Location: Auckland Hill (Public Park)</p> <p>Photographer: David Love (Authorised Officer)</p>	
<p>Date: 26 August 2019</p> <p>Time: ~6.30am</p> <p>Location: Auckland Creek (Protected Area)</p> <p>Photographer: [REDACTED] (Member of the public)</p>	
<p>Date: 26 August 2019</p> <p>Time: ~7.37am & 7.43am</p> <p>Location: West of Quoin Island (Protected Area) & Due south of Santos GLNG</p>	

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Photographer: 4p4(6) Personal information
(Member of the public)



Date: 26 August 2019

Video - #[8399708](#)

Time: ~7.32am

Location: Auckland Creek
(Protected Area)

Videographer: 4p4(6) Personal information
(Member of the public)

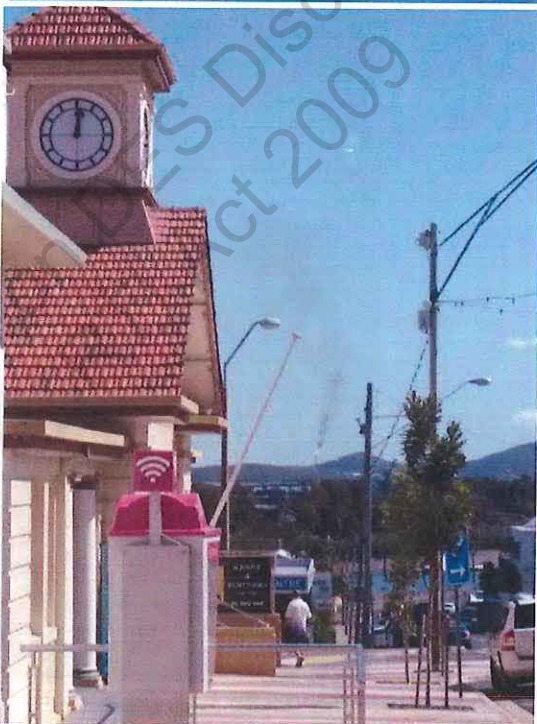
Date: 26 August 2019

Time: ~8.48am

Location: Auckland Hill (Public
Park)

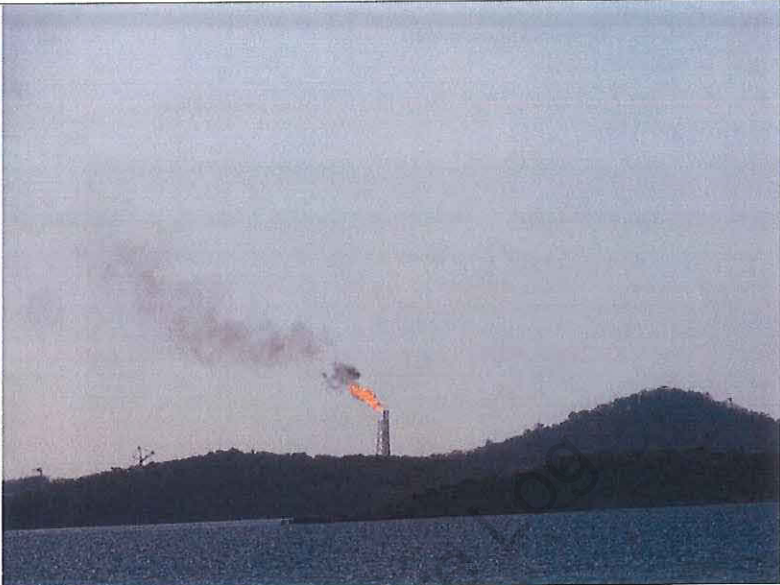
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<p>Photographer: David Love</p>		
<p>Date: 26 August 2019</p>		
<p>Time: ~10.27am</p>		
<p>Location: Library Square (Library/Commerical area – Goondoon Street (Main street of Gladstone))</p>		
<p>Photographer: David Love</p>		
<p>Date: 26 August 2019</p>		
<p>Time: Between 1.15pm – 2pm</p>		
<p>Location: South End (Residence)</p>		
<p>Photographer: sch4p4(6) Personal information</p>		

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Date: 26 August 2019	
Time: Between 3.30 – 3.40pm	
Location: Curtis Ferry (Commercial place)	
Photographer: sch4p4(6) Personal information	

Facebook posts & associated comments

Gladstone Conservation Council
25 August

About half an hour ago had a phone call from my daughter in Benaraby asking was there a big fire on the island. Answer no but the flare was large yesterday. I went outside and was very surprised by how it lit up the sky just like a massive bushfire. Personal

(6) Personal info The flaring has been huge lately and last night, lit up the sky like the island was on fire... not to mention the massive black cloud of toxic carcinogenic emissions that went along with it yesterday avro

4w

4p4(6) Personal info I think the issue here is that the gas plants were only built recently under the promise that flaring would only be a rare, low impact event. The last few days have shown once again that this isn't the case. I think we'd all agree that if QAL were to be built today it wouldn't have anywhere near the environmental impact it does, but to see a modern plant built under current, 'strict' regulations cause so much impact, is an indication that we have learnt very little in 50 years and drastic action is required

4w

(6) Personal info The gas plants had all those 'strict environmental' regulations regarding flaring 'relaxed'

4w Edited

24 14 comments

Like Comment Share

(6) Personal info

Postcard from Gladstone! Coal ship fired with after burner making soup — at East Shores Presinct

4 comments 1 share

Like Share

ch4p4(6) Personal info

Like 10

(6) Personal info Good shot. The flame is huge and it's been burning for days

Like 10

(6) Personal info And it's chucking out black smoke very heavily right now. good on you LNG

Like 10

(6) Personal info Saw that as I was flying out this morning. very spectacular...

Like 2:15



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Gladstone Conservation Council

26 August at 6:11 PM · 🌐

Taken from Curtis Ferry on way from South End to Farmers Point today about 3.30 to 3.40 pm



👍👍👍 65

36 comments 56 shares

p4(6) Personal inform

Saw large black cloud over Gladly when driving back from the West yesterday. Opted not to stop and photograph. The black against the blue was clearly visible though. Assumed if I checked online to find the cause, all the air pollutant monitoring we fund would feature a disclaimer about grass fires having been reported in the area. That has been the case multiple times over the years. Wishing now I had stopped and photographed the very visible black cloud. Have heard verbal comments from locals that visible flare smoke has been coming from the island for days. We do have the right to know why, what, etc. Good on you for showing the eyesore the LNG industry is being. Hoping proper answers and solutions are provided soon.

Like Reply 17h

5

sch4p4(6) Personal informatic

I took this pic from hospital yest arvo about 2pm it looked way worse then photo showed



4w

4

4p4(6) Personal informatic

It's been like that for the last 48hrs it's not great view for our town! Let alone the environment our kids need to live in.

4w

3

p4(6) Personal inform

It was like that all day. I saw it around 10. Still like that at 3.30

4w

2

sch4p4(6) Personal informatic



4w

4

p4(6) Personal inform

Gladstone Conservation Council visual amenity. If that eyesore is legal from modern built plants with 'new' environmental approvals then we have stepped back in time. It makes us, the people of Gladstone, a laughing stock and reinforces the belief that Gladstone is an industrial wasteland.

4w Edited

1

4p4(6) Personal informatic

polluting industry

4w

1

sch4p4(6) Personal information

Burning gas no control. So burn it all gas plants do the same

4w

sch4p4(6) Personal informatic

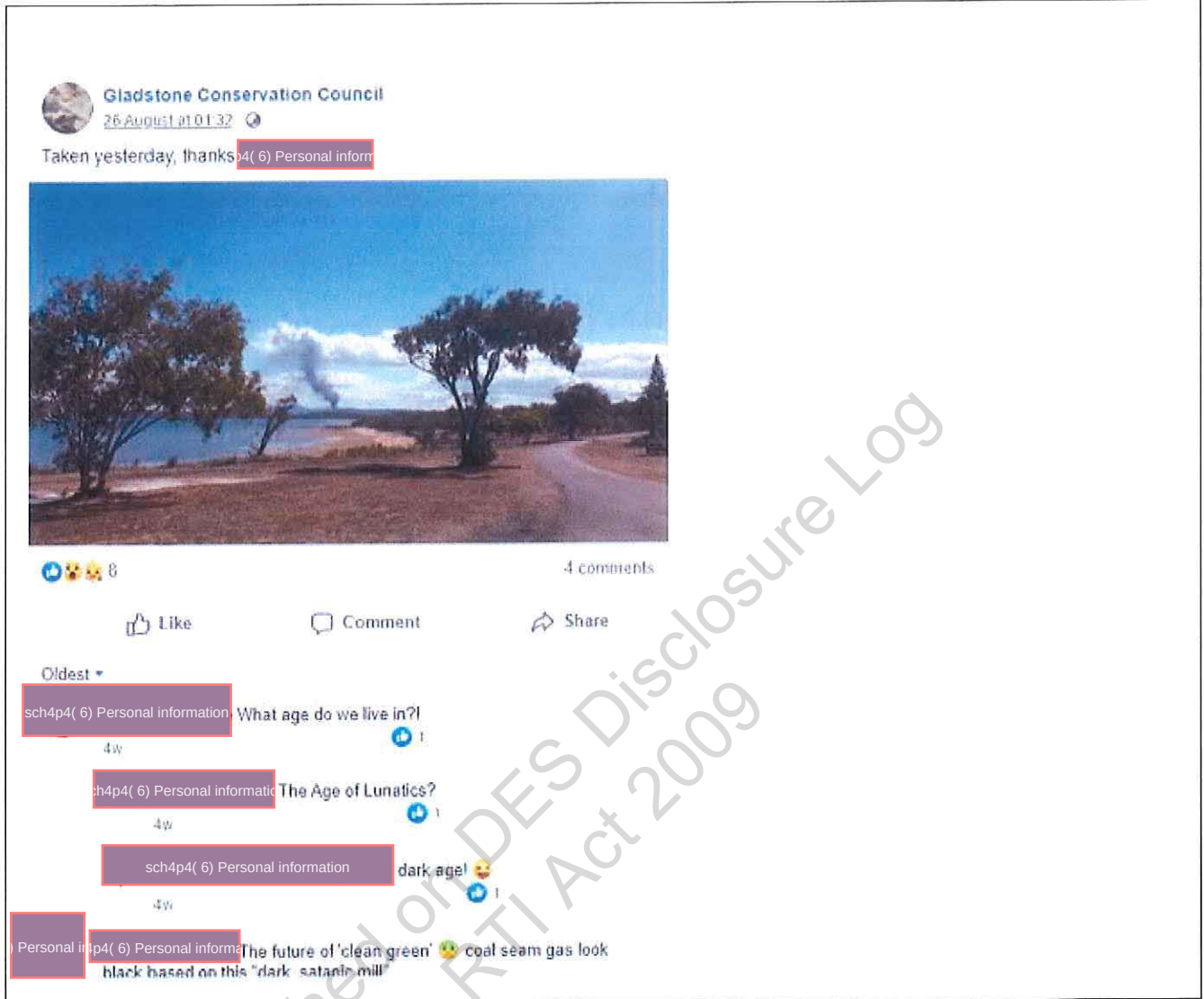
ugly mess

4w

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Conditions placed on QCLNG which set clear standards/expectations for flaring:

Flare

- (B11) Visible smoke must not be produced from the flares except for a total of 5 minutes in any two hour period during normal operating conditions.
- (B12) Flaring events, except for those resulting from an emergency, occurring outside of normal operating conditions must not exceed:
- 7 hours per annum during daylight hours; and
 - 14 times per annum during daylight hours; and
 - 30 minutes of continuous visible smoke during daylight hours except as authorised under condition (B13).
- (B13) Notwithstanding condition (B12)(c), individual flaring events must not exceed 90 minutes of continuous visible smoke in the following circumstances:
- A flaring event associated with a plant maintenance activity that was planned to be completed outside of daylight hours, but was required to be undertaken during daylight hours to ensure the safe operation of the plant; or
 - A flaring event associated with a plant maintenance activity that was not planned and was required to be undertaken during daylight hours to ensure the safe operation of the plant.
- (B14) The holder of this authority must keep records of each flaring event to determine compliance with condition (B12) and (B13) and provide these records to the administering authority on request. Records must include, but not be limited to:
- The duration of each flaring event; and
 - The operational planning that was implemented to minimise flaring; and
 - The operational controls that were implemented during flaring; and
 - If the flaring event exceeds 30 minutes, the circumstance under condition (B13) which caused this exceedance.
- (B15) The holder of this authority must monitor and record all flaring events in accordance with *Schedule B, Table 3 – Recording during flaring events* and Condition (I3).

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IMPACT / CULPABILITY

The overall impact as per the department's Enforcement Guidelines is: Moderate

The overall culpability of the alleged offender(s) as per the department's Enforcement Guidelines is:
Serious

Refer to Appendix 1 for assessment of the above.

NATURAL JUSTICE

Who was pre-enforced? SANTOS GLNG PTY LTD

Date pre-enforcement letter(s) sent 29/08/2019

Date pre-enforcement response received: 12/09/2019

Response to pre-enforcement letter(s) have been considered Yes

DECISION ENDORSEMENT

Approved

- I approve the recommendation to issue 1 x PIN to Santos GLNG for an alleged s.430 offence based on the considerations and elementising set out herein (including attached and referenced evidence).
- When making my decision I have also considered previous similar decisions made by the department, for consistency, including:
 - Previous enforcement actions taken against Santos GLNG for environmental nuisance from flaring under this EA; and
 - Previous environment actions taken against QGC for environmental nuisance from flaring at their adjacent Curtis Island LNG Plant.
- I have also considered the department's Enforcement Guidelines, Warnings Procedural Guide, PIN Guideline and the Regulatory Strategy when making this decision.
- I confirm that I am free from bias and have utilised my discretion appropriately (as a delegate of the administering authority) to make a reasonable decision.
- On 7 November 2019 I phoned [sch4p4(6) Personal information] of Santos GLNG and advised of my decision to issue the PIN. [4p4(6) Personal information] asked if Santos' response to the pre-enforcement letter was not sufficient. I advised [4p4(6) Personal information] that the pre-enforcement response was considered but the department is of the view that the duration and intensity of the black smoke during the event constituted environmental nuisance. I also advised that this is consistent with previous decisions made by the department. I further advised [4p4(6) Personal information] that the department would like to have further discussions with Santos in regard to ways forward to prevent reoccurrences of such events / alleged offences. [sch4p4(6) Personal information] suggested that an EA amendment process is likely desirable to Santos and I stated that the department is of the same opinion. A meeting will be held between Santos, Tristan Roberts (EER Assessment Manager) and I in the coming weeks to discuss an EA amendment (whether voluntary or NOPA via s.215).

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Delegate's name: Liz Clarke

Date decision made: 8/11/2019

Signature: [Redacted] sch4p4(6) Personal information

Manager (Compliance) Moderation:		Actions:	
Date sent for moderation:	2/10/2019 28/10/2019		
Outcome:	Supported	ESR Alert endorsed by DDG	7/11/2019
Compliance Steering Committee: (60 days: N/A)		Date issued:	8/11/2019
Date considered:	N/A	PIN Number/s:	2000000 41057760
Outcome:	Choose an item.	Registered Post Tracking #:	To Santos: RPP44 63900 05100 08067 15601 To DES Gladstone: RPP44 63900 05100 08067 16608

Published on DES Disclosure Log
RTI Act 2009

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APPENDIX 1 – IMPACT AND CULPABILITY ASSESSMENT

Impact or Risk of Impact (including potential)			
Major	Moderate	Minor	Low
☐ Medium to long-term	☒ Temporary to medium-term	☐ Transient impact	☐ No impact
☐ Medium to wide-scale, or of medium to great intensity	☒ Potentially on a localised or medium scale, or of low to medium intensity <i>Localised impact to the community of Gladstone. Smoke plume lasted three (3) days.</i>	☐ Localised scale, or of a low intensity	☐ No public concern or impact to public safety
☐ High level of public concern or impact to public safety	☒ Moderate level of public concern or impact to public safety <i>Four complaints received; interest from the media (Channel 9); comments on social media regarding the smoke from the flare.</i>	☐ Low level of public concern or impact to public safety	☐ Administrative nature – could not have been prevented
☐ Administrative nature – undermines the legislative scheme; or information is concealed; or avoids liability for fees; or avoids taking necessary actions to prevent offence	☐ Administrative nature – moderate impact on legislative scheme; or information is concealed; or offender carelessly fails to comply with administrative requirement	☐ Administrative nature – no impact on legislative scheme; or is of an inadvertent nature	

Culpability		
Serious	Moderate	Low
☐ Intentional or wilful acts	☐ Careless acts	☐ Inadvertent acts
☒ Past non-compliances or convictions involving the same or similar legislative provisions	☐ Isolated prior non-compliances with legislation or similar legislation	☐ No prior non-compliances with legislation or similar legislation
☒ Non-compliances of an ongoing or long duration	☐ Non-compliance of a medium duration	☐ Non-compliance of a short-term duration
☐ No attempt at clean-up or remedial action	☐ Genuine attempt at remediation or remediation partially effective	☐ Remediation effective
☒ Motivated by profit or obtained a material benefit from the non-compliance	☐ Attempt at notification to department of incident within reasonable timeframe	Notification to department of incident within reasonable timeframe
☐ Involved serious misleading conduct	☐ May have benefited from the non-compliance	☐ Did not benefit from the non-compliance
☐ Failure to notify the department effectively or notification outside of reasonable timeframes	☒ Was aware of the risk of impact or the impact was foreseeable	☐ Risk of impact or the impact was not foreseeable
☐ Wilful ignorance of clear directions, warning or administrative actions which may have prevented or mitigated the impact	☐ The impact or risk of impact may have been prevented by following accepted industry standards	☐ The impact or risk of impact was not prevented by high standard of operation (greater than accepted industry standards)
☒ The impact or risk of impact was obvious and/or preventable by implementing or following accepted industry standards		